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## Appeal Decision

Site visit made on 16 June 2015

**by Geoffrey Hill BSc DipTP MRTPI**

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

**Decision date: 30 June 2015**

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**Appeal Ref: APP/F1230/W/14/3002790**

**Land adjacent to Windsor Close, Mosterton, Beaminster DT8 3SU**

- 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 Mr D Foot against the decision of West Dorset District Council.
  - The application Ref WD/D/14/001541, dated 16 June 2014, was refused by notice dated 14 November 2014.
  - The development proposed is described as "residential development".
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### Preliminary Matter

1. The application is for outline planning permission with all matters reserved for subsequent consideration. A drawing was included with the original application showing a possible arrangement of the proposed dwellings. I regard this drawing as being for illustrative purposes only.
2. Subsequent to the appeal being lodged, an agreement made between the appellant and the Council under Section 106 of the Town and Country Planning Act 1990 has been lodged which addresses the second of the Council's Reasons for Refusal relating to the lack of a mechanism to secure the affordable housing element of the scheme. In which case the Council has indicated that it no longer wishes to maintain that as an objection to the proposed development.
3. It is also accepted that an ecological report prepared since the appeal was lodged has addressed the third of the Council's Reasons for Refusal, and it is agreed that, should the appeal be allowed, planning conditions could be attached to safeguard the ecological and biodiversity interests on the site. Consequently, the Council considers this Reason for Refusal has been met and does not wish to pursue it at this appeal.

### Decision

4. The appeal is allowed and planning permission is granted for residential development on land adjacent to Windsor Close, Mosterton, Beaminster DT8 3SU in accordance with the terms of the application, Ref WD/D/14/001541, dated 16 June 2014, subject to the conditions set out in the Appendix to this Decision.

## **Main Issue**

5. The main issue in this appeal is whether the proposed development can be regarded as sustainable development, having regard to the setting of the site in the Dorset Area of Outstanding Natural Beauty (AONB).

## **Reasons**

6. Paragraph 47 of National Planning Policy Framework (NPPF) requires a local authority to “boost significantly the supply of housing” and to identify sites sufficient to supply 5 years worth of housing against their housing requirements. Paragraph 49 of NPPF says that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable sites. The Committee Report acknowledges the Council can demonstrate only a 3.1 year land supply. In which case, paragraph 14 of NPPF requires that planning permission should be granted without delay unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole.
7. The primary concern here is that the site is in countryside beyond the limits of the village at present, in countryside which is part of the Dorset AONB. Paragraph 115 of NPPF advises that “great weight” should be given to conserving the landscape and scenic beauty of an AONB. Paragraph 116 advises that planning permission should be refused for major developments in an AONB but this policy does not necessarily preclude all new built development. The Council’s Committee Report acknowledges that this proposed development should not be regarded as large scale and that paragraph 116 would not be applicable.
8. The site is within the Axe Valley Hills Landscape Character Area where the essential characteristics are a series of hills running north-south enclosing small valleys which are perceived as having an intimate and tranquil quality. I saw that the landscape around Mosterton comfortably falls within that landscape character. However, the landscape hereabouts is not devoid of built development; Mosterton is a village of some substance, broadly aligned along the A3066, a reasonably busy main road. That is, whilst the village sits within this attractive landscape, it does not relate to, or contribute towards, the essential characteristics of the AONB which need to be respected.
9. The appeal scheme would extend the built up area of the village into the AONB. It would be clearly seen from the wider area, not least the higher ground on the valley sides to the north of the River Axe. This loss of part of the rural fringe to the village has to be acknowledged as causing some harm to the natural beauty of the countryside. However, the site stands directly adjacent to the existing built development of Windsor Close and Mosterton Cross which are, themselves, visible in the views across the AONB. The proposed scheme would move the boundary of the developed area some 75 metres or so, but the new dwellings are unlikely to be significantly more prominent or visually intrusive in the wider views across the AONB than the houses presently at Windsor Close and Mosterton Cross.
10. Although the proposed new housing would be seen as a new element of built development in this landscape setting, taking account of the other development in this vicinity, it would not appear wholly incongruous or incompatible with the

- character of the landscape around this edge of the village. That is, although the proposed scheme would represent an expansion of the village, the village is already within the landscape of the AONB in this vicinity. The proposed scheme would not represent a significant or major change in the established relationship between built development and the countryside hereabouts.
11. To meet the concerns of the local highway authority if the development were to go ahead, the carriageway across the site frontage would have to be widened and a footway created. This, together with the formation of visibility splays, would involve the loss of most, if not all, of the present hedge across the frontage of the site. This would be a significant change to the character and appearance of this part of the lane, but it would be a very localised change and it would, in the context and scale of the broader AONB, not seriously or significantly harm the landscape quality. There would be scope, if thought appropriate, for replacement hedge planting as part of the landscaping of the site which would mitigate this particular impact.
  12. I note that Policy SA1 of the West Dorset Local Plan seeks to resist all development which would fail to conserve the quality of the landscape of the AONB. Similar concerns are covered by Policy SA3. As discussed above, I do not believe that the proposed scheme would cause no harm to the AONB, but that harm would be limited. Having regard to the relevant sections of the NPPF, a strict interpretation of Policies SA1 and SA3 could be seen to be contrary to the government's policy of acknowledging that some development could take place in the AONB, subject to an assessment of the degree of harm to the landscape and the balance of other considerations of sustainable development, where there is no five-year housing land supply.
  13. I note that Policy ENV1 ii) of the emerging West Dorset, Weymouth and Portland Draft Local Plan seeks to resist development which significantly adversely affects the character or visual quality of the local landscape. As discussed above, I do not consider that, given the context of the proposed development adjacent to the present built up part of the village, the scheme being considered at this appeal would have a significant adverse effect on the quality of the landscape. Part iii) of Policy ENV1 accepts that mitigation can minimise any adverse effects on the landscape. The visual impact of the appeal scheme, although not significant, could be mitigated by planting, although I acknowledge that this would take some time to become fully established.
  14. Contrary to the views expressed by the Parish Council in their written submissions to this appeal, the local planning authority accepts that Mosterton is a sustainable location for housing development. It has not been argued that the site is outside any currently valid village development boundary (insofar as the considerations of paragraphs 49 and 14 of NPPF may allow). The representations do not include a defined development boundary being promoted through the emerging local plan, but even if the representations had included such a plan, in accordance with paragraph 216 of NPPF, I would only have been able to give the plan limited weight in the determination of this appeal. No other technical objections have been raised by the relevant agencies relating to drainage, flooding, water supply or similar concerns – subject to appropriate planning conditions being attached to a permission.
  15. Drawing these points together, I find that there is a significant shortfall in housing land supply in West Dorset and it has not been demonstrated that this

can be made up quickly, or that it would not involve developing land elsewhere which is also in the AONB. The proposed development would be visible in this setting, but the degree of harm would be limited. This has to be off-set against the positive contribution the scheme could make to sustainable development.

16. The scheme could have economic benefits in that the construction phase would create jobs, albeit in the short term. It is also possible that additional population could bring some economic support for the shop and businesses in the village. Socially, the scheme would have the obvious benefit of addressing the identified housing need, including affordable housing. Taking into account the limited harm to the AONB, on balance I consider the proposed scheme would represent sustainable development in the terms discussed in NPPF.

### **Conclusion**

17. Although the scheme would introduce new built development in to the AONB, the degree of harm would be limited taking account of the setting and existing development nearby. In the absence of any cogent evidence showing where and when the Council's housing land supply can be brought up to the expected 5-year minimum, I consider the adverse effects of the proposed scheme would not significantly and demonstrably outweigh the benefits. Accordingly, the appeal should be allowed.

### **Section 106 Planning Obligation and Planning Conditions**

18. As noted above, a planning agreement made under Section 106 of the Town and Country Planning Act 1990 has been submitted. The agreement includes provision for the release, and subsequent control over the sale, of the affordable housing element of the scheme. The Council has not indicated that the terms of the agreement are incomplete, or do not satisfactorily address the concerns raised in the Reasons for Refusal.
19. Having regard to paragraph 204 of NPPF, I consider that the offered agreement is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.
20. The Council has put forward a list of suggested planning conditions which should be attached to a planning permission in the event of the appeal being allowed. There is no reason to attach anything other than the usual time limits for the commencement of development and the submission of details for approval. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plan, for the avoidance of doubt and in the interests of proper planning.
21. The ecological survey submitted after the appeal was lodged includes recommended actions which, if implemented, would address the Council's concerns over biodiversity and ecological interests. Accordingly, it is necessary to require that the development proceeds in accordance with those recommendations.
22. In the interests of highway safety and the free flow of traffic, it is necessary to require that approval of the parking and turning arrangements for each dwelling on the site should be subject to detailed consideration. In order to safeguard pedestrians walking between the site and the main part of the village, it is

necessary to require widening of the roadway and the provision of a footway across the frontage of the site along Littlewindsor Road.

23. In order to ensure that drainage from the site is managed properly, it is necessary to require details to be approved of the foul and surface water drainage.

*Geoffrey Hill*

INSPECTOR

Richborough Estates

**APPENDIX**

**SCHEDULE OF PLANNING CONDITIONS**  
**(8 conditions in total)**

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the drawing titled Location Plan and Site Plan – Drawing No. 13045-2 rev A.
- 5) The recommendations of the Ecological Survey by David Leach Ecology Ltd., dated December 2014 shall be followed during the development and enhancement measures implemented in accordance with details which will have been submitted to, and approved in writing by, the local planning authority. Thereafter, the measures shall be permanently retained in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.
- 6) Development shall not commence until details of parking and turning areas for each of the dwellings, and for visitors to the dwellings, has been submitted to the local planning authority for approval in writing. The details shall include the materials to be used for the surfaces and the drainage of the areas. The dwellings hereby permitted shall not be occupied until the parking and turning areas have been completed in accordance with the approved details. The parking and turning areas shall thereafter be retained for those purposes.
- 7) Before development commences, details of a scheme for the widening of the carriageway on the north side of Littlewindsor Road and provision of a footway shall be submitted to the local planning authority for approval in writing. The approved scheme shall be implemented and all works completed before any of the dwellings hereby permitted are occupied.
- 8) No development shall take place until details of the proposed foul and surface water drainage works, including measures to secure the future responsibility and maintenance of the foul and surface water drainage systems, have been submitted to the local planning authority for approval in writing. The approved drainage scheme shall be completed before the dwellings hereby permitted are occupied and retained thereafter in accordance with the approved maintenance measures.

***End of schedule of planning conditions***