



Appeal Decision

Hearing Held on 2 and 3 February 2021

Site visit made on 4 February 2021

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/W3330/W/19/3243508 Land off Shurton Lane, Stogursey TA5 1RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Land Allocation Limited against Somerset West and Taunton Council.
 - The application Ref 3/32/19/011, is dated 18 March 2019.
 - The development proposed is described as being for 'residential development'.
-

Decision

1. The appeal is dismissed and planning permission for residential development of up to 70 dwellings is refused.

Procedural Matters

2. The planning application was submitted in outline form, with access being for determination and matters relating to appearance, landscaping, layout and scale being reserved for future consideration. The appellant wrote to the Council on 16 October 2019 conforming that the proposal should be considered as being for a development of up to 70 dwellings, with 35% affordable homes provision in line with the Council's policy requirement. I have therefore considered the appeal on the basis of it concerning a development for up to 70 dwellings.
3. The Council failed to determine the application within the prescribed period. Although this appeal was submitted on 18 December 2019, the Council mistakenly sought to determine the application on 20 December 2019 and issued a decision notice on that day purporting to refuse planning permission for three reasons (the R/R). The Council's decision notice has no formal status and I have therefore treated the Council's R/Rs as being putative ones.
4. The Council's second putative R/R raised a concern that the development would be an inefficient use of land, as it was thought its density would be comparatively low at nine dwellings per hectare (dph). That being based on information contained within the submitted application. The appellant has subsequently clarified that the development's density would be around 21dph. The Council has confirmed that with that clarification its concern about the efficiency of the site's use has been addressed and that the matter raised via the second putative R/R was no longer a contested one. I have therefore considered the appeal accordingly.

5. The third putative R/R contended that, in the absence of the adequate assessment of noise arising from the operation of the adjoining Little Lukes Farm, the occupiers of the development could experience unacceptable living conditions. However, the appellant has submitted an acoustic appraisal with the appeal and the Council in the Statement of Common Ground (SoCG) of 21 April 2020¹ has confirmed that its concern in this regard could be addressed through the imposition of a planning condition. I see no reason to take a contrary view and I have therefore treated the safeguarding of the living conditions of the prospective occupiers as being uncontested.
6. At my request after the Hearing had finished sitting the Council submitted:
 - documentation relating to the designation of the Exmoor and Quantock Oakwoods Special Area of Conservation (the SAC); and the conservation objectives for and condition of this SAC; and
 - consultation comments made by the Somerset County Council in its capacity as the local education authority.
7. As per the timetable agreed at the Hearing, the appellant has submitted an updated Unilateral Undertaking (UU) that was executed on 10 February 2021. That UU supersedes the 'original' UU executed on 1 May 2020. The planning obligations contained in the UU would secure:
 - 35% affordable homes provision.
 - The payment of a contribution of £3,263.00 per dwelling for the provision of off-site children's play equipment.
 - The provision in perpetuity of and the management for open space within the development.
 - The payment of education contributions, calculated on a formulaic basis determined by the final number of dwellings within the development, for pre-school, primary school and secondary school facilities.
 - The implementation of a travel plan for the occupiers of the development and the payment of monitoring fees associated with that plan's implementation.
8. Following the receipt of the updated UU, the Hearing was closed in writing on 12 February 2021.

Main Issue

9. Having regard to the Council's first putative R/R, I consider that the main issue is whether the site would provide an appropriate location for the development, having regard to local and national planning policies relating to the location for new development.

Reasons

10. The development would occupy pastoral farmland with an area of 3.37 hectares. The site adjoins part of Stogursey's northern built up area and lies to the west of Shurton Lane. Shurton Lane forms part of the local public highway network and within the immediate vicinity of the site it has a width

¹ Entered into between the appellant and the Council

sufficient to accommodate a single vehicle. As part of the proposed development Shurton Lane would be widened to enable vehicles travelling in opposite directions to pass each other.

11. Stogursey is a quite modestly sized village, where a limited range of everyday services and facilities are available. Those everyday services and facilities comprise: the Stogursey Church of England Primary School; two village shops, one of which also includes a sub post office; the Greyhound Inn public house; the St Andrew's church; Victory Hall and Youth Club with associated recreation ground; and a play area off Burgage Road. Within the village or adjoining it there is a vehicle repair garage and a number of farms. The nearest secondary school to Stogursey is in the region of 14.9 Km (9.3 miles) from the village². Employment opportunities within Stogursey are very limited.
12. Stogursey is served by some regular, but low frequency bus services, including one that is currently operated by EDF Energy in association with the construction of the Hinkley Point C power station (HPC). By bus the journey times between Stogursey and Taunton or Bridgewater are around an hour³. Generally, amongst existing residents of Stogursey I consider it likely that there is a high dependency on private motor usage when travelling to and from places of work or in gaining access to the full range of services and facilities available in the larger settlements in the wider area.
13. Following the creation of Somerset West and Taunton Council on 1 April 2019, the development plan relevant to Stogursey continues to comprise the West Somerset Local Plan to 2032, adopted in November 2016 (the WSLP), and the saved policies of the West Somerset District Local Plan of April 2006.
14. Policy SC1 of the WSLP sets out the spatial strategy underpinning the approach to new development. The supporting text to Policy SC1 states '*The policy seeks to achieve a beneficial distribution of new development within the local plan area, so as to maintain or strengthen the current service roles and functions of the various settlements*'. To that end Policy SC1 identifies a hierarchy of settlements, with most new development expected to be directed to the 'main' centres of Minehead/Alcombe, Watchet and Williton.
15. Under Policy SC1 Stogursey has been identified as a 'primary village' where '*limited development ... will be permitted where it can be demonstrated that it will contribute to wider sustainability benefits for the area*'. Policy SC1 goes onto state:

'Development within or in close proximity (within 50 metres) to the contiguous built up area of ... primary ... villages will only be considered where it can be demonstrated that: A. It is well related to existing essential services and social facilities within the settlement; B. There is safe and easy pedestrian access to essential services and social facilities within the settlement ...'
16. Within the definitions section of Policy SC1's supporting text, limited development is defined as '*... individual schemes of up to ten dwellings providing about a 10% increase in a settlement's total dwelling number*

² Appendix E in the Strategic Housing Land Availability Assessment of March 2020

³ Based on the timetables appended to the appellant's interim travel plan

*during the Local Plan period, limited to about 30% of this increase in any five year period*⁴. For the purposes of Policy SC1 the dwelling number for Stogursey at the 'start of the plan period' was identified as being 388 dwellings in the village, rather than the wider parish area⁴. At the Hearing the Council clarified that Stogursey's dwelling number of 388, as well as those for the other primary villages, quoted in Policy SC1's supporting text should be taken as being the position when the WSLP was submitted for examination in 2015, rather than the situation at the beginning of the local plan period in 2012⁵.

17. While the supporting text for Policy SC1 does not form part of this policy's actual wording, it assists with this policy's interpretation. In essence for primary villages, such as Stogursey, the intention of Policy SC1 is '*... to achieve a manageable rate of change over time*⁶. Importantly Policy SC1, in respect of the identified primary villages, allows for some new housing to be delivered just beyond the established built up areas for those villages. Policy SC1 therefore does not operate as an absolute bar upon housing in the countryside, with limited development being permissible when it can be demonstrated that it will contribute to wider sustainability benefits for the area and would arise within or in close proximity to the contiguous built up area of the settlements. In essence Policy SC1 supports organic growth at the villages, provided such growth would be proportionate.
18. Paragraphs 77 to 79 of the National Planning Policy Framework of February 2019 (the Framework) provide the national policy approach for the location of rural housing. Paragraph 78 states:

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'.
19. Although Policy SC1 predates the publication of the current version of the Framework, I consider that it is consistent with the Government's policy for rural housing. That is because Policy SC1 seeks to facilitate a scale and distribution of development commensurate with the size and nature of the settlements, in what is a very rural area.
20. The appeal site lies just beyond the settlement boundary for Stogursey and it is therefore in the countryside for the purposes of the development plan. That said under Policy SC1 Stogursey's dwelling stock could be increased by about 10% by 2032 (the 10% allowance), either in the identified settlement boundary or within 50 metres of this village's existing built up area. Stogursey's 10% allowance through to 2032 is 39 new homes. As the appeal site in part is within 50 metres of Stogursey's settlement boundary it could make a contribution to Stogursey's 10% allowance. Any contribution that the appeal site could make is, however, in part dependent on how many dwellings have already been constructed or benefit from any extant planning permissions granted since 2015.

⁴ As clarified by the Council during the Hearing

⁵ The period for the WSLP being 2012 to 2032 as explained in section 1.2 of the local plan

⁶ Paragraph 68 of the Inspector's examination report for the WSLP

21. At the Hearing the Council explained that since 2015 planning permissions had been granted for the construction of an additional 14 (net) dwellings within Stogursey. However, none of those dwellings have been commenced or completed. Of the 14 permitted dwellings, seven would form part of the Paddons Farm development, for which planning permission was originally granted in 2008 for 59 dwellings (the historic permission). The historic permission has in part been implemented with 39 dwellings having been built and occupied, leaving 20 homes that could still be built under the historic permission. A new planning permission for 27 dwellings at Paddons Farm has recently been granted. It is therefore only seven of the permitted dwellings at Paddons Farm that benefit from a planning permission post-dating 2015. It is those seven dwellings that the Council considers should, for the purposes of Policy SC1, be counted against the Stogursey's 10% allowance until 2032.
22. To meet the limited development provisions of Policy SC1 for Stogursey, 25 further dwellings or so could be granted planning permission for the period through to 2032. Albeit of those 25 dwellings only 30% should come forward in any five year period in order to meet with limited development definition.
23. I consider a scheme of up to 70 dwellings would not amount to 'limited development' for the purposes of Policy SC1, with such a scheme potentially yielding a net exceedance of 45 dwellings above Stogursey's 10% allowance. The provision of up to 70 extra dwellings would represent an 18% increase in Stogursey's 2015 housing stock. The proportional increase rising to 21.65%, when the 14 unbuilt permitted homes are allowed for. A development of up to 70 dwellings alone would approach twice the 10% allowance for Stogursey.
24. The Council undertook a housing needs survey for Stogursey in 2018. The results from that survey indicated that six householders identified a need for affordable homes to rent, while a further eight households identified a need for affordable shared ownership dwellings. The Council has also reviewed interests to live in Stogursey registered with the 'Somerset Homefinder' service and there are twelve householders who have expressed an interest in living in Stogursey. The Homefinder service does not distinguish between interests in renting or buying homes, nor does it provide an indication of whether those expressing an interest are already resident in the Stogursey or are looking to move to it.
25. I consider the fact that the Paddons Farm development has been 'stalled' for some time and none of the 14 dwellings benefitting from post 2015 planning permissions have been commenced, are indicative of there being limited existing demand for additional homes being built within or adjoining Stogursey. In that regard I consider it of note that while works on the construction of the HPC are now well underway, there is no obvious indication that the need to house a large construction labour force is generating an immediate demand for additional housing to be provided in Stogursey, which the appeal development might be capable of assisting in meeting. The demand for additional homes arising from HPC being a potential housing market challenge that the WSLP is alert to.
26. The housing need data that is available suggests that there is no pressing level of local need warranting the provision of up to 70 new dwellings in Stogursey, including up to 25 affordable homes. The provision of up to 25 affordable housing would comply with the 35% target identified in

Policy SC4 of the WSLP and the Council expects that occupiers for those dwellings would be found.

27. There is no doubt that the development would contribute to meeting the general need for affordable homes in the Council's area. Nevertheless, the level of need that has been recorded for affordable homes in Stogursey suggests that many of the affordable dwellings yielded by the proposed development would not be in the optimum location for this form of housing. In that regard the Council is of the opinion that Minehead/Alcombe, Williton and Watchet are the settlements with the greatest demand for affordable homes, given their accessibility to everyday services and facilities.
28. When the WSLP was in preparation the appeal site had been identified as an 'early release' site. However, that identification did not amount to a housing allocation and the WSLP's examining Inspector remarked:

'Stogursey is defined as a primary village under policy SC1. The identified early release site has a capacity of some 60 dwellings. Whether this site would or would not be in accordance with the strategy and policy SC1 would depend on the rate and phasing of development and thus compliance with the 'limited development' criteria of policy SC1 and the terms of policy SV1'⁷.

29. I find the examining Inspector's comments are unsurprising, avoiding potential fettering for decision making in respect of any subsequently submitted planning application. If there was an obvious need for a significant increase in the amount of housing in Stogursey of 60 or more homes, then as part of the plan making process an allocation for this village could reasonably have been expected to have been included in the WSLP. That is because the WSLP at its adoption only included allocations for around half of the overall housing requirement for the whole of the local plan's period⁸. For the purposes of the determination of this appeal I therefore consider the Council's previous identification of the site as an early release site for housing does not, of itself, provide any tangible support for the appeal proposal.
30. The occupiers of the development would generally have good access on foot and by bicycle to the limited services and facilities present in Stogursey. However, as I have indicated above, because of the very limited: range of everyday services and facilities available in Stogursey; and access to public transport, it is likely amongst the development's occupiers that there would be a high dependency on private motorised vehicle usage. Additionally, many adults travelling to and from their places of work would need to make use of private motorised vehicles, with employment opportunities not being readily accessible on foot or by bicycle, with the approach roads in and out of this village being devoid of footways and streetlighting. I am of the view that this site in accessibility terms would not be a good location for a significant increase of homes at Stogursey.
31. A travel plan would be secured via the UU and it would promote the use of modes of travel other than by private motor vehicles. I recognise that the availability of a travel plan would give rise to some compliance with Policy TR1 of the WSLP, through seeking to encourage the use of sustainable modes of

⁷ Paragraph 81 of the examining Inspector's report

⁸ Paragraph 78 of the examining Inspector's report

transport. However, in practice I consider the opportunities for a modal shift to walking, cycling and the use of public transport would be very limited and that this development would contribute very little to the promotion of sustainable transportation. I therefore consider that because of the site's location on the edge of a village in a very rural area, in practice the sustainable travel measures outlined in the appellant's 'Interim Travel Plan' would do very little to encourage significant levels of walking, cycling and public transport usage amongst this development's occupiers.

32. The high dependence on private motorised vehicle usage amongst occupiers of the proposed development would be comparable with the position for the existing residents Stogursey. Nevertheless, I consider that is something weighing against the proposed development and reinforces why Stogursey has been identified for nothing other than limited development by the Council in the WSLP. I therefore consider that the development would not accord with Policy TR2 of the WSLP. That is because this development would not be located so as to maximise the attractiveness of modes of transport other than the private car and while it would complement existing service and facility provision in Stogursey to some degree, it would nevertheless generate '... new unsustainable transport patterns ...'.
33. Section 9 of the Framework promotes sustainable transport and opportunities to improve walking, cycling and public transport. It also points out that sustainable travel solutions will vary between urban and rural areas. Although the site is within a rural area, it is not within an isolated rural location. However, given the quantum of the additional homes proposed and the limited access to nearby employment opportunities and a full range of everyday services and facilities in Stogursey, I consider section 9 of the Framework offers no particular support for this proposal, with some harm to the environment likely to arise through the generation of vehicular emissions.
34. I consider the provision of up to 70 dwellings at Stogursey would amount to much more than limited development for the purposes of Policy SC1. In the absence of demand for this level of new housing in Stogursey having been demonstrated to be present, I consider that a development of this scale would be unwarranted and would be contrary to the spatial strategy identified in Policy SC1 of the WSLP. I also consider that there would be some conflict with Policy SV1 of the WSLP because while the development might assist in maintaining the existing level of service provision within a primary village, it would not help to create a balanced community at a level appropriate to Stogursey's role and function. That is because the proposed development would accentuate the imbalance between the amount of housing and non-residential uses within or very close to Stogursey. There would as I have indicated above be some conflict with Policy TR2 of the WSLP.
35. I therefore conclude that the appeal site would be an inappropriate location for the development.

Planning Balance and Overall Conclusions

36. The development would be contrary to the spatial strategy stated in Policy SC1 of the WSLP, with the proposal being much more than limited development within close proximity to a 'primary village'. There would also be some conflict with Policies SV1 and TR2 of the WSLP. While the proposed development would accord with various development plan policies, such as

those relating to the delivery of affordable homes and the mitigation of new development's effects on the character and appearance of an area, biodiversity and local infrastructure, overall I consider that this proposal would be contrary to the development plan when taken as a whole. It is therefore necessary for me to consider whether there are any material considerations indicating that my decision should be made otherwise than in accordance with the development plan.

Housing Land Supply

37. There is disagreement as to whether the Council can demonstrate the availability of a five year supply of deliverable housing sites (5yrHLS) within what was the former West Somerset Council's area⁹. When assessed against the housing requirement underpinning the WSLP the appellant contends that at best there is a 3.93 year housing land supply¹⁰, while the Council argues that there is a 5.21 year supply¹¹. The agreed period for considering the 5yrHLS being April 2020 to March 2025, with an assessment base date of 31 March 2020¹².
38. The Council in providing its January 2021 5yrHLS update has undertaken a calculation using the Government's Standard Method (SM) for establishing a local housing need (LHN). However, paragraph 73 of the Framework advises that the LHN should only be used in instances when the adopted strategic development plan policies are more than five years old. The WSLP will have its fifth anniversary in November 2021 and at this time, in line with the guidance contained in the Framework, I consider the 5yrHLS position should be assessed against the WSLP's housing requirement, as opposed to a LHN figure derived from using the SM.
39. The principal difference between the parties with respect to the 5yrHLS position concerns whether six sites with either resolutions to grant planning permission (as opposed to extant permissions) or expected to become the subject of applications should or should not be included in the 5yrHLS. The disagreement concerns several hundred dwellings and concerns the definition for 'deliverable' housing sites stated in Annex 2 of the Framework.
40. Having regard to the definition for deliverable used in the Framework, I consider that the dwellings expected to be yielded by the previously mentioned six sites, in the absence of extant planning permissions, should not have been treated as contributing to the 5yrHLS as at the end of March 2020. I therefore consider that for the purposes of the determination of this appeal the appellant's assessment of there being a housing land supply of around 3.93 years, at best, should be preferred. That said the actual dwelling shortfall for the five year period is quite small, given the WSLP's housing requirement per year is 155 dwellings (unadjusted).
41. In the absence of a 5yrHLS, the most important development plan policies for determining the application, most particularly Policy SC1, are out of date and paragraph 11 of the Framework indicates that the presumption in favour of

⁹ It being agreed that for this appeal 5yrHLS considerations should relate to the area administered by the former West Somerset Council

¹⁰ Section 4 and Table 3.1 in the appellant's updated HLS statement of 29 January 2021

¹¹ The Council's 'Note on 2020 Housing Delivery Test Figure, Housing Need Figures and Housing Supply of January 2021 (the Council's HLS note 2021)

¹² Paragraph 1.2 of the HLS SoCG

sustainable development is engaged. Planning permission should therefore be granted unless '*... any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*' (paragraph 11d)ii of the Framework).

Benefits

42. In relation to the delivery of housing from this site, for the appellant it was explained at the Hearing that when time allowances for the purchase of the site by a developer and obtaining reserved matters approval are made, around 45 dwellings could be completed in the five year period. The provision of 45 dwellings or so in the five year period would make a useful contribution to the supply of housing in the Council's area and that is a matter that I consider attracts substantial weight. The provision of 25 or so affordable homes would be beneficial, however, as I have indicated about those homes would not necessarily be optimally located and I therefore attach moderate weight to the delivery of those homes in this instance.
43. The development would generate some employment during its construction phase. However, that construction phase would be likely to coincide with the building of HPC and the employment benefits associated with the appeal development are likely to be greatly outweighed by HPC's construction. I therefore attach moderate weight to the economic benefits associated with the appeal development's construction phase. There would be some economic benefits arising from the employment and spending of the occupiers of the development. However, those economic benefits would be likely to arise whether this site or others in the Council's area were developed for housing and I therefore consider this benefit attracts moderate weight.
44. I consider the development could be designed so as to avoid visual harm. While that would be beneficial, it is something that should apply to any new development within the Council's area and I therefore consider it is a matter attracting modest weight.
45. The development would make provision for on-site open space and biodiversity improvements. However, those benefits are intended to neutralise potentially adverse effects and might well be needed wherever a development of this scale was located. I therefore attach very modest weight to these benefits of the development.

Overall conclusion

46. I am mindful of the Government's objective of significantly boosting the supply of homes (paragraph 59 of the Framework). However, as I have indicated above, I am not persuaded that expanding Stogursey's housing stock by such a significant proportion would be appropriate, with there being no clear evidence that building up to 70 homes on this site would result in homes being delivered where they would be needed. Locating housing where it would be needed being something that paragraph 59 of the Framework explains should be taken account as part of the process of significantly boosting the supply of homes. For the reasons given above I consider paragraphs 77 and 78 of the Framework do not provide support for this development.

INSPECTOR

FOR THE APPELLANT:

FOR THE LOCAL PLANNING AUTHORITY:

POST HEARING DOCUMENTS

- 1) Letter of 16 October 2019 from the appellant to the Council conforming the development would be for up to 70 dwellings
- 2) Email exchanges between the local education authority (Somerset County Council) and the Council concerning school capacity and education contributions

- 3) Background information concerning the Exmoor and Quantock Oakwoods Special Area of Conservation
- 4) Executed Unilateral Undertaking of 10 February 2021

Richborough Estates