



Appeal Decision

Site visit made on 15 August 2023

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/Q3305/W/23/3318169

Land At Frome Road, Norton St Philip BA2 7NW

- 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 B Walden of Springleaze Trading Ltd against the decision of Mendip District Council.
- The application Ref 2022/0895/OUT, dated 29 April 2022, was refused by notice dated 9 September 2022.
- The development proposed is application for outline planning permission (all matters reserved) for a residential development of up to 30 dwellings (including 10 affordable dwellings), formation of access, ancillary public open space and landscaping (Re-submission).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading has been taken from the Council's decision notice and the appeal forms because it more accurately describes the number of dwellings proposed. The application was submitted in outline with all matters reserved.
3. The appeal is accompanied by an alternative indicative layout plan¹, illustrative sectional drawing² and illustrative perspective³ which show an option for development on the site. These plans have not been subject to any public consultation but have been available for the Council and third parties to view. Given that the application is for outline planning permission with all matters reserved, the indicative nature of the plans, and given my findings below, I am satisfied that no party would be prejudiced by my consideration of these plans. I have therefore considered them in determining this appeal but treated them, and any other site plans dealing with the matters reserved, as illustrative only.
4. The appellant has advised that the appeal has been lodged because they believe circumstances have changed significantly since the previous appeal at the site⁴ and since the refusal by the Council of the application that is the subject of this appeal. The appellant advises that these circumstances relate primarily to a High Court Judgement following a Judicial Review⁵ (JR) of the Mendip District Local Plan 2006-2029 Part II: Sites and Policies which resulted in five Local Plan housing allocations being struck out. This includes one site in

¹ 1685.21.AL.1.100 Rev.P5

² Site Section SK01

³ Streetscene 02-A3

⁴ APP/Q3305/W/21/3287786

⁵ Case No: CO/323/2022

Norton St Philip referenced by the previous Inspector. During the course of the appeal, I sought comments on the current position of the Local Plan in light of the JR. I have taken the comments received in relation to this into account and will return to this matter below.

5. Also, after the determination of the planning application and prior to my site visit, the appellant submitted a signed and dated planning obligation (Unilateral Undertaking) to make provision for affordable housing, public open space, sustainable urban drainage, travel plan measures, public footpath links or highway infrastructure improvements. The Council subsequently confirmed that the UU addresses its second reason for refusal. However, I am still required to consider this agreement in relation to the Regulatory tests of the Community Infrastructure Levy (CIL) and will return to this below.
6. The Council's first reason for refusal references the Norton St Philip Neighbourhood Plan. I have limited details of the status of the plan although I understand that it has not progressed passed the examination stage to referendum. On that basis, I give the document little weight.

Main Issues

7. The main issues for the appeal are:
 - whether the appeal site is an appropriate location for housing, with particular regard to the local development strategy and including effects on the character and appearance of the area, and
 - whether affordable housing, public open space, sustainable urban drainage, travel plan measures, public footpath links and highway infrastructure improvement planning obligations are necessary and suitably provided.

Reasons

Location and Character and Appearance

8. Norton St Philip, which is designated as a primary village under Core Policy 1 (CP1) of the Mendip District Local Plan Part 1: Strategy and Policies 2014 (LPP1) is located broadly to the north-west of the appeal site. The appeal site lies outside the defined settlement boundary. As a result, it lies in the open countryside for the purposes of CP1 (1c.) of the LPP1 that sets out that development in the open countryside will be strictly controlled and exceptionally permitted in line with Core Policy 4 (CP4) of the LPP1.
9. Policy CP4 contains criteria permitting development in the countryside that, amongst other things, provides rural affordable housing, provides occupational dwellings where there is a proven and essential functional need, supports the rural economy and range of community facilities. As the proposal includes a high percentage of open market housing and would not support the rural economy or community infrastructure as detailed within the policy, the proposal does not meet any of the listed criteria in CP4 to justify its location and the extension of built form into the countryside beyond the defined settlement limits.
10. Policy CP4 reflects Policy CP1(3.) that states that in identifying land for development in the Local Plan, any development outside of development limits will be strictly controlled. Therefore, despite the site's location fairly close to

the services and facilities within Norton St Philip, the proposed development beyond the settlement boundary does not meet any of the exceptions for residential development in the countryside. As a result, the proposal is not justified by LPP1 policies and is therefore contrary to the development strategy.

11. Turning to the effects on the ground from the encroachment into the countryside, the site does not form part of any formal landscape designation and is itself part of a larger undeveloped field adjoined by low-density linear residential development fronting Frome Road with open paddocks to their rear. The linear low-density housing and paddocks provide a visual and physical transition from the more densely built-up area of the settlement into the countryside. The generally undeveloped and open nature of the paddocks, application site and the larger field that it forms part of, make a considerable contribution to the landscape and setting of the settlement providing a gentle and gradual transition from built development to countryside on approach and when leaving the settlement. This assessment is supported by the sites designation within Character Area C2 of the 'Cotswold Edge' within the Landscape Assessment of Mendip District 1997 (LA) that recognises the predominance of arable fields, in this instance located in a key and prominent position forming a green and open approach to the settlement.
12. By reason of the scale of the development and the built form extending a considerable distance back from the road into the field, the proposal would result in a considerably higher density of residential development in comparison to the adjoining development on Frome Road. As a result, the transitional linear lower density of frontage development along Frome Road would be disrupted and replaced by a scale and form of development alien to its transitional context. Although there is some flexibility with an application in outline with all matters reserved, essentially in light of the quantum of development proposed and size and shape of the appeal site, the existing low-density linear pattern of development would not be replicated with the open transitional contribution to the wider area eroded.
13. Despite the opportunities for the retention of the existing boundary hedging, and introduction of additional landscaping that the flexibility of the outline proposal would allow for as shown on the indicative layout plan, it would still be likely that some of the houses would be visible above the hedgerow and through tree planting when travelling along Frome Road or Tellisford Lane. The development would also be visible through the proposed access, from surrounding properties on Frome Road and Tellisford Lane and from the proposed footpath link from the development to Tellisford Lane. As a result, the significant change in character would be noticeable and contrary to the linear pattern of built form when travelling through the area and through the transitional zone between the built-up area of the settlement and the open countryside.
14. In addition, in light of the character of this part of the open countryside on approach to the site on Frome Road and Tallisford Lane comprising mainly low field hedgerows with sporadic trees, the inclusion of significant groups of tree planting to screen the proposed dwellings would in itself be an alien and visually unnatural addition on approach to this part of the settlement. This has the potential to draw attention to the site and associated dwellings further undermining the transitional nature of the area. Whilst I appreciate that the LA states that tree cover increases on the approach to villages strengthening the

contrast with the landscape, there are few trees on approach to Norton St Philip past the appeal site. As such, the introduction of a significant number of trees would be harmful to, and at odds with, the existing character of the immediate area.

15. Overall, the proposal would not be in an appropriate location for housing with particular regard to the local development strategy and would harm the character and appearance of the area. Therefore, it would not accord with Policies CP1, CP4, DP1, DP4 and DP7 of the LPP1, which among other things strictly and exceptionally control development in the countryside, seek to ensure proposals contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district, states that development that would individually or cumulatively significantly degrade the quality of the local landscape will not be supported and state that proposals should be of a scale, mass, form, and layout appropriate to the local context. In addition, the proposal would be contrary to the National Planning Policy Framework (the Framework) that seeks to ensure that development reflects the character of an area, safeguards the environment and recognises the intrinsic character and beauty of the countryside.

Planning Obligations

16. The Council's decision notice includes a second reason for refusal relating to the absence of a suitable planning obligation to make adequate provision for affordable housing, public open space, sustainable urban drainage, travel plan measures, public footpath links or highway infrastructure improvements as necessary in accordance with LLP1 policies and the Framework.
17. However, this reason for refusal is no longer being pursued by the Council following the submission of a signed and completed unilateral undertaking. This secures at least 30% affordable housing, contributions per dwelling towards the provision of a LEAP and the provision of a MUGA, on-site provision of a community orchard, LAP and open space, provision of a travel information pack, travel plan, travel plan fee, travel voucher scheme, provision of a management company for the community orchard, open space and sustainable urban drainage system (SUDs), and the submission, laying out and maintenance of a SUDs scheme.
18. Notwithstanding this, it is necessary that I consider this obligation against the three tests set out in paragraph 57 of the Framework and pursuant to the Community Infrastructure Levy (CIL) Regulations 2010.
19. The proposal would provide at least 30% affordable housing provision, comprising 80% Social Rented Housing and 20% Shared Ownership. This would be secured by planning obligation in the submitted UU, and would be necessary, directly, fairly, and reasonably related in scale and kind pursuant to Policy DP11 of the LPP1. Among other things, the policy sets the level of affordable housing provision to inform the Council's negotiations towards meeting the district's housing need from all housing proposals, whilst ensuring it is secured in perpetuity.
20. Most new housing development of this scale brings about demand for public open space, play space, community orchard, SUDs facilities and an associated management company, therefore I am satisfied that the proposed obligations

and contributions would be necessary to make the development acceptable in planning terms. These obligations therefore meet the relevant tests.

21. The Council are content that issues in relation to the provision of a travel information pack, travel plan, travel plan fee and travel voucher scheme could be appropriately mitigated and managed through the provision of the legal agreement securing these obligations. The UU accompanying the appeal makes provision for these obligations and renders the development acceptable in planning terms. They are also manifestly directly related to the site, and are proportionate, as they seek to do no more than is necessary.
22. On the basis of the above, I consider the UU to accord with the criteria of CIL Regulations 122 and with paragraph 57 of the Framework.

Other Considerations and planning balance

23. I appreciate that the proposal would cause no significant harm to ecology, flooding, community safety, traffic generation, waste, noise and pollution or archaeology. I also appreciate that the proposal would incorporate the use of sustainable materials and construction methods and would comprise suitable sustainable urban drainage, hedgehog holes, bird and bat boxes and electric car charging points. However, as these matters are requirements of local and national planning policy for development, they are neutral in my consideration.
24. Other potential benefits including biodiversity gain, and additional support to the village school from additional children have not been strongly quantified or evidenced, and as such I give them limited weight.
25. The fact that the site is not affected by phosphate issues that affect parts of the southwest of the district does not in itself justify the proposal and carries little weight.
26. The Inspector dealing with the previous appeal, along with the appellant and Council concluded that due to significant distances and intervening landscape features, that outline proposal would not harm the setting or significance of any designated heritage assets in the locality. This includes Norton St Philip Conservation Area, Grade I listed building of The George or Grade II listed buildings of Chatley House and Chatley Farmhouse. In accordance with my statutory duties under Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, based on the heritage evidence submitted by the appellant, the Council's officer report and comments from relevant consultees, I agree that the heritage significance of these assets would be preserved by this appeal proposal. This is neutral in my consideration.
27. The provision of 10 affordable housing units carries moderate weight in favour of the proposal, as do the benefits to the supply of housing. There would be other economic benefits from additional support for local businesses, shops and public transport, construction and supply chain jobs, Council Tax revenue, any New Homes Bonus allowance and economic activity from additional residents. These also carry some weight alongside the environmental benefits from additional planting and social benefits from a new community orchard and footpaths and associated links that would be provided through the site. The provision of travel information packs, travel plan, travel plan fee and travel voucher scheme are necessary to mitigate the impacts from the development and as such are neutral in my consideration.

28. Based on my findings under the first main issue, the development would be contrary to the local development strategy and cause significant harm to the character and appearance of the area. The relevant policies are largely consistent with the Framework where it states that planning decisions should reflect the character of an area, safeguard the environment and recognise the intrinsic character and beauty of the countryside. Therefore, the proposed development would be contrary to the development plan as a whole and I give significant weight to the conflict with these policies.
29. The JR of the Mendip District Local Plan 2006-2029 Part II: Sites and Policies (LPP2) has struck out a housing allocation for 27 dwellings in Norton St Philip, along with 4 other sites across the authority. One of the consequences of the JR is that the Council are required to undertake a partial review of the LPP2 to identify sites for the 500+ dwellings struck out as part of the JR. The Council have until the 1 July 2024 to submit this to the Planning Inspectorate. Partly, although not solely, as a result of this, it is common ground between the parties that the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, because of the provisions of footnote 7, paragraph 11 d) ii. of the Framework should be applied.
30. From the schedule of accommodation set out on the application form the appeal proposal would provide a number of benefits, including providing a considerable number and mix of dwellings (including self-build) on a small site fairly close to a range of services and facilities which would contribute towards the supply and mix of housing in the area. It would also provide a considerable number of affordable housing units in an area of significant need and historic under provision.
31. At 30 dwellings with 10 affordable housing units, the development and benefits would be appreciable and in light of the lack of a five-year supply of deliverable housing sites and implications from the JR, this carries considerable weight. The other economic benefits from additional support for local businesses, shops and public transport, construction and supply chain jobs, Council Tax revenue, any New Homes Bonus allowance and economic activity from additional residents carry a moderate amount of weight. As do the environmental benefits including additional planting and social benefits from a new community orchard and footpaths and associated links.
32. As stated above, other potential benefits including biodiversity gain, and additional support to the village school from additional children have not been strongly quantified or evidenced, and I give them limited weight. The provision of hedgehog, bat and bird boxes and new public open space are necessary to mitigate the impact from the development so do not weigh in favour of the proposal.
33. In contrast, I have found that the appeal proposal would result in significant harm to the local development strategy and character and appearance of the area.
34. In light of the above, and although I attribute considerable weight to the benefits of the proposal, these are outweighed by the significant harm to the character and appearance of the area. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

35. Overall, for the reasons given above, the proposal conflicts with the development plan taken as a whole. There are no other considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan. The appeal is dismissed.

C Rose

INSPECTOR

Richborough