



Appeal Decision

Site visit made on 12 March 2024

by **Alexander O'Doherty LLB (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Appeal Ref: APP/R3325/W/23/3321160

Stewley Cross Caravan Park, Wood Road, Ashill, Ilminster TA19 9NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Robert John Doak (Target Developments [Somerset] Ltd) against the decision of Somerset Council.
 - The application Ref is 19/03418/FUL.
 - The development proposed is described on the application form as, "The Erection of Ten Detached Residential Dwellings with Garages and ancillary Car Parking".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal was submitted against the decision of South Somerset District Council. Somerset Council has now taken over the functions of South Somerset District Council. Somerset Council has therefore been named in the banner heading above.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken the comments received into account. I have had regard to the December 2023 version of the Framework in my decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the character of the rural landscape;
 - the effect of the proposed development on the integrity of habitats sites; and
 - whether the proposed development would adequately manage surface water drainage discharges.

Reasons

Character and appearance

5. The appeal site, known as Stewley Cross Caravan Park, comprises a bungalow and several static homes, and the green space and hardstanding associated with them. An access to the site exists from Wood Road, along which

residential development in spacious plots is common. Development along Wood Road is separated from surrounding areas by fields and the busy A358. The wider area is predominantly rural.

6. The site is not exceptionally large when compared with many of the plots serving residential development along Wood Road, and accordingly the introduction of 10 dwellings with garages and ancillary parking as proposed would result in each new dwelling having an individual plot size which would be much smaller than is common in the locality. As such, the proposed development would not be in keeping with the surrounding pattern of development, and due to the number and scale of dwellings proposed, the proposed development would result in a cramped residential environment.
7. I have had regard to the fact that the site would be accessed from the old 358 road, and that the site faces north towards the open area adjoining the A358, but these factors do not alter the fact that the proposed development would result in an uplift in residential density that would not sufficiently reflect, and which would undermine, the rural character of the area.
8. The development at the old garage site at Harvey Way, Ashill is not located along a linear arrangement of residential development, in contrast to the site. As the pattern of development relating to Harvey Way differs to that under consideration in this appeal that example is not directly comparable with the proposed development. Hence, it does not change my findings on this main issue.
9. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with Policy EQ2 of the South Somerset Local Plan (2006 – 2028) (adopted 2015) (Local Plan) which provides that, amongst other things, development will be designed to achieve a high quality, which promotes South Somerset's local distinctiveness and preserves or enhances the character and appearance of the district.
10. The proposed development would also conflict with paragraph 135 c) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Landscape character

11. The site is located amongst residential development in an area where trees and hedgerows positively contribute to the verdant nature of the area which, in turn, complements the wider rural landscape.
12. Although according to the submitted Tree Survey a number of trees are proposed to be removed, the appellant has confirmed that the trees along the eastern boundary of the site are intended to be preserved. Even so, the proposed development as a whole would be dominated by hardstanding and parking areas stemming from the proposed access way. The limited numbers of clusters of trees within the site as shown on the plans would not adequately mitigate the proposed development's failure to reflect the verdant nature of the area. Moreover, few details have been provided to demonstrate that the layout

as proposed would enable this matter to be adequately remedied through the submission of a landscaping plan as a requirement of a planning condition. The proposed development would not therefore conserve the rural landscape of which it forms an important part.

13. Reference has been made to paragraph 3.4.6 of the submitted Ecological Impact Assessment. This paragraph relates to residual effects in relation to habitats, rather than to landscape character. As a result, the Ecological Impact Assessment does not change my findings.
14. I therefore find that the proposed development would have an unacceptable and harmful effect on the character of the rural landscape. It would conflict with Policy EQ2 of the Local Plan which provides that, amongst other things, development proposals will be considered against conserving and enhancing the landscape character of the area, and with Policy EQ5 of the Local Plan which provides that, amongst other things, development proposals should provide and/or maintain a network of connected and multifunctional open spaces that, where appropriate, enhance and/or maintain the character and local distinctiveness of the landscape.
15. The proposed development would also conflict with paragraph 135 b) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
16. Policy EQ4 of the Local Plan is referred to by the Council in their decision notice. However, as this policy relates to biodiversity, it is not directly relevant to this main issue. Nevertheless, the above-mentioned policies are more than sufficient for me to come to a view on this main issue.

Habitats sites

17. The appellant has stated that at no time during the planning process was a request made by the Council to address the issue of the level of phosphates generated by the proposed development. Nevertheless, the site is within the Somerset Levels & Moors Ramsar Site catchment area, and the Council has stated that following recent advice from Natural England a Habitats Regulations Assessment may be required, and this has not been disputed by the appellant. In relation to this, paragraph 187 b) of the Framework provides that, amongst other things, listed Ramsar sites should be given the same protection as habitats sites.
18. As the competent authority, I am required to undertake an Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations), which includes taking account of any proposed mitigation measures.
19. Few details have however been provided to demonstrate that the proposed development of 10 dwellings, which would likely add to the concentration of phosphates in the area, would achieve nutrient neutrality and thereby not cause adverse effects on the ecological integrity of the Ramsar site. Mitigation measures have not been put forward.
20. As effective mitigation has not been secured, based on the limited evidence before me the results of my Appropriate Assessment are that it has not been demonstrated that the proposed development would not cause adverse effects

on the integrity of the Ramsar site when considered in combination with other development. Thus, the proposed development would not comply with the Habitats Regulations, nor with s40 of the Natural Environment and Rural Communities Act 2006 (as amended).

21. Reference has been made to other planning applications in relation to unresolved mitigation proposals, but as no details have been provided pertaining to these applications this is not a matter that alters my findings above.
22. I therefore find that it has not been demonstrated that the proposed development would not have an adverse effect on the integrity of habitats sites. It would conflict with Policy EQ4 of the Local Plan which provides that, amongst other things, development will not be allowed to proceed unless it can be demonstrated that it will not result in any adverse impact on the integrity of national and international wildlife and landscape designations, including features outside the site boundaries that ecologically support the conservation of the designated site.
23. The proposed development would also conflict with chapter 15 of the Framework which seeks to, amongst other things, conserve and enhance the natural environment.

Drainage

24. The proposed development relates to 10 dwellings. The Glossary to the Framework defines this quantum of development as comprising major development. Paragraph 175 of the Framework provides that, amongst other things, major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Evidence has not been provided that the incorporation of sustainable drainage systems would be inappropriate in this case.
25. In this regard, whilst a Drainage Strategy has been submitted, the Lead Local Flood Authority (LLFA) consider that insufficient information has been provided for certain relevant matters, including (amongst other matters) site levels, a detailed drainage plan, and sustainable drainage features.
26. The Planning Practice Guidance requires that the Local Planning Authority should be satisfied that the minimum standards of operation for the proposed sustainable drainage system are appropriate, and that there are clear maintenance and adoption arrangements in place for the lifetime of the development¹.
27. In the absence of the site-specific information requested by the LLFA referred to above which relates to the fundamentals of the operation of the proposed Drainage Strategy, it would not be reasonable for these matters to be attempted to be secured via planning condition(s), as it has currently not been demonstrated that the proposed Drainage Strategy would be capable of meeting the minimum standards of operation for sustainable drainage systems. This is of particular importance at this full planning application stage, as it is a critical requirement that any major development has a demonstrable capability to adequately manage surface water on site.

¹ Paragraph 7-058-20220825

28. I therefore find that it has not been demonstrated that the proposed development would adequately manage surface water drainage discharges. It would conflict with Policy EQ2 of the Local Plan which provides that, amongst other things, development proposals will be considered against making efficient use of land whilst having regard to site specific considerations, and with Policy EQ7 of the Local Plan which provides that, amongst other things, development that, on its own or cumulatively, would result in air, light, noise, water quality or other environmental pollution or harm to amenity, health or safety will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other environmental controls, or by measures included in the proposals.
29. The proposed development would also conflict with paragraph 175 of the Framework which provides that, amongst other things, major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

Other Matters

30. The conduct of the Council during the processing of the planning application is not a matter that I can assess in the context of a planning appeal.

Planning Balance

31. The proposed development would provide a modest contribution to the Government's objective of significantly boosting the supply of homes in the context of the Council's lack of a 5-year supply of deliverable housing sites. The Council consider that the general principle of the housing proposed on this established site can be accepted as being sustainable in terms of its location, and I have no substantive evidence to indicate otherwise. The proposed development would likely provide economic and social benefits to the local area arising from the construction and future occupation of the proposed 10 dwellings.
32. Although in principle the proposed development would make an effective use of land, considering my findings on the first main issue above, it would not comply with paragraph 128 e) of the Framework which provides that, amongst other things, planning decisions should support development that makes efficient use of land, taking into account the importance of securing well-designed places.
33. The proposed development would result in unacceptable and harmful effects on the character and appearance of the area and on the character of the rural landscape. Additionally, significant unresolved issues remain in respect of habitats sites and drainage, as explained in detail above. As a matter of planning judgement I therefore find that the considerations put forward in support of the proposed development, do not, either individually or collectively, outweigh the adverse impacts identified, nor the conflict with the development plan identified. Hence, the proposed development would conflict with the development plan when considered as a whole.
34. Paragraph 186 a) of the Framework provides that, amongst other things, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. As, following my findings on the third

main issue above in relation to habitats sites, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, paragraph 11 d) i. of the Framework is applicable. This means that paragraph 11 d) ii. of the Framework is not engaged and the proposed development would not benefit from the presumption in favour of sustainable development.

35. Considering the proposed development in the round, I find that none of the other considerations, including the provisions of the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

36. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR

Richborough