



Appeal Decision

Site visit made on 17 September 2019

by **S Edwards MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 December 2019

Appeal Ref: APP/N1215/W/19/3227559

Land at Higher Blandford Road, Shaftesbury, Dorset

- 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 Shaftesbury LVA LLP against the decision of North Dorset District Council.
 - The application Ref 2/2018/0602/OUT, dated 30 April 2018, was refused by notice dated 5 February 2019.
 - The development proposed is outline application for residential development for up to 55 dwellings together with associated open space and infrastructure (means of access to be determined only).
-

Decision

1. The appeal is allowed, and planning permission is granted for outline application for residential development for up to 55 dwellings together with associated open space and infrastructure (means of access to be determined only), at Land at Higher Blandford Road, Shaftesbury, Dorset, in accordance with the terms of the application, Ref 2/2018/0602/OUT, dated 30 April 2018, and the plans submitted with it, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Shaftesbury LVA LLP against North Dorset District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the determination of the planning application, the National Planning Policy Framework (the Framework) has been updated. References to the Framework within this decision relate to the latest version published on 19 February 2019.
4. On 1 April 2019, North Dorset District Council ceased to exist and became part of a new Unitary Authority known as Dorset Council. The development plan for the merged Local Planning Authorities will remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked or replaced. I shall therefore determine the appeal having regard to the policies set out within the North Dorset District-Wide Local Plan and the North Dorset Local Plan Part 1 (January 2016).
5. The application was submitted in outline. The application form indicates that approval is only sought for access. Appearance, landscaping, layout and scale are reserved for subsequent determination. Whilst drawings showing the

potential layout¹ of the proposed development were submitted at application stage, these shall solely be considered for illustrative purposes.

6. The appellant has submitted a Planning Obligation by Unilateral Undertaking (UU), signed and dated 19 September 2019, under Section 106 of the Town and Country Planning Act 1990, which would take effect should planning permission be granted. The UU would secure the provision of affordable housing, as well as various other contributions, which I will return to later in this decision.

Main Issues

7. The main issues are:

- The effect of the proposal on the Council's spatial strategy;
- Whether the proposal would constitute an accessible form of development, having particular regard to the distance of the site to services and facilities for future residents;
- The effect of the proposal on the open countryside and rural character of the area; and
- Whether the proposal would result in the unacceptable loss of best and most versatile agricultural land.

Reasons

Location

8. Policy 2 of the North Dorset Local Plan Part 1² (LPP1) sets out the spatial strategy for the area administered by the Council and seeks to direct most of the housing growth within the four main towns, which include Shaftesbury. Whilst it is adjacent to the settlement boundary of Shaftesbury, the appeal site lies, for planning policy purposes, within the countryside where, in accordance with the requirements set within LPP1 Policy 20, development will be strictly controlled.
9. LPP1 Policy 20 only permits development in the countryside outside defined settlement boundaries if it is of a type appropriate in such a location or it can be demonstrated that there is an 'overriding need' for the development proposal to be located in the countryside. The appeal scheme would not meet any of these exceptions.
10. My attention has also been drawn to LPP1 Policy 18, which sets out the Sustainable Development Strategy for Shaftesbury. This policy seeks to direct development and regeneration within the settlement boundary, and through extensions, primarily of housing to the east and north of the town. The accompanying inset diagram clearly shows that the east of the town refers to land located to the north of the A30, which does not include the appeal site.
11. Accordingly, I conclude that the proposal would not accord with the Council's Spatial Strategy. Consequently, the appeal scheme would fail to accord with LPP1 Policies 2 and 20.

¹ Drawing no.150407 SK 180403.

² January 2016.

Accessibility

12. As noted above, the LPP1 identifies Shaftesbury as one of the four key strategic settlements in North Dorset. The core spatial strategy therefore seeks to focus the majority of the growth within these four towns, which are recognised as the most sustainable location, where homes, jobs and facilities are easily accessible.
13. Whilst the appeal site lies outside the settlement boundary of Shaftesbury, it nevertheless lies close to the built-up area of the town. As detailed within the Transport Assessment (TA) prepared by Trace Design Transport and Civil Engineering³, there are a number of facilities and services, including the Shaftesbury comprehensive school and leisure centre, Abbey View medical centre, a supermarket, within 1.2km of the centre of the site.
14. Additionally, the site appears reasonably well connected to these facilities and the town centre by good quality footways and cycle lanes. In this context, walking and cycling could replace short car trips, particularly those under 2km, as recommended by Manual for Streets. The TA also indicates that the site lies within proximity to bus stops on the A30. However, the limited frequency would require occupiers to plan their journeys in advance around bus services, which would lessen the appeal of this mode of transport as an alternative to private motor vehicles.
15. Overall, I consider that the proposal would appear adequately located in relation to services and facilities, by benefiting from good access by means of walking and cycling, which would thus help reducing the reliance on private motor vehicles. The proposal would therefore constitute an accessible form of development and would therefore accord with the Framework by limiting the need to travel and offering a genuine choice of transport modes.

Character and appearance

16. The appeal site comprises an agricultural field situated on the outskirts of Shaftesbury, which lies prominently at the junction between Salisbury Road (A30) and Higher Blandford Road (B3081). A number of commercial buildings are located to the east of the appeal site. I understand that the site also shares parts of its eastern boundary with a large field which is allocated for employment development.
17. The field is relatively flat, with slight gradients across the site, and offers views onto the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB), which extends to the south and east, being located a few hundred metres to the east of the site at the nearest point. The site notably provides views onto Breeze Hill and Melbury Beacon, which lie within the AONB.
18. The Courts⁴ have held that to expand the scope of paragraph 172 of the Framework to include all land which the AONB can be seen from would not reflect the intention of the policy. Notwithstanding this, the Planning Practice Guidance⁵ confirms that the statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of AONBs applies to 'development

³ Project Ref: 4260 (dated August 2018).

⁴ Stroud District Council v SSCLG v Gladman Developments Limited [2015] EWHC 488 (Admin).

⁵ Natural Environment, Paragraph: 039 Reference ID: 8-039-20190721.

proposals that are situated outside National Park or AONB boundaries, but which might have an impact on their setting or protection’.

19. The appellant’s Landscape and Visual Impact Assessment⁶ shows that the proposed development would be visible from the AONB but at some distance. It would be perceived in association with the settlement of Shaftesbury and the effect in views from the AONB would therefore remain limited. The submitted plans show that building lines would be restricted, and open spaces would be created along the western and southern edges of the site to preserve views of Melbury Beacon and Breeze Hill. This layout, which at this stage is only considered for illustrative purposes, would to some extent mitigate the effect of the proposal in respect of the views from the urban area towards the AONB. However, the development would still cause limited harm to this sensitive area by eroding the site’s contribution to extensive views of the AONB’s skyline, as a result of the construction of dwellings and planting of trees along the southern side of the A30.
20. The appeal site lies within the Blackmore Vale and Vale of Wardour National Character Area (NCA). As detailed in the Landscape Character Area Assessment (LCAA) prepared by North Dorset District Council in 2008, the site is also located in the Shaftesbury Greensand Ridges Landscape Character Area (LCA). The distinctive hilltop location of Shaftesbury is described within the LCAA as a positive feature in the wider landscape from the south and west. Whilst it is not within the AONB, the site nevertheless forms part of landscapes which are formally designated for their value at national and local levels.
21. Over the last few years, the edge of the settlement has to some extent shifted to the east as a result of the construction of the Melbury Grange residential scheme to the north of the A30. That said, the appeal site still acts as an important transitional point between the urban area and the wider rural landscape located to the south-eastern edge of Shaftesbury, where the pattern of development is typically more scattered. There are houses on the opposite side of Higher Blandford Road, but their appearance is softened by mature trees and hedges. The site therefore holds an important value as part of this landscape, by providing a rural setting to the nearby developed area of Shaftesbury.
22. The level of change introduced by the proposal would be significant, as the open field currently located on the edge of the settlement would become a housing estate. The field’s contribution as a transitional area between the developed area of the town and the surrounding countryside would therefore be lost, resulting in a scheme which would extend the settlement further into the countryside. Whilst additional planting could be provided to soften the effect of the proposal, the appeal scheme would include new buildings and domestic gardens, as well as large areas of hardstanding, which would significantly alter the undeveloped character of the site.
23. My attention has been drawn to the adjacent site, which has been allocated for employment. Having regard to the evidence before me, it however seems premature to consider the visual effect of the appeal scheme in combination with this allocated site, particularly as the previous application for employment use was an outline consent which is no longer extant⁷. The submitted

⁶ Reference 150407 R 02.

⁷ Local Planning Authority Reference 2/2006/1022.

information does not demonstrate with any certainty whether it would be developed in the foreseeable future and which form this would take.

24. In reaching these views, I have considered the appeal decision which granted permission for the Melbury Grange development to the north of the A30. Whilst this is a material consideration, it has to be borne in mind that this decision dates from 2007, and would have been issued within a very different planning context, both at national and local levels. This therefore limits the weight which can be afforded to this particular decision.
25. I have also had regard to the use of land situated further east as a traveller site, which was granted temporary consent in January 2011⁸. The effect of the proposal on the landscape character of the area or the AONB was however considered acceptable by reason of the level of screening provided by bunding and landscaping. I am therefore not convinced that the circumstances of this particular scheme represent a direct parallel to the proposal before me which, in any event, I am required to assess on its individual merits.
26. The urbanising effect of the proposal would have a detrimental impact on the rural character and appearance of the area, and cause limited harm to the setting of the Cranborne Chase and West Wiltshire Downs AONB. The effect of the development would be detrimental to the intrinsic character and beauty of the countryside and would consequently not accord with LPP1 Policies 2 and 20.

Loss of agricultural land

27. The appeal site extends to some 3.2 hectares and is identified as Grade 2 ('very good') agricultural land which, having regard to Annex 2 of the Framework, is recognised as 'best and most versatile'. In these circumstances, paragraph 170 of the Framework advises that decision-makers should take account of the economic and other benefits of the best and most versatile agricultural land. I accept that the land that would be lost as a result of the proposal is relatively small in the context of the area administered by the Council. The appellant also argues that the site has not been grazed over the last few years and does not form part of a larger farm, which could otherwise affect the viability of an existing agricultural enterprise.
28. However, these considerations would not in themselves provide sufficient justification for the loss of this agricultural land. Such an approach could lead to the gradual erosion of best and most versatile agricultural land. Whilst the site is not large enough to engage the sequential approach set out by footnote 53 of the Framework, the proposal would nevertheless result in the permanent loss of best and most versatile agricultural land. Consequently, it would not accord with the advice contained within the Framework, despite the fact that the scale of the loss would remain limited. I consider that this approach is consistent with the appeal decision, which has been brought to my attention⁹.

Other Matters

29. The appeal site is located within proximity to the listed building known as Mayo Cottage, which lies on the opposite side of Higher Blandford Road. Subject to detailed considerations which would be assessed as part of a subsequent

⁸ Local Planning Authority Reference 2/2010/1323/PLNG.

⁹ Appeal Decision APP/Q3115/W/17/3186858.

reserved matters application, I am satisfied that the proposal would preserve the setting of this nearby designated heritage asset.

30. Various concerns have been raised by interested parties, notably regarding the effect of the appeal scheme on highway safety. However, I note that the access to the site was supported by a detailed Transport Assessment and, subject to a number of conditions, which would include highway improvements, no objection has been raised by the Highway Authority or the Council in that particular regard. There are no reasons for me to take a different view.
31. Reference has also been made to the emerging Shaftesbury Neighbourhood Plan and Melbury Abbas and Cann Neighbourhood Plan which, I understand, have not reached an advanced stage of preparation. Until they are made, neighbourhood plans do not form part of the development plan, thus limiting the weight which can be afforded to these documents in the context of this appeal.
32. The submitted planning obligation would secure the on-site provision of 30% affordable homes (e.g. up to 17 dwellings), which would meet the requirements of LPP1 Policy 8, as well as the provision of public open space, and an equipped play area, in accordance with LPP1 Policy 15. In addition, financial contributions towards primary and secondary education, primary care services and rights of way would be provided. The level of information provided by the Council in respect of these contributions is considered acceptable. The increased financial contribution towards rights of way, as detailed within the correspondence submitted by the Council during the course of the appeal, is not sufficiently justified to accord with the requirements of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).
33. These contributions are considered necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Therefore, I am satisfied that the submitted UU, in respect of the contributions referred to above, meets the requirements set within paragraph 56 of the Framework and the tests in Regulation 122 of the CIL Regulations 2010 (as amended).
34. As detailed within the Case Officer's report, financial contributions are also sought towards allotments, community leisure and indoor sports facilities, destination play facilities (and their maintenance), as well as formal outdoor sports facilities (and their maintenance). Whilst LPP1 Policies 14 and 15 refer to these types of infrastructure, very limited information has been provided by the Council to confirm how the contributions would be spent. In the absence of specific projects being identified or justification in respect of the amounts being sought, I cannot be certain that these contributions would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
35. Accordingly, and notwithstanding the aims of development plan policy, I am unable to conclude that a planning obligation seeking to provide these particular contributions would meet the statutory tests. Whilst they have been included within the submitted planning obligation, I am satisfied that these contributions would not be enforceable, by reason of the inclusion of Clause 3.4 within the UU.

Planning Balance

36. I have found conflict with the development plan, by reason of the effect of the proposal on the Council's spatial strategy, its impact on the character and appearance of the area and the AONB. There would also be a loss of best and most versatile agricultural land as a result of the proposal.
37. There is no dispute between the parties that the Council is presently unable to demonstrate a five-year supply of deliverable housing sites. The Case Officer's report indicates that the Council can only demonstrate 3.3 years of housing land supply, which represents a significant shortfall. In accordance with paragraph 11 d) of the Framework, as directed by Footnote 7, policies which are most important for determining the application are considered out-of-date, and subsequently planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
38. The construction of up to 55 dwellings, including the provision of 30% affordable housing, as detailed within the submitted planning obligation, would make a significant contribution to the current shortfall in housing supply. The provision of additional dwellings, including affordable homes, would constitute substantial public benefits.
39. The Framework seeks to encourage residential development in locations where employment opportunities, shops and services are reasonably accessible by modes of transport other than the private car. The proposed dwellings would be located within reasonable proximity to facilities and services, and contribute towards housing supply and choice, but also deliver some benefits to the local economy notably through short term construction.
40. When the appeal scheme is assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal, to which I ascribe limited to moderate weight, would not significantly and demonstrably outweigh the benefits derived from the proposal, to which I afford substantial weight.

Conditions

41. The Council has drawn my attention to the conditions as listed within the Case Officer's report to the Planning Committee. The appellant has confirmed his agreement to these, including pre-commencement conditions. I have considered the suggested conditions, making minor amendments where necessary, to ensure compliance with the tests as set within the Framework and the PPG.
42. In addition to the standard time limit, I have imposed conditions specifying the relevant drawings, the details of reserved matters and the maximum number of dwellings permitted, which are required to provide certainty and clarity. Conditions requiring further details in respect of the access, geometric highway layout, turning and parking areas, visibility splays, as well as the submission of a Construction Traffic Management Plan are considered necessary in the interests of highway safety. For the same reason, I have also attached a condition requiring full details of the off-site highway improvement works to be approved prior to any of the new dwellings being brought into occupation.

43. Conditions requiring the submission of further details for the provision of cycle parking facilities and a travel plan are considered necessary to promote sustainable modes of transport and avoid reliance on private vehicles. I have also imposed a condition requiring further details in respect of the proposed area of open space, in the interests of the character and appearance of the area, and the living conditions of future residents. A condition requiring the submission of a noise assessment and any necessary mitigation is considered necessary to safeguard the living conditions of the future occupiers of the development. Conditions requesting further details in respect of the Biodiversity Mitigation Plan and a lighting strategy are necessary in the interests of biodiversity, including protected species.

Conclusion

44. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

S Edwards

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted is for up to 55 dwellings.
 - 2) Details of the 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 takes place and the development shall be carried out as approved.
 - 3) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 4) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 5) The development hereby permitted shall be carried out in accordance with the following approved plans: 4048 Rev.A, 4048-005 Rev.B.
 - 6) No development shall take place until details of the access, geometric layout, turning and parking areas have been submitted to and agreed in writing by the local planning authority.
 - 7) No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by the local planning authority. The CTMP shall include:
 - Construction vehicle details (number, size, type and frequency of movement);
 - A programme of construction works and anticipated deliveries;
 - Timings of deliveries so as to avoid, where possible, peak traffic periods;
 - A framework for managing abnormal loads;
 - Contractors' arrangements (compound, storage, parking, turning, surfacing and drainage);
 - Wheel cleaning facilities;
 - Vehicle cleaning facilities;
 - A scheme of appropriate signing of vehicle route to the site;
 - A route plan for all contractors and suppliers to be advised on;
 - Temporary traffic management measures where necessary.
- The approved CTMP shall be strictly adhered to throughout the construction period for the development.
- 8) No development shall take place until a detailed and finalised foul and surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, has been submitted to, and agreed in writing by the local planning authority. The agreed surface water scheme shall be implemented in accordance with the agreed details before the development is completed.
 - 9) No development shall take place until details of maintenance and management of the foul and surface water sustainable drainage scheme has been submitted to and agreed in writing by the local planning

authority. The agreed scheme shall be implemented and thereafter managed and maintained in accordance with the agreed details. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

- 10) No development shall take place until a definitive mitigation and method statement, following the recommendations of the submitted Biodiversity Mitigation Plan, dated 12.10.2018 (Version no.3f), has been submitted to and agreed in writing by the local planning authority. The development shall be implemented in accordance with the agreed statement.
- 11) Prior to occupation of any dwelling hereby approved, visibility splays must be provided at the access from a driver position of 2.4 metres and a stopping sight distance (SSD) of 79.00 metres in each direction along the carriageway. Thereafter, the visibility splay area must be maintained and kept free from obstruction. All land within the area of any visibility splay must be cleared/excavated to a level not exceeding 0.60 metres above the relative level of the adjacent carriageway.
- 12) Prior to occupation of any dwelling hereby approved, details of the following shall be submitted to and agreed in writing by the local planning authority:
 - The realignment of the junction of the A30 Salisbury Road with the B3081 Higher Blandford Road as shown on drawing no.4260-003 Rev.B contained within Appendix E of the revised Transport Assessment (or similar scheme to be agreed in writing by the local planning authority);
 - The provision of an enhanced pedestrian link on the A30 Salisbury Road to the west of the toucan crossing located at the A30 Salisbury Road/Greenacre Way junction as shown on drawing no.4260-003 Rev.B contained within Appendix E of the revised Transport Assessment (or similar scheme to be agreed in writing by the local planning authority);

The approved scheme shall be implemented in full accordance with the agreed details, prior to occupation of any dwelling hereby permitted.

- 13) Prior to occupation of any dwelling hereby approved, a scheme showing precise details of the proposed cycle parking facilities shall be submitted to and agreed in writing by the local planning authority. The agreed scheme must be completed prior to occupation of any dwelling hereby approved and, thereafter, maintained, kept free from obstruction and available for the purpose specified.
- 14) Prior to occupation of any dwelling hereby approved, a Travel Plan must be submitted to and agreed in writing by the local planning authority. The Travel Plan shall at least include:
 - Targets for sustainable travel arrangements;
 - Effective measures for the on-going monitoring of the Travel Plan;
 - A commitment to delivering the objectives of the Travel Plan for a period of at least five years from first occupation of the development;

- Effective mechanisms to achieve the objectives of the Travel Plan by the occupiers of the development.

The development hereby permitted shall be implemented in accordance with the agreed Travel Plan.

- 15) Prior to occupation of any dwelling hereby approved, a detailed noise assessment, along with any necessary mitigation, shall be submitted to and agreed in writing by the local planning authority. The development hereby permitted shall be implemented in accordance with the agreed details.
- 16) Prior to occupation of any dwelling hereby approved, details of the open space shall be submitted to and agreed in writing by the local planning authority for the provision of on-site public open space. The plan should include details relating to the design, laying out and future arrangements for management and maintenance of the open space. The open space shall then be implemented and maintained as agreed, unless otherwise agreed in writing with the local planning authority.
- 17) Prior to occupation of any dwelling hereby approved, an external lighting strategy shall be submitted and agreed in writing by the local planning authority. The agreed strategy shall be implemented in accordance with the agreed details.

END OF SCHEDULE