



Appeal Decision

Inquiry opened on 31 October 2017

Site visit made on 2 November 2017

by Mike Robins MSc BSc(Hons) MRTPI

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

Decision date: 02 January 2018

Appeal Ref: APP/D0121/W/17/3170103

Land off Stowey Road, Yatton, North Somerset BS49

- 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 Taylor Wimpey against the decision of North Somerset Council.
 - The application Ref 15/P/1918/O, dated 6 August 2015, was refused by notice dated 23 August 2016.
 - The development proposed is up to 60 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters other than access reserved for future determination.
3. A Statement of Common Ground (SoCG) was submitted, signed and dated 17 October 2017. Amongst other matters, this set out the plans for determination, but also plans identified as indicative, proposing an illustrative layout, landscape parameters and parking. I have taken these into account on that basis. Also included was a SoCG for Landscape Matters (LSoCG).
4. A legal agreement was submitted under the provisions of s106 of the Town and Country Planning Act 1990, signed and dated 9 November 2017. This was to address affordable housing, the provision of open space and contributions. Where necessary I have considered this later in my decision.
5. The Council confirmed in the SoCG that the provision of 30% affordable housing would conform with policy and, subject to a legal agreement on this and other contributions, would address their third reason for refusal. Furthermore, they also confirmed that they were not pursuing their fourth reason, which dealt with flood risk and the Sequential Test, and that the proposal complied with relevant national and local policies in that regard.
6. Following my accompanied site visit, which was partly restricted by misty conditions, I made unaccompanied visits later in the day to Cadbury Hill and the network of public footpaths near to the site, as well as the proposed housing sites to the northwest of Yatton, including that at Moor Lane.

Main Issues

7. I consider there are two main issues in this case:

- the effect of the proposal on the landscape character and appearance of the area, and
- whether the appeal site represents an appropriate location for housing having regard to national and local policies and whether any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal.

Reasons

Background and Policy Position

8. The appeal site comprises an open area of agricultural land, currently grazed. Made up of three fields separated by established hedgerows, the site adjoins the settlement boundary of Yatton, albeit a small part, near to the existing entrance, lies within it. A footpath, LA/21/3/30, enters the site here passing along the southern edge adjacent to the rear gardens of properties on Stowey Road and Stowey Park, and exits into a neighbouring field, identified as a Local Wildlife Site (LWS), continuing from there into the countryside network of further footpaths. The appeal site is open on the remaining three sides, with the Yatton or Hangstones Recreation Ground to the west and open countryside extending towards moorland to the north and east. A short distance away, Cadbury Hill, with its associated public access areas, provides views over Yatton and the appeal site.
9. The site is not currently designated for landscape or other purposes and has previously benefitted from permission for a change of use to leisure/recreational use.
10. The development plan for the area includes the North Somerset Core Strategy, (the Core Strategy), the Sites and Policies Plan Part 1 – Development Management Policies (DMP) and a limited number of saved policies from the North Somerset Replacement Local Plan (the Local Plan), including Policy H/7, which defines the settlement boundary.
11. The Yatton Neighbourhood Development Plan has been prepared in draft form and is being considered by the Council. While I note the site is not included as an allocation in this plan, the weight that I can give to its policies is currently limited by the stage of preparation.
12. The DMP was adopted in 2016, the Core Strategy in 2017 and an emerging Sites and Policies Plan Part 2 – Site Allocations Plan (eSAP) is currently undergoing examination. Notwithstanding this, the Council accept that they are unable to demonstrate a five year housing land supply (5YHLS). This has clear implications for this appeal in that it triggers the application of national policy, specifically Paragraphs 49 and 14 of the National Planning Policy Framework (the Framework). As a result, relevant policies for the supply of housing cannot be considered up-to-date and the presumption in favour of sustainable development applies such that any adverse effects of the proposal must be shown to significantly and demonstrably outweigh the benefits. I have considered the appeal on this basis.

Landscape Character and Appearance

13. The LSoCG sets out that the main parties agree the site should not be assessed as a 'valued landscape' under Paragraph 109 of the Framework. I concur; Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by, amongst other matters, protecting and enhancing valued landscapes, although the term 'valued landscapes' is not defined. Whilst the landscape here is clearly valued by local people, it does not include specific attributes or landscape features which would take it out of the ordinary sufficient for it to amount to a 'valued landscape' in terms of the Framework.
14. A Landscape and Visual Appraisal (LVA) was carried out to support the application, and was subsequently reviewed by the appellant in support of the appeal. Notwithstanding that the technical aspects of the LVA were not challenged by the Council, fundamental differences remain in terms of the impacts on the landscape character and setting of the village and the visual impacts on the appearance of the area.
15. The site is identified as lying within two adjacent character areas as defined by the North Somerset Landscape Character Assessment 2005: A1: Kingston Seymour and Puxton Moors and J5: Land Yeo and Kenn Rolling Valley Farmland. The consensus between the main parties was that it exhibited characteristics most associated with the A1 Landscape Character Area (LCA). The Council consider that this exhibits a strong landscape character in good condition.
16. While the appellant accepts a localised adverse impact through the loss of grazing land to housing, they identify what is referred to as a peri-urban influence over the southern part of the site. It was argued that the containment of the site and the constrained visual envelope would limit any harm sufficiently that, with appropriate reinforcement of the hedgerow boundaries and further landscaping, the housing would assimilate successfully into this landscape.
17. I am not convinced that this properly recognises the role the site plays in the setting of Yatton and the transition from moorland to village, nor the contribution it makes to the public perception of that setting from the road, the recreation ground and from the wider views. I accept that in some cases these views are limited, such as from the wider footpath network, but note their importance particularly the close range views and those from Cadbury Hill.
18. The development of the village can clearly be appreciated on the ground, aligned to the higher land and responding to the historic and continuing flood risks associated with the moors. Although not a particularly large village, Yatton has an urban centre focused along the relatively densely laid out High Street. Stowey Road and Stowey Park present a more open grain and provide a well-defined edge to the settlement, with the field patterns to the northern margin establishing a band of managed agricultural land providing a transition out onto to the moorland. This series of landscape elements is clearly reflective of the LCAs.
19. This transition is perceived most clearly from Cadbury Hill, but also from the footpath which runs along the edge of the site and in the views from Stowey Park, Stowey Road and particularly the Recreation Ground. These views are often glimpsed views, albeit the recreation ground and the site provide the most open aspect to those passing. It is these views and the opportunity here to leave

the 'urban' and enter the countryside that define the character of this part of the settlement as being much more than suburban, but rather as a village rooted in its countryside setting.

20. Into this well-defined sequence of landscape elements, the proposal would introduce a projection of built form, with no reference to those other elements, cutting through between the urban and the moorland, to the detriment of the landscape character. The transitional band between the village and the moors, clearly visible from Cadbury Hill and experienced in those views set out above, would be compromised, resulting in an unreconciled extension to the village. That landscaping is proposed and parts of the northern fields of the site would be left undeveloped is not sufficient to remove this harm.
21. While I accept there is some existing development on the recreation ground, the scale and position of this is such as to have limited impact on this transition, and the open land, despite the occasional goalpost and outdoor feature, serves generally to reinforce it. I also accept that Claverham Road presents a linear development extending away from the village. However, this in no way replicates what would be the intrusive nature of this proposal; instead it is reflective of the gentle curve of development, which in part defines the elevated view of Yatton from Cadbury Hill.
22. Visually the appellant correctly identified that the relatively flat topography and the well-established hedgerows limits long and some medium range views. Nonetheless, I consider that the local views have been underrepresented in the appellant's evidence. The recreation ground is clearly a well-managed and well-used community asset. It offers opportunities not just for formal sports, where its setting may not be of paramount importance, but also more informal opportunities, with its circular pathway and facilities. Not only does this provide attractive views in which the appeal site is a significant component, but a direct connection with the countryside in which the village sits. The proposed connection to an area of public space in the northern field, associated with the drainage features for the development, would not make up for the visual impact of housing on this site.
23. That there would be an immediate impact to the initial length of footpath LA/21/3/30 is clear, and the result would be to postpone that experience for users of entering the countryside. More important would be the loss of engagement with the surrounding countryside for those users, as with those using the recreation ground or travelling along Stowey Road and Stowey Park, a route I noted being well used as access to the nearby school.
24. The footpath through the site links to further footpaths, LA/21/6/10 and LA/21/3/40. These provide a network easily accessed from this part of Yatton. While they pass near to farm buildings in places, users have limited appreciation of the village other than some glimpsed views of well-screened housing and views towards the substantial and important feature of the Church of St Mary. These footpaths mostly have a tranquil, rural character and, while I accept that the views of the church would not be interrupted, nonetheless the increased presence of built form in the medium ground would alter the perception and experience for those using the network. However, I accept such effects would be limited and would be most evident in winter as intervening hedgerows would remain.

25. I am conscious that LCA A1 is an extensive area and the overall impact on its condition would be limited. I am also conscious that the considerable level of housing already permitted or proposed through allocations in Yatton is predominantly within this LCA. I visited some of these sites and consider that while they too represent considerable incursions into the countryside, for the most part they follow a natural extension of the village to the north and west along the High Street to North End axis. I have limited evidence on the status of the proposed Moor Road site allocation, but here there would appear to be a far less well-defined settlement edge and some relationship with the housing developments either side of Kenn Moor Road, Grange Farm Road and Dairy Close. These developments and allocations strike me as reflective of a planned expansion of the village.
26. I am also aware that when the previous permission was granted for the change of use to recreation and leisure, the Council identified the landscape character here as being moderate, with that to the more open moor as being strong. Nonetheless, I have assessed the effect on landscape character and appearance on the basis of the evidence before me. I also note that the proposal in that previous scheme was to mostly provide for playing fields and that alterations to the layout were proposed and acceded to to protect the hedgerow and rhyne features.
27. Overall, I consider that there is a strong and well-defined northern settlement edge to Yatton. Where there is permeability in this boundary it allows for engagement with, and enjoyment of the village's countryside setting. Significant amongst these areas of permeability is the appeal site in association with the well-used recreation ground, where access is directly available out from the built-up areas. This proposal, introducing housing out into the northern fields of the site, would project development through the key transitional element in this setting, materially harming the landscape and visual character of the area. This harm would be substantial within local views as well as from the wider panoramic views available from nearby Cadbury Hill, where, although the site forms only a small part of that panorama, it nonetheless is sufficiently close to draw the eye, representing as it would an awkward and intrusive urban extension into a key transition between Yatton and the open moorland.
28. Accordingly, I find there to be harm to the landscape character and appearance of the area contrary to Core Strategy Policy CS5 and Policy CS32, in so far as it relates to character and appearance, as well as Policy DM10 of the DMP, which gives effect to these strategic policies. Although Policy DM10 was not mentioned by the Council in the original decision notice, it was accepted by both main parties as relevant in this case. These policies seek, amongst other matters, to protect and enhance the quality of North Somerset's landscape through development that respects the landscape character and can be assimilated into a village and carefully integrated with the natural and built environment. These policies are consistent with the Framework's core principles to take account of the different roles and character of different areas and recognise the intrinsic character and beauty of the countryside; in this regard I afford them full weight.

Whether the appeal site represents an appropriate location for housing

29. The Core Strategy has been recently adopted and sets out its strategic approach to the distribution of housing in Policy CS14, which focusses new development on Weston-Super-Mare and the towns of Clevedon, Nailsea and Portishead. This

policy accepts the need for small-scale development in service villages, of which Yatton is one. The delivery of housing in the service villages is addressed in Policy CS32.

30. In essence Policy CS32 sets out a number of criteria that development within or adjoining service villages should meet and an absolute requirement that sites outside the settlement boundary in excess of about 25 dwellings, as here, must be brought forward as allocations through Local or Neighbourhood Plans. On its face, the proposal is in conflict with this policy, which I note was identified by the Core Strategy examining Inspector as sound, and its restriction to 'about 25 dwellings' being justified. That this limitation is defined in such terms is to allow, as the Inspector identified, some flexibility, but that in accordance with a plan-led system, larger sites should be brought forward as allocations.
31. The Core Strategy seeks to find some 20,985 dwellings over the plan period, with a relatively small proportion to be found in the service villages, such as Yatton, of some 2,100. Yatton itself has already had committed, as consents or proposed allocations, approximately 675 dwellings, with over 400 permitted in the last three years, where the schemes were identified as being in conflict with Policy CS32¹. Therefore, notwithstanding the endorsement given to limiting the scale of dwellings outside of the settlement boundary by the examining Inspector to the Core Strategy, it is clear that the Council have previously given the similar version of Policy CS32 in the original Core Strategy draft, limited weight when considering these previous schemes.
32. In this case, greater weight must apply to Policy CS32 as it has now been modified and adopted, but this must be tempered, as in these previous decisions, by the lack of a demonstrable 5YHLS at this time.
33. As set out above, allocations are being brought forward through the eSAP. This plan is undergoing examination. Consultation has recently been completed on a set of further allocations identified in response to a request from the examining Inspector to seek more sites for up to 2,500 dwellings. This request was explicit in that it did not require the Council to increase its target, but to increase flexibility in delivery to support achievement of a 5YHLS.
34. The appeal site was neither identified in the original allocation, nor in these later ones, nor is it identified in the draft Neighbourhood Plan. However, I note the appellant's view that its exclusion was because of its status as being within the appeal process rather than a qualitative assessment as a site for housing. Nonetheless, in light of the Council's clear objection to the proposal on landscape grounds and the conflict with the Core Strategy strategic approach, set out in Policy CS32, I consider that the Council, on their assessment, were not unreasonable in excluding the site.
35. While the further allocation of 821 dwellings identified by the Council falls short of the 'up to 2,500' in the original request, the examining Inspector confirmed that consultation should proceed on the basis of the Council's proposed modifications. It is not the place of this appeal to judge whether the eSAP with these proposed modifications would be sound, but to consider the compliance with the development plan and the weight that should be afforded to the benefits of the proposal before me. These include the provision of housing, including affordable housing, economic and social benefits.

¹ INQ 12, 13 and 14

36. The provision of up to 60 houses on this site would contribute to meeting what is acknowledged to be a significant need, identified as approximately 1900 dwellings per annum. This housing could be established, at reserved matters stage, to be of a suitable scale and mix to meet local needs. I am satisfied that the s106 agreement would ensure that of the homes sought not less than 30% would be affordable. Although I lack details on the need for affordable homes in Yatton and the wider district, I am satisfied that this too carries weight in favour of the proposal. I afford the housing delivery significant weight.
37. Economic benefits would arise, albeit those relating to construction would be temporary. There would be some additional spending in Yatton, although there is no evidence that the village needs additional housing to support the current level of facilities and services. Although I accept the Council's position set out at Inquiry of significant weight, I afford these benefits moderate weight.
38. Social benefits are identified by the appellant in relation to the choice of houses available; I have noted this in the housing delivery element above. The provision of public open space was also put forward. While I am satisfied that this could be delivered under the s106 agreement, I consider that it would not add significantly to public provision, allowing for the fact that similar access is already available within the recreation ground and the existing network of footpaths, and access to the proposed open space would be through, or adjacent to a new housing development. I afford these further social elements limited weight.
39. I also note the appellant's suggestion that there would be environmental gains in terms of new habitats created. However, I am also conscious of the considerations of interested parties that there would be harm to wildlife, notably in relation to bird and bat foraging, its proximity to the neighbouring LWS and other wildlife sites in the wider area, and the North Somerset and Mendip Bat Special Area of Conservation. I have considered the implications on protected species and the overall contribution the site may play in biodiversity terms. On the evidence before me, I consider that any provision on site, along with any relevant conditions, would serve only to mitigate impacts of the scheme; no weight therefore arises in relation to this.
40. Finally I note that the scheme is identified as being located in an accessible village with good transport links. This is accepted, indeed the very large proportion of additional housing already identified for Yatton, when considered against the total identified for the Service Villages, to a certain extent bears this out. However, while this fact may make the site in some ways better than a less accessible location, alternatives may also be available higher up the settlement strategy. I have very limited evidence on which to make a full evaluation of alternate housing sites and afford this only limited weight.
41. I have not addressed the s106 further in relation to proposed contributions as these would represent neutral weight, meeting only mitigation requirements for the scheme.

Other considerations

42. A number of previous appeal decisions have been submitted by the main parties, both supporting housing outside of settlement boundaries and finding that such housing unacceptable, even where there is no 5YHLS. I have considered this appeal on its own merits.

43. I note the concerns of local residents regarding traffic, highway safety, biodiversity and the relationship with the existing houses on Stowey Park, but in light of my overall decision I not considered these matters further.

Planning Balance and Conclusion

44. I have found the proposal to conflict with the strategic approach to the distribution of housing as set out in the 2017 Core Strategy, in particular to the express requirement of Policy CS32, both in terms of larger scale development outside of the settlement boundary and specific criteria set out for such development. This policy approach was found sound following remittance of the Core Strategy and its subsequent re-examination. However, I have also accepted that the weight that can be given to policies for the supply of housing is reduced by the Council's acceptance that they cannot demonstrate a 5YHLS. Nonetheless, in light of the recent adoption of the Core Strategy, I afford CS32 moderate weight.
45. I have also identified substantial harm to the landscape character and the appearance of the area contrary to policies which I consider carry full weight.
46. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicated otherwise. It is common ground that in absence of a 5YHLS, relevant policies are considered to be out-of-date and the presumption in favour of sustainable development, set out in paragraph 14 of the Framework, applies. To set against the substantial landscape character harm and moderate harm associated with conflict with the strategic approach set out in the Core Strategy, I have identified significant benefits arising in favour of the scheme from new housing, including affordable housing, moderate economic benefits and limited benefits associated with the accessible location and social aspects of the scheme. I have taken account of the appellant's statements regarding the desperate need in principle for those without housing to be provided with opportunities to own their own homes.
47. However, on balance, I consider that the adverse effects I have identified, which would result in a scheme which conflicts with the strategic approach to housing, would be harmful to the landscape character and appearance of the area and which would result in a scheme presenting as an unplanned extension markedly at odds with the past development of the village, would significantly and demonstrably outweigh the benefits I have identified. Accordingly, the presumption in favour of sustainable development does not apply and material considerations do not justify making a decision other than in accordance with the development plan.
48. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Mike Robins

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Timothy Leader of Counsel Instructed by North Somerset District Council

He called:

Kevin Carlton North Somerset – Project Officer / Landscape
BA DipLA Officer

Lee Bowering North Somerset – Principal Planning Officer

FOR THE APPELLANT:

Sasha Wight QC Instructed by Turley

He called:

Clare Brockhurst Landscape Consultant
FLI, BSc(Hons), Dip LA Tyler Grange

Jeffery Richards Office Director – Turley
BA(Hons) MTP MRTPI

INTERESTED PERSONS:

Steve Bridger	Local Resident and on behalf of No Moor Development
Caroline Sheard	Yatton Parish Council
Roger Wood	Yatton Parish Council
Colin Higgins	Local Resident
Jonathan Edwards	Yatton Parish Council
Rachel Brookes	Local Resident

DOCUMENTS

- INQ1 Statement – Steve Bridger
- INQ2 Statement – Caroline Sheard
- INQ3 Statement – Roger Wood
- INQ4 Statement - Colin Higgins
- INQ5 Statement -Jonathan Edwards
- INQ6 Draft s106 Agreement
- INQ7 Rebuttal to Proof of Jeffery Richards
- INQ8 Historic Landscape Characterisation Map
- INQ9 Appellant’s Opening
- INQ10 Council’s Opening
- INQ11 Draft list of planning conditions
- INQ12 Extract – 14/P/0191/O
- INQ13 Extract – 15/P/1488/O
- INQ14 Extract – 14/P/2017/O
- INQ15 North Somerset Interim Response – eSAP Inspector’s letter
- INQ16 CIL Compliance Statement
- INQ17 Council’s Closing Statement
- INQ18 Appellant’s Closing Statement