

Appeal Decisions –06 December 2017

Site: Erection of detached dwelling with associated works to the rear of 41 Greenway, Monkton Heathfield

Proposal: Erection of detached dwelling with associated works to the rear of 41 Greenway, Monkton Heathfield

Application number: 48/16/0045

Reasons for refusal: The site lies within an area allocated for Monkton Heathfield Urban Extension. The proposed development would be prejudicial to the good planning of the area, resulting in piecemeal development of the allocated land to the detriment of the comprehensive and coordinated approach to the delivery of the urban extension. The proposed development is contrary to Policies SS1 (Monkton Heathfield) and DM1 (General Requirements) of Taunton Deane Core Strategy and Policy D7 (Design quality) of the Draft Site Allocations and Development Management Plan.

Appeal Decision: Allowed



Appeal Decision

Site visit made on 14 August 2017

by Mrs J Wilson BA BTP MRTPI DMS

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

Decision date: 6th November 2017

Appeal Ref: APP/D3315/W/17/3172397

41 Greenway, Monkton Heathfield, Taunton, Somerset TA2 8NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs P Liell against the decision of Taunton Deane Borough Council.
 - The application Ref 48/16/0045, dated 7 July 2016, was refused by notice dated 5 October 2016.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling 41 Greenway, Monkton Heathfield, Taunton, Somerset TA2 8NF in accordance with the terms of the application, Ref 48/16/0045, dated 7 July 2016, and the plans submitted with it subject to the conditions set out in the attached schedule.

<https://www.gov.uk/planning-inspectorate>

Application for costs

2. An application for costs was made by Mr and Mrs P Liell against Taunton Deane Borough Council. This application is the subject of a separate Decision.

Main Issue

3. Based on the Council's reason for refusal and the evidence in this case, the main issue is whether the proposal would affect the delivery of the proposed allocation at Monkton Heathfield.

Reasons

4. The site is currently used as domestic garden. The land is bordered on three sides with mature hedging which is consistently above two metres in height; its depth is such that it does not afford a view through to the agricultural land beyond or to gardens either side. This results in the site being well screened from view with a distinct visual separation from the fields to the west.
5. The site is part of a large urban extension allocated in the Taunton Deane Core Strategy under Policy SS1, when developed it will contribute to the delivery of 4,500 homes across a number of sites bordering Monkton Heathfield. However the masterplan and design codes for this part of the urban extension have yet to be completed. The Council take issue with the piecemeal development of small pockets of allocated land as prejudicial to the overall good planning of the

area, the density of development proposed is considered by the Council to be inappropriate though does not form part of the Council's reason for refusal.

6. The site is included in the most recent Strategic Housing Land Availability Assessment (SHLAA) however the landowners have not submitted the site to the SHLAA, are not party to the consortium nor do they want to sell the land. Furthermore the owners say the site is not available for inclusion in the wider strategic allocation and has not been so since 2013. Statutory declarations have been submitted on behalf of the owners covering these matters.
7. The appellants question the deliverability of the allocation to the rear of the appeal site. Despite it being an interim release site in 2012 no progress has been made to demonstrate this and no planning permission sought. The appellants state that the proposal is not piecemeal; that it does not propose to develop pockets of land; the scheme does not prevent or preclude any access point; there is no ransom strip between this or any other land holding; and the proposal would not put the remaining site at risk practically or financially.
8. The site is allocated for housing development, there is physical separation from the remainder of the allocated site and strong boundary treatments exist. No issues have arisen with the impact on the living conditions of adjacent properties and the use of the site for a single dwelling would result in a density consistent with existing dwellings in the vicinity, albeit at a density below that aspired to under the scope of the strategic policy allocation.
9. The Council have not put forward specific evidence as to precisely how this site would compromise the delivery of the housing allocation relying solely on the fact that the site is within the housing allocation. The Council have not presented evidence to address the delivery argument nor have they explained why the development compromises the aims of the development management policies. Taking all of the above into consideration I find no evidence to demonstrate that the use of the site for a single dwelling would undermine the delivery of this part of the Monkton Heathfield allocation.
10. In the light of the above, I find no unacceptable conflict with strategic Policies SS1 and DM1 of the Taunton Deane Core Strategy 2011 – 2028 (2012). Nor do I find conflict with Policy D7 of the Taunton Deane Adopted Site Allocations and Development Management Plan (2016). Together these seek to ensure that the development meets the housing and design ambitions of the Council.

Other Matters

11. The Council state that the proximity to the boundary seems unneighbourly and there appears to be no good reason why the proposed dwelling could not be further away from the boundary. Representations have also been received from neighbours on the same basis. However, the Council found no harm would arise to the living conditions of the occupiers of adjacent properties and I see no reason to disagree.
12. The Council do express concern that the appeal site did not form part of the curtilage when No 41 was built and there has been no application for a change of use of the land and the site is officially classed as agricultural. However the site is allocated for housing and is clearly intended for residential development, whether or not part of the garden to No 41 is domestic garden or agricultural land is not a

matter for this appeal.

Conditions

13. The Council have suggested three conditions; the normal three year time limit required to comply with legislation together with a plans condition to ensure that there is clarity and certainty. A third condition suggested by the Council would secure the avoidance and mitigation recommendations set out in the appellants' ecology appraisal to protect trees, vegetation and wildlife habitats. These requirements are both reasonable and necessary given the importance of the locality as a foraging area for bats though I have adjusted the wording of the condition in the interests of precision.
14. Specific materials for the external walls are not referred to in the application form though they are noted as being for subsequent approval. Though the Council has not recommended a materials condition given the appellants intent for them to be agreed I consider it necessary to attach a condition relating to materials, details to be required prior to any work above foundation level. This addition would not prejudice the appellant and will enable the Council to be satisfied with the external finishes of the dwelling in the interests of protecting the character and appearance of the area.

Conclusion

15. In the light of the above and taking into consideration all matters raised the appeal should succeed subject to conditions.

Janet Wilson

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg no 2516/1 (Site Plan); Dwg no 2516/2 (Site Plan); Dwg no 2516/3 (Ground Floor Plan); Dwg no 2516/4 (First Floor Plan); Dwg no 2516/5 (S & W Elevation); Dwg no 2516/6 (N & E Elevation).
- 3) The dwelling hereby permitted shall not be occupied until a scheme of bat mitigation measures in accordance with Table 7 of the jh ecology Ecological Appraisal Report dated June 2016 has been submitted to and approved in writing by the local planning authority and implemented as approved. The approved bat mitigation measures shall be retained and maintained in accordance with the approved scheme thereafter.
- 4) No development shall take place above the upper level of the foundations until details of the materials to be used in the external surfaces of the dwelling have been submitted to and approved by the local planning authority in writing. The dwelling shall be carried out in strict accordance with the approved details.

[End of Schedule]



Costs Decision

Site visit made on 14 August 2017

by Mrs J Wilson BA BTP MRTPI DMS

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

Decision date: 6th November 2017

Costs application in relation to Appeal Ref: APP/D3315/W/17/3172397 41 Greenway, Monkton Heathfield, Taunton, Somerset TA2 8NF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs P Liell for a full award of costs against Taunton Deane Borough Council.
 - The appeal was against the refusal of an application for the erection of a dwelling
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appeal concerned a proposal to erect a dwelling on land that was a small part of a much larger area that had been allocated for a new sustainable neighbourhood in the Development Plan. Paragraph 49 of the PPG states that unreasonable behaviour by a local planning authority includes preventing or delaying development which should clearly be permitted. Equally so where failure to produce evidence to substantiate reasons for refusal on appeal or vague, generalised or inaccurate assertions about the impact of proposal are made.
4. Although the Council should be able to substantiate their case, they have done little more than to restate their 'in principle' objection to the proposal. No evidence was provided to substantiate that the process of the masterplan preparation was active, nor were any details provided to substantiate the Council's confidence they had in the delivery of the allocation.
5. No tangible planning harm, such as harm to the character and appearance of the area or to the living conditions of nearby occupiers, has been identified in the Council's reason for refusal or their other representations. There is almost nothing to explain how or why the proposed development of this small part would prevent the effective planning of the rest of the allocated site. The Council's generalised assertion about the impact of the proposal is supported by barely any objective analysis. Thus, the Council have failed to substantiate their case.

6. Moreover, having had regard to the particular site specific circumstances, I have found that the proposal would be acceptable, and that it would be in accordance with the Development Plan and national policy. The proposal, which should have been permitted, has been delayed, and this has caused the applicant the unnecessary and wasted expense of the appeal.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Taunton Deane Borough Council shall pay to Mr & Mrs P Liell the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

9. The applicant is now invited to submit to Taunton Deane Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Janet Wilson

INSPECTOR

APPEALS RECEIVED – 06 December 2017

Site: SAINSBURY SUPERMARKET, HANKRIDGE WAY, TAUNTON, TA1 2LR

Proposal: Display of 1 No. illuminated totem sign, 1 No. non-illuminated totem sign, 1 No. illuminated fascia sign and 1 No. non-illuminated wall sign at Sainsburys, Hankridge Farm, Hankridge Way, Taunton

Application number: 48/17/0010A

Appeal reference: APP/D3315/Z/17/3182210

Start Date: 02 November 2017

Site: LAND TO THE EAST OF WILD OAK LANE, TRULL

Proposal: Erection of 1 No. detached dwelling with associated works on land to the east of Wild Oak Lane, Trull

Application number: 42/17/0005

Appeal reference: APP/D3315/W/17/3181011

Start Date: 26 October 2017

Site: BEECHWOOD, HIGH STREET, MILVERTON, TAUNTON, TA4 1LL

Proposal: Application for Outline Planning Permission with all matters reserved for 5 No. dwellings on land to the rear of Beechwood, High Street, Milverton

Application number: 23/16/0038

Appeal reference: APP/D3315/W/17/3181011

Start Date: 26 October 2017

Site: GREENACRE FARM, RALEIGHS CROSS ROAD, COMBE FLOREY, TAUNTON, TA4 3JQ

Proposal: Prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations at Greenacre Farm, Raleighs Cross Road, Combe Florey

Application number: 11/17/0011CQ

Appeal reference: APP/D3315/W/17/3184348

Start Date: 06.11.17

Site: LAND TO REAR OF 51 TONE HILL WELLINGTON TA21 0AX

Proposal: Change of use of land from allotment (agricultural) to residential curtilage and erection of garage on land to rear of 51 Tone Hill, Wellington.

Application number: 43/17/0037

Appeal reference: APP/D3315/W/17/3186335

Start Date: 06.11.17

Site: THE OLD KITCHEN, STAWLEY WOOD FARM, STAWLEY ROAD, STAWLEY, WELLINGTON, TA21 0HP

Proposal: Application for a Lawful Development Certificate for the proposed change of use of an agricultural barn to a dwelling house (Class C3) at The Old Barn, Stawley Wood Farm, Stawley

Application number: 35/17/0002LP

Appeal reference: APP/D3315/W/17/3178398

Start Date: 10.11.17

Site: AGRICULTURAL TRACK LEADING TO OLD LAKE, HIGHER RUGGIN, WEST BUCKLAND, TA21 9LL

Proposal: Stationing of a shipping container and storage of touring caravan at OLD LAKE COTTAGE, HIGHER RUGGIN, WEST BUCKLAND.

Enforcement number: E/0223/46/15

Appeal reference: APP/D3315/C/17/3186773

Start Date: 10.11.17

Site: HOLBAINES MEADOW, WHITEBALL ROAD, SAMPFORD ARUNDEL, WELLINGTON, TA21 0LS

Proposal: BREACH OF CONDITION 03 OF 32/13/0007 AT HOLBAINES MEADOW, HOLYWELL LAKE

Enforcement number: E/0068/32/14

Appeal reference:
APP/D3315/C/17/3189132

Start Date: 23.11.17

Site: CUTLIFFE FARM, SHERFORD ROAD, TAUNTON, TA1 3RQ

Proposal: Change of use of land from siting of agricultural workers accommodation to siting of holiday accommodation on land to the north of Cutliffe Farm, Sherford.

Application number: 38/16/0227

Appeal reference: APP/D3315/W/17/3185045

Start Date: 23.11.17

Site: BARNOAKS, WORTHY LANE, CREECH ST MICHAEL, TAUNTON, TA3 5EF

Proposal: Demolition of garage and erection of 1 No. bungalow with associated works in the garden to the rear of Barnoaks, Worthy Lane, Creech St Michael

Application number: 14/16/0052

Appeal reference: APP/D3315/W/17/ 3187285

Start Date: 23.11.17