

Ms Anna Penn
Somerset West and Taunton Council
The Deane House
Belvedere Road
Taunton

Date: 15/07/2019

Letter ref: CP/00074

Dear Anna,

LPA Ref: 43/18/0065: Erection of 23 dwellings on land at Taunton Road, Wellington

I am writing on behalf of my client, Summerfield Homes in connection with the above-mentioned planning application which was reported to the Planning Committee at its meeting on 20 June.

I note that the officer report to the committee recommended approval of the proposals but I understand that the committee resolved to defer a decision on the application. The committee minutes identify the reasons for this deferral as follows:

- 1. Further information required around the 18 unit's permission and what was secured under that permission and to confirm that it is an extant permission;*
- 2. Officers to go away and speak to the applicant to negotiate the issues raised by the Committee for the size of the units, the number of parking spaces the cycleway and the viability issues around numbers of affordable housing;*

Having been the planning agent in respect of the original planning permission for the site and in order to try to assist, I set out below a summary of what I consider to be the main planning considerations in respect of the current proposals.

Extant permission and fall back position

Planning permission (43/13/0128) was granted on 25 March 2014 for the erection of 18 dwellings on the site. On 15 March 2017, Matthew Bale (then Area Planning Manager) wrote to

Summerfield confirming that the works that had been undertaken to the access were sufficient to implement the permission and to confirm that condition 1 of the planning permission had been complied with. A copy of the email is attached. This confirms that permission 43/13/0128 is an extant permission and this is a highly material consideration in respect of the current planning application. It means that it represents a fall back position against which the current proposals should be considered.

The courts have ruled that the prospect of the fall back position does not have to be probable or even have a high chance of occurring. It has to be only more than a merely theoretical prospect. Where the possibility of the fall back position happening is very slight indeed or merely an outside chance, that is sufficient to make the position a material consideration.

Consequently, the revised proposals have to be assessed in terms of the acceptability in planning terms of the differences when compared with the approved scheme given that the approved scheme can already be implemented. Any change in policy or other change in circumstances in respect of any relevant planning matter can also be taken into account.

Change in policy and other circumstances

The committee report in respect of the extant permission 43/13/0128 concluded as follows:

- the development was contrary to the Development Plan, being outside the settlement limit and within the green wedge and the Council considered it could demonstrate a five-year housing supply;
- nevertheless, the western half of the site would become surrounded by the development on three sides once the approved veterinary hospital building is constructed and the eastern extent of the development is a logical one that respects existing landscape features;
- the provision of formal, dedicated public open space will help the green wedge to fulfil on of its stated objectives which would otherwise be unachievable. This combined with the delivery of housing in a sustainable location was considered to outweigh the conflict with the plan.

This was the basis of the Planning Committee's decision to grant planning permission for 18 dwellings on the site in 2014, a permission which, as has already been established, has now been implemented and so remains extant.

Since the original planning permission was granted the following changes in circumstances have occurred:

- the green wedge boundaries have been formally amended via the adoption of the SADMP such that the part of the site on which the housing is proposed is no longer a part of the green wedge;
- in the appeal decision at Bagley Road, Rockwell Green (PINS ref: APP/D3315/W/17/3179264) dated 25 September 2018 it was established, and the Council accepted, that housing development outside but adjacent to a settlement boundary does not conflict with Core Strategy Policy DM2;
- the NPPF has been revised and now includes discounted market sales housing within the definition of affordable housing;
- the veterinary hospital has now been constructed meaning that the proposed housing is surrounded on three sides by existing development;
- the Somerset Parking Strategy has now been superseded by the Council's adopted parking standards set out in Appendix E of the SADMP; and,
- nationally described space standards have been introduced and are now reflected in Policy D10 of the SADMP.

Difference between the approved and proposed schemes

The proposed changes to the development which already has planning permission can be summarised as follows:

- a total of 23 dwellings is now proposed compared with 18. However, this has been achieved within what is essentially the same development footprint because the mix of housing proposed has been amended to comprise of less 4 bed houses and more 2 and 3 bed houses. The proposed mix is 5 x two bed, 10 x three bed and 8 x four bed houses

whereas the approved mix was for 2 x one bed, 1 x two bed, 6 x three bed, 9 x four bed houses;

- the affordable mix has changed from 2 x one bed, 1 x two bed and 1 x three bed to 5 x 2 bed; and,
- the affordable housing tenure mix has changed from 3 social rented and 2 intermediate to 5 discount open market dwellings.

Principle of development

Given the extant permission and the fall back position that it provides, the consideration of the planning application should be confined to the acceptability of the changes between the approved and proposed schemes having regard to the Development Plan and all other material considerations including any changes in policy and other circumstances since the original approval.

As has been identified, the proposed housing is not now within the green wedge and although the site is outside (albeit adjoined on three sides by) the settlement boundary, the afore-mentioned Bagley Road appeal decision has, since the original approval, established that this alone does not mean that a proposal for housing is in conflict with the Development Plan.

The veterinary hospital has now been constructed and the developable area of the site has not been extended.

The previously identified benefit of making a significant area of green wedge publically available for informal recreation remains.

Affordable housing

A 25% level of affordable housing for the proposed scheme would be 5.75 dwellings so would not result in any additional units being provided on the site than the proposed 5 units. While the tenure mix is now proposed as discount open market dwellings this is now a recognised tenure for affordable housing within the definition set out within the revised NPPF (which post-dates the Core Strategy), which is a material change in circumstances since the original approval.

Importantly, the affordable housing proposal has been agreed with the Council's Housing Enabling Officer. This has followed the submission of viability evidence, as is allowed for by Local Plan policy CP4. As such a process has been followed, there is no conflict with that policy.

It is also the case that the site adjoins the Cades Farm housing development where a large number of affordable dwellings of traditional tenures have been provided in recent years. The introduction of new affordable tenures within revised NPPF's definition of affordable housing is a recognition that a mix of types of affordable housing is necessary to address the housing needs of people with different levels of affordability and to achieve mixed and balanced communities. The proposals are entirely consistent with this central aim of government policy.

Highways and parking

The highways authority has concluded that the limited increase in traffic generated by the proposed scheme in comparison with what has been approved will not result in any significant change.

The highways authority has assessed the parking proposals against the Somerset Parking Strategy which has of course now been superseded by the Council's adopted parking standards set out in Appendix E of the SADMP. For housing developments in Wellington, the latter would require 49 parking spaces from the proposed development, plus 5 visitor spaces. The adopted parking standards includes garages. The proposals easily satisfies this policy requirement.

Policy D10

The extant approval pre-dated the adoption of the SADMP and Policy D10 did not therefore apply at that time. The committee report identifies that none of the dwellings within the approved scheme comply with the requirements of Policy D10 but, again, the fall-back position is relevant to this matter. The fact that 9 of the proposed dwellings would now be fully compliant and 10 more would be partially compliant is material to the consideration of the application, as the report acknowledges.

Re-consideration by the Planning Committee

My client would be grateful please if all of the important factors set out above are fully explained within the committee report that is prepared when the matter is presented back to committee in August, especially as they relate either directly or indirectly to the matters raised by Members. While we appreciate that the officer recommendation was previously one of approval, we hope that a better understanding of these considerations will help Members to appreciate that the proposals are consistent with planning policy when all relevant material considerations are taken into account and that this will allow them to feel more comfortable with supporting the officer recommendation.

I should also be grateful if you could please confirm what the requirements of any Section 106 Agreement are as it is not clear from the report.

If you would find it helpful to meet to discuss any matters identified above, or have any queries, please do not hesitate to give me a call.

Yours sincerely

SIMON COLLIER

Director

cc Rebecca Miller, Principal Planning Specialist, SWT Council,