The Planning Inspectorate

# Appeal Decision

Site visit made on 11 February 2019

**by Rory Cridland LLB(Hons), Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 March 2019**

**Appeal Ref: APP/D0121/W/18/3207635**
**Lostwood, Bypass, Langford BS40 5JQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Jedhi Ltd against North Somerset Council.
- The application Ref 17/P/2344/O is dated 31 August 2017.
- The development proposed is described as "outline planning application for up to 25 dwellings (C3) together with associated access improvements; creation of new vehicular access; hard/soft landscaping and drainage (all matters reserved except access)".

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on that basis, treating all plans as illustrative.

3. During the appeal, the Council adopted the Landscape Character Assessment Supplementary Planning Guidance (2018) ("the SPG"). This supersedes the 2005 guidance of the same name. I must consider the proposal against the relevant policies and guidance in place at the time of my determination. Accordingly, I have had regard to the more recent guidance set out in the SPG.

## Background and Main Issues

4. The appeal is against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission. The Council has, however, confirmed in its written evidence that, had it been in a position to determine the application, it would have refused permission for reasons relating to the site's location and the effect the proposal would have on the character and appearance of the surrounding area.

5. Accordingly, the main issues are:

   (i) whether the site offers an acceptable location for the proposed development having regard to the Council's adopted settlement strategy; and

   (ii) the effect of the proposal on the character and appearance of the surrounding area.

## Reasons

*Location*

6. The North Somerset Core Strategy[1] (CS) sets out a clear settlement strategy for the area. CS Policy CS14 directs new development towards the area's main towns and villages in accordance with the established hierarchy. Although it recognises that there will be opportunities for small scale development within and abutting the settlement boundaries of service villages, it strictly controls development elsewhere. Furthermore, it makes clear that development outside the settlement boundaries will only be acceptable where a site is allocated in a local plan or where it accords with the criteria set out in the relevant settlement policies including CS Policies CS32 and CS33.

7. CS Policy CS32 supports new development adjoining the settlement boundaries of the service villages, including Churchill, subject to a number of defined criteria. However, it makes clear that other unallocated land outside of these settlement boundaries will be treated as part of the countryside for planning purposes. The settlement boundaries are set out in Policy SA2 of the Sites and Policies Plan – Part 2[2] (SPP2) and are indicated by a solid black line on the Policies Map. For Churchill, a service village along the A38, the settlement boundary is shown as running north easterly from Lady Mead Lane along the A38 to its junction with the B3133. At this point it continues along the B3133, moving away from the A38 before turning north at the junction with Stock Lane.

8. The Council argues that the appeal site does not adjoin the settlement boundary of Churchill and, as such, should be classed as countryside for planning purposes. However, the appellant considers that the Council has erred in its approach and argues that whether or not the site lies adjacent to the settlement boundary should be judged 'on the ground' taking account of the physical extent of development. In support of their position, the appellant has drawn my attention to the Julian Wood case[3] and argues that the principles established there are also applicable here.

9. I do not agree. Unlike the term villages in national green belt policy, the settlement boundary of Churchill is unambiguous; it is defined in Policy SA2 of the SAPP2 by reference to the Policies Map. No further assessment is necessary and whether a site adjoins the identified settlement boundary of Churchill for the purposes of CS Policy CS32 is a question of fact. In the present case, even though I acknowledge it is accessible to nearby local facilities and services, I agree with the Council that the appeal site cannot reasonably be described as adjoining the identified settlement boundary of Churchill. It is situated some distance to the south and separated from it by both the Local Centre and the A38. Accordingly, I find that, for planning purposes, the site falls to be classed as countryside and should be assessed against CS Policy CS33.

10. CS Policy CS33 relates to development within the infill villages, smaller settlements and the countryside. Although it makes provision for some residential development of an appropriate scale within the settlement boundaries of the infill villages, it makes clear that outside these areas new residential development will be strictly controlled and restricted to replacement

[1] (2017).
[2] Sites and Policies Plan, Part 2 Site Allocations Plan 2006-2026 (2018)
[3] Wood v Secretary of State for Communities and Local Government [2015] EWCA Civ 195.

dwellings, residential sub division, the conversion of certain buildings, and dwellings for essential rural workers or affordable housing. The proposal does not fall within any of the limited circumstances set out in that policy.

11. Consequently, I find that the proposal conflicts with CS Policy CS33 and, as such, also fails to accord with the Council's adopted settlement strategy. It is therefore also in conflict with CS Policy CS14.

*Impact on Landscape.*

12. The appeal site is located on the eastern edge of the village, in a prominent position adjacent to the A38, around 100m from the defined settlement boundary. It is visually separate to the main built form of the village and forms an integral part of the attractive, rural setting evident along this eastern approach. The site itself consists of an agricultural field, well screened along its northern boundary by a large mature hedge. It is accessed along a shared access which also serves the property known as Lostwood, beyond which is open countryside.

13. The Council have raised a number of concerns regarding the impact of the proposal on the eastern approach to the village as well as on the wider landscape. Those concerns are well founded. There is a clear and well-defined eastern edge to the village which runs along Stock Lane before continuing south past the local centre to the A38. While I note the appellant's assertions that this part of Churchill is of a mixed residential/commercial character, it is nevertheless less densely developed and more rural in character than the residential areas further west.

14. The erection of 25 dwellings in this prominent location would materially alter this part of the village, changing its existing rural and agricultural character to a more suburban, residential one. Even though I accept that retaining the existing screening along the A38 boundary and setting the dwellings further into the site would go some way to reducing the scheme's visual impact, the upper levels of the proposed houses would nevertheless be clearly evident from a number of vantage points both when entering and leaving the village. This would appear out of keeping with the less densely developed, more rural character of the surroundings and would jar with the more sporadic development located along this section of the A38.

15. Furthermore, although the village of Churchill is generally well contained within the wider landscape, its visual boundaries are reasonably linear with the eastern settlement edge running south along Stock Lane, past the Local centre to the A38. Most of the existing development is situated to the west of this line, and there is limited residential development to the east. That which does exist is well set back from the A38 and has little impact on the setting of the village.

16. The proposal, in contrast, would result in a considerable amount of additional residential development extending out from the existing settlement edge. It would protrude eastward into the surrounding countryside jutting out beyond the existing limits of built form and encroaching into the rural pastoral landscape. While I accept that there are a limited number of medium and long-distance views of the site, in those that are available, it would appear as a significant intrusion into open countryside and would negatively impact on views of the wider landscape.

17. Furthermore, views towards the site from a number of vantage points along the settlement edge would materially alter including from public footpath AX14/14/30, the A38 itself and the local centre. Indeed, I note that the appellant's Landscape and Visual Impact Assessment (LVIA) recognises that significant adverse effects are likely to arise in relation to these receptors. While I note the LVIA indicates that with some additional screening, the effects can be reduced, I am not persuaded this would be sufficient to mitigate the harm.

18. Accordingly, I find the proposal would erode the rural character of the eastern approach to the village and would fail to conserve or enhance the character, distinctiveness or quality of the surrounding landscape. As such, it conflicts with CS Policy CS5 and Policy DM10 of the Sites and Policies Plan Part 1[4]. These policies, taken together, seek to ensure that development proposals do not have an unacceptable adverse impact on their surroundings including the character and distinctive qualities of North Somerset's landscape.

**Other Matters**

19. The appellant has submitted a duly executed Unilateral Undertaking (UU) which contains a number of obligations contingent on the granting of planning permission. However, other than those which relate to affordable housing, the obligations contained within the UU are intended to mitigate the effects of the proposed development. As I am dismissing for other reasons, I do not consider it necessary to consider these obligations in any further detail.

20. However, the obligations in respect of affordable housing provide a potential benefit which may weigh in favour of the proposal. Furthermore, I note that CS Policy CS16 indicates that an affordable housing provision of at least 30% will be sought on all market housing sites. I am satisfied that the affordable housing obligation is directly related to the development, is reasonably related in scale and kind and is necessary to make the development acceptable in planning terms. As such, I consider it meets the relevant tests set out in Regulation 122(2) of the Community Infrastructure Regulations 2010 and provides some support in favour of the proposal.

21. The Council has also raised some concerns regarding the site's accessibility to local services. However, in view of the site's close proximity to the nearby Local Centre, as well as the various services available in Churchill itself, I consider these concerns to be somewhat overstated. Nevertheless, an absence of harm in this respect does not weigh positively in favour of the proposal.

22. I acknowledge the considerable amount of built form located to the south of the recognised settlement boundary, including the nearby Local Centre and the recent developments at Says Lane and Pie Pudding Lane. However, these sites are allocated in the SAPP2 and, unlike the appeal site, their development is in accordance with the adopted settlement strategy. As such, they provide little support in favour of the proposal.

23. I note that the parties disagree about the agricultural classification of the land. However, the agricultural classification has no bearing on my reasoning above

[4] North Somerset Council Sites and Policies Plan Part 1 – Development Management Policies (July 2016)

## Planning Balance

24. The Council is unable to demonstrate a 5-year supply of deliverable housing sites as required by paragraph 73 of the National Planning Policy Framework ("the Framework"). In such circumstances, paragraph 11(d) of the Framework indicates that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

25. The appellant has identified a number of such benefits including the scheme's contribution towards the area's housing supply in general. In view of the acknowledged shortfall, I afford this considerable weight. In addition, the scheme would make some modest provision towards affordable housing which would provide a positive public benefit and meet an identified need. I also afford this considerable weight. However, while I acknowledge the proposal would also result in a number of economic benefits including additional employment during construction, additional expenditure for the local economy and support for local businesses and services, these are more limited, and I afford them only a small amount of weight.

26. While I note the appellant's assertion that the proposal would result in a net benefit for biodiversity, there is no robust evidence which would indicate that this would be significant. On the evidence before me, I am not persuaded that there would be any material benefit and I afford it little weight. Furthermore, although I note the other benefits referred to by the appellant including the new homes bonus and payments under the Community Infrastructure Levy, the Planning Practice Guidance[5] makes clear that it would not be appropriate to make a decision based on the potential for a development to raise money for a local authority. As such, I afford them no weight.

27. However, I have found above that the proposal would not be in accordance with the Council's settlement strategy. These policies are a fundamental part of the development plan as a whole and I afford them significant weight. Furthermore, I have found that it would be harmful to the character and appearance of both the immediate locality and the wider landscape. I consider the resultant harm would be considerable and would negatively impact on the intrinsic character and beauty of the countryside. As such, I afford this significant weight.

28. When taken together, I consider the resultant harm would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies set out in the Framework taken as a whole.

## Conclusion

29. Consequently, for the reasons set out above, and having had regard to all other matters raised, I consider the proposal would be contrary to the LP as a whole and there are no material considerations present which would indicate that a departure from the development plan would be justified. Accordingly, I conclude the appeal should be dismissed.

*Rory Cridland*

INSPECTOR

[5] Reference ID: 21b-011-20140612.