



## Appeal Decision

Site visit made on 5 September 2018

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

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

**Decision date: 1 October 2018**

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**Appeal Ref: APP/D0121/W/18/3199616**

**Land to the North of Leafy Way and Bartletts Way, Locking, Western-super-Mare BS24 8BD.**

- 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 Mr Bartlett against the decision of North Somerset Council.
  - The application Ref 17/P/5572/OUT, dated 19 December 2017, was refused by notice dated 14 March 2018.
  - The development proposed is erection of 8 new chalet bungalows with all matters reserved for subsequent approval.
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### Decision

1. The appeal is allowed and outline planning permission is granted for 8 new chalet bungalows at Land to the North of Leafy Way and Bartletts Way, Locking, Western-super-Mare BS24 8BD in accordance with the terms of the application, Ref 17/P/5572/OUT, dated 19 December 2017 subject to the conditions set out in the attached Schedule.

### Preliminary Matter

2. Notwithstanding the description of development set out above, the written evidence indicates that matters of access were consulted upon and considered by the Council as part of its determination. Accordingly, I have determined the application on a similar basis, treating all plans as illustrative except where they deal with matters of access.

### Application for costs

3. An application for costs was made by Mr Bartlett against North Somerset Council. This application is the subject of a separate Decision.

### Main Issue

4. The main issue is whether the site offers an acceptable location for the proposed development having regard to its location outside a recognised settlement boundary.

### Reasons

5. The appeal site is located outside the settlement boundary for Locking, an infill village situated close to Western-super-Mare. The site itself consists of a rectangular paddock with stables measuring around 0.5 hectares which is currently accessed from the nearby A371. It is, however, separated and well screened from this main road by an area of deciduous woodland.

6. The proposal would involve the erection of 8 chalet style bungalows to the rear of Leafy Way and Bartletts Way, an established residential area located close to Locking Primary School. The Council has acknowledged that in repositioning the access to nearby Bartlett's Way, the present application addresses its previous concerns in relation to highway safety<sup>1</sup>. However, they have objected to the proposal on the basis that it is outside the settlement boundary for Locking and, as such would be in conflict with Policies CS14 & CS33 of the North Somerset Core Strategy<sup>2</sup> (CS).
7. The development plan sets out a clear settlement strategy for the area. Policy CS14 of the CS 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 including those areas identified as 'infill villages' such as Locking. Likewise, it makes clear that development outside the settlement boundaries will only be acceptable on sites allocated within a Local Plan or where it accords with the criteria set out in the relevant settlement policies.
8. One such policy is Policy CS33 which allows for some limited development within the settlement boundaries of the infill villages. However, it restricts development elsewhere other than in a limited number of defined circumstances including where it involves replacement dwellings, residential sub-divisions, the residential conversion of buildings where alternative economic use is inappropriate, dwellings which are essential for rural workers or affordable housing situated adjacent to settlements. None of these circumstances apply in the present case. As such, in view of its location outside the settlement boundary, I agree with the Council that there is a clear conflict with Policies CS14 & CS33 of the CS.
9. However, my attention has been drawn to a recent appeal decision at Laney Drove<sup>3</sup> ("the Laney Drove Decision") where the Inspector, having heard detailed evidence on the matter, concluded that the Council was only able to demonstrate a 4.4 year supply of deliverable housing sites. This identified shortfall has been acknowledged by the Council as part of this appeal. While I acknowledge that the recently adopted Site Allocations Plan (SAP) may be sufficiently flexible to allow any shortfall to be addressed by bringing forward the delivery of sites already identified in the SAP and CS, Paragraph 11<sup>4</sup> of the National Planning Policy Framework ("the Framework") makes clear that in such circumstances, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
10. As a general rule, I do not believe that the settlement strategy set out in an adopted plan should be set aside lightly. However, while I acknowledge that being out of date does not make policies immaterial in decision making, the weight that is afforded to them is often diminished.

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<sup>1</sup> which formed its sole reason for refusal for a different, albeit substantially similar, application in November 2017 (Ref: 17/P/1179/O).

<sup>2</sup> (2017).

<sup>3</sup> APP/D0121/W/17/3184845.

<sup>4</sup> 11(d)(ii).

Accordingly, I afford the conflict with the development plan identified above a moderate amount of weight.

11. While I note the approach taken by the Inspector in the Laney Drove Decision where she afforded 'very considerable weight' to that proposal's conflict with the development plan, that was, in part, due to the additional harm that would arise from the proposal's impact on the strategic gap. Indeed, the Inspector in that case noted that the strategic gap, and that particular site within it, played a significant role in ensuring that the environmental impact of unplanned growth does not cause significant adverse harm. The impact on the strategic gap does not form one of the reasons for refusing planning permission for the current proposal and the Council's written evidence indicates that there is no objection in this respect. As such, I am not persuaded that the circumstances are sufficiently similar to indicate that I should adopt a similar approach to that taken in the Laney Drove appeal.
12. Turning then to the proposals' benefits, the appeal site is located on the southern side of the A371 where the majority of built development within Locking is located. It would help boost the supply of housing, a key aim of national planning policy, and provide easy access to local services and facilities. In view of the shortfall in housing land supply, I afford this a considerable amount of weight.
13. In addition, it would provide some modest benefits to the local economy (both during and after construction) as well as providing some additional support for local services. Individually, these benefits are small, however, cumulatively they provide some additional support in favour of the proposal and I afford them a moderate amount of weight. Likewise, while I note the enhancements to highway safety proposed are limited in both scope and extent, they nevertheless provide some additional support in favour of the proposal.
14. Accordingly, in view of the lack of any other material harm identified, I consider the adverse impacts that would result from a departure from the settlement strategy would not, in this instance, significantly and demonstrably outweigh benefits when assessed against the policies in the Framework as a whole. This leads me to conclude that, notwithstanding its conflict with Policies CS33 & CS14 of the CS, there are material considerations which indicate that a departure from the development plan would be justified.

### **Other Matters**

15. In reaching my decision I have had regard to the concerns raised by local residents and Locking Parish Council, both those made as part of the original application and during the course of this appeal. However, there is no robust evidence which would indicate that it would have a negative impact on parking or highway safety along Leafy Way or more widely. Likewise, there is no robust evidence which would indicate that it would result in an overdevelopment of the site or that emergency vehicles would be unable to access the road.
16. Furthermore, there is nothing to indicate that local drainage infrastructure is currently at or nearing full capacity or that suitable drainage cannot be

achieved. While I acknowledge that the development might result in some disturbance and disruption during construction, these circumstances are temporary and do not provide sufficient grounds for withholding permission.

### **Planning Conditions**

17. I have had regard to the various planning conditions that have been suggested by the Council. In addition to the standard conditions regarding the submission and approval of reserved matters and the commencement of development, I consider a condition requiring the access to be constructed prior to the occupation of any dwelling is necessary in order to ensure that on-site facilities are available for future occupiers.
18. Furthermore, a method of construction statement is necessary in the interests of highway safety while conditions in respect of drainage are appropriate to ensure the site is suitably drained. However, in view of the drainage report already submitted, I am not persuaded that such a detailed pre-commencement condition is necessary and as such have amended it accordingly. In addition, I consider a condition in respect of energy efficiency is necessary to help meet the aims of Policies CS1 & CS2 of the CS.
19. However, conditions requiring further details on finished floor levels, those which relate to landscaping, materials, boundary enclosures, and waste and recycling are not necessary as these matters can be sufficiently dealt with as part of the reserved matters.
20. The Council has also suggested a condition requiring all persons with an interest in the land to enter into a planning obligation in respect of affordable housing in the event that the combined floor area exceeds 1000m<sup>2</sup>. However, the planning practice guidance indicates that such conditions will not be appropriate in the majority of cases and without a detailed explanation for imposing it in the present case, I cannot be certain that there are the exceptional circumstances present which would justify it.

### **Conclusion**

21. I have found above that the proposal would be in conflict with Policies CS33 & CS14 of the CS which set out the settlement strategy for the area. However, in view of the lack of any material harm, I have also found that there are material considerations present which indicate that a departure from the development plan is justified.
22. Accordingly, for the reasons set out above and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Rory Cridland*

INSPECTOR

## SCHEDULE

### Conditions:

- 1) 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.
- 2) 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.
- 3) 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.
- 4) No other part of the development hereby approved shall be commenced until:
  - a) the dwelling at No 5 Bartletts Way has been demolished and the access road (including any temporary construction access road) has been laid out, kerbed, drained and constructed up to base course level for the first 30 metres back from its junction with Bartlett's Way in accordance with the approved details;
  - b) the existing access from the A431 has been stopped up; and
  - c) a Method of Construction Statement, to include details of:
    - (i) parking for vehicles of site personnel, operatives and visitors;
    - (ii) loading and unloading of plant and materials;
    - (iii) storage of plant and materials;
    - (iv) programme of works (including measures for traffic management);
    - (v) provision of boundary hoarding behind any visibility zones;
    - (vi) full details of any temporary site access for construction purposes;
    - (vii) hours of construction and of deliveries to and from the site;
    - (viii) location of any construction compound/site offices;
    - (ix) details and the location of any generators to be used on site;has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented throughout the construction period.
- 5) The occupation of any dwelling shall not take place until:
  - a) the footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
  - b) the visibility splays have been laid out to their final level;
  - c) the car parking and any other vehicular access facility required for the dwelling by this permission has been completed.

- 6) When constructed and provided in accordance with condition 5 above, the approved parking areas, footways, footpaths and visibility splays shall be thereafter permanently retained.
- 7) No part of the development hereby permitted shall be commenced above Damp Proof Course Level until the detailed design of the proposed permanent surface water drainage management system, including details of the exceedance pathways and overland flow routes across the site for the proposed surface water drainage management system, have been submitted to, and approved in writing by, the Local Planning Authority.
- 8) No dwelling shall be occupied until measures to generate 15% of the ongoing energy requirements for that dwelling through the use of micro renewable or low carbon technologies have been installed and are fully operational in accordance with the approved details that shall have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved technologies shall be permanently retained.

END OF SCHEDULE