



Appeal Decision

Hearing Held on 4-5 October 2022

Site visit made on 5 October 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 November 2022

Appeal Ref: APP/Q3305/W/21/3284378

Land at Ivy Cottage, Leigh-on-Mendip, Somerset BA3 5QG

- 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 T & A Land Associates Ltd against the decision of Mendip District Council.
 - The application Ref 2020/1877/OTS, dated 21 September 2021, was refused by notice dated 27 April 2021.
 - The development proposed is up to 40 dwellings with a playing field and car park for the school, and a new vehicular access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved except access. Two indicative layouts have however been provided, one showing 40 dwellings and the other 32. The latter, more recent of these plans provides a response to an ecological survey and recommended mitigation measures. Insofar as these, the shape of the site, and the provision of accessible school facilities act as constraints, the plan provides a reasonable guide as to the layout likely to be submitted in clearance of the reserved matters. That said, any permission would be for up to 40 dwellings, and I have little reason to believe that any less would be provided. As such, the disposition and density of dwellings within the layout would most likely differ. I have therefore attached moderate weight to the plan showing 32 dwellings in assessing the scheme.
3. The application was partly refused on grounds that no geophysical or bat surveys had been undertaken, and that there would be an adverse effect on trees and hedges. Following the submission of further evidence, the Council has withdrawn its objections. I shall therefore consider them no further.
4. The Parish Council and County Council each made separate representations at the Hearing. For the avoidance of doubt, unless specific reference is made to either, all references to 'Council' below relate to the District Council.

Main Issue

5. The main issue is whether the site is a suitable location for the proposed development having regard to its effect on the character and appearance of the

area, and whether the development would preserve the setting of a Grade I listed building.

Reasons

Background

6. The Council's spatial strategy, as set out within Core Policies 1, 2 and 4 of the Local Plan 2006-2029 Part I: Strategy and Policies (the Local Plan), seeks a sustainable distribution of housing based on a settlement hierarchy ranked according to access to services and public transport. The ranking generally reflects the relative size of the settlements in question, with development primarily directed towards 5 Principal Settlements. Application of the strategy is further facilitated through the identification of development limits (settlement boundaries), outside of which development is subject of stricter control. Leigh-on-Mendip falls below 16 Primary and 13 Secondary Villages at the bottom of the hierarchy, and so lacks a settlement boundary. This was therefore the reason the Council identified the site as a location within which development is strictly controlled.
7. The Council did not however cite conflict with any of the above policies within its decision notice. Indeed, it agrees with the appellant that on the basis of the presence of a pub, village hall, church, primary school and weekday 'journey to work' bus service, Leigh-on-Mendip should be considered as a Secondary Village, and within this context, as a 'sustainable' location for housing development. The Local Plan itself recognises the potential for change. The fact that the spatial strategy does not explicitly name Leigh-on-Mendip as a Secondary Village or thus define a settlement boundary are thus considerations which clearly limit the weight that can be attached to inevitable conflicts with the above policies.
8. The basic rationale underpinning the strategy nonetheless remains generally sound, and insofar as it relates to rural areas, it is broadly consistent with the principles set out within the National Planning Policy Framework (the Framework). In this regard Secondary Villages are defined within the hierarchy as only suitable for development serving 'localised' needs. This logically reflects their small size and the fact that, as in Leigh-on-Mendip's case, they provide a relatively limited level of services and public transport links. Consequently, they are much less sustainable locations for development than Principal Settlements or Primary Villages. This remains a basic planning consideration of clear importance despite my findings above. It will therefore be a matter I return to below, and particularly in light of the Parish Council's strong representations on the matter.
9. The Council's objection was however confirmed as being more narrowly based on the effects of the scheme on the character and appearance of the area, including the setting of the Grade I listed parish church.

(a) Character and appearance

10. Leigh-on-Mendip is a small, rural, distinctly linear ridge-line settlement, roughly laid out along an east-west axis defined by Leigh Street. The majority of existing development either lines Leigh Street or falls within a fairly narrow corridor to either side, with limited depth to the layout provided by a few cul-de sacs accessed directly off the main street. The linear character and layout of

the settlement is clearly appreciable from within the surrounding landscape, including in views from the north and south. This in part reflects the abrupt transition to open countryside beyond established developed edges. Within this context the tower of the Church of St Giles acts as a focal point. These attributes, together with the use of local stone and clay tile in traditional construction provide Leigh-on-Mendip with a distinctive character and identity.

11. At the east end of the village Quarry Lane branches north off Leigh Street. In this location the transition from developed village street to open countryside is again abrupt, and not disturbed in any significant way by extant or former quarry workings within the vicinity. A sense of entry and exit into and out of the settlement is tangible at this point. It is further reinforced upon entry by views of the tower of the Church of St Giles across the site, which provides a first indication of the presence of the village.
12. The site itself consists of mostly open green space falling into 2 main parts. The southern part abuts established domestic and other spaces which fall within the existing developed corridor on the north side of Leigh Street. It contains an overgrown paddock-like enclosure, a second field containing an orchard, and a long low agricultural shed. The existing character and openness of these spaces is partly appreciable from the churchyard, from Quarry Lane and from footpaths towards the east.
13. The northern part of the site comprises a large field which bounds another field on its west side. It has no direct relationship to existing development within the village and extends well to the north of the established developed corridor on the north side of Leigh Street. This is appreciable from both within and outside the site, the latter given intervisibility from paths along the east and west boundaries, including Quarry Lane, and from the permissive path around the edge of Halecombe Quarry. As such the northern part of the site is more readily perceived as falling within the landscape setting of the settlement than the southern part, though the site as a whole has an established agricultural character.
14. To the extent that enclosure of the site by overgrown/unkept hedging has been emphasised by the appellant, this has the effect of obscuring but does not prevent views either in or out. Indeed, whilst the frontage along Quarry Lane is very sparsely enclosed, the hedge which defines the west side of the site has grown gappy along its base. Intervisibility between the site and its setting can be expected to increase during winter and is likely to increase further still over time in the absence of proper hedgerow management.
15. Access to the development would be provided into the northern part of the site, where most of the housing would be located. Having already established that this part of the site clearly falls within the landscape setting of the village, the development would be both obviously, and starkly at odds with its established linear character and layout. Within this context the provision of an insular and inward-looking estate of the type indicatively shown, both separated from Leigh Street, and largely disengaged from the surrounding landscape setting would appear wholly incongruous. Given the extent of intervisibility this would be readily perceived from both inside and outside the development. It would be given emphasis relative to open space to both the east, and to the field immediately to the west, the latter containing multiple viewpoints from the 4 public rights of way which cross it. It would be further accentuated by the rise

in ground levels within the site leading to the localised prominence of built form viewed from Quarry Lane and paths to the east. The spillage and encroachment of the development into the landscape setting of the village would thus be clearly apparent.

16. The effects would differ in the southern part of the site given its relationship to adjacent development, and given that a large part of it would remain 'open'. Housing, an enclosed car park, and road infrastructure here would nonetheless appear far more visually apparent than the existing agricultural shed, whose conversion to 3 dwellings exists as a potential 'fallback' (the Class Q scheme). Each would also only be accommodated through formation of the access and connecting road from Quarry Lane. Indeed, viewed as a whole, the development would cause loss of the existing sense of transition into and out of the village, including by both obscuring and diminishing the role played by the church tower in heralding this.
17. It appears unlikely that the identified adverse effects could be mitigated within the context of the reserved matters, particularly when taking into account the likely increase in density that would be required over and above that shown on the most recent indicative plan.
18. In relation to landscaping, the extent to which boundary planting could be increased is open to doubt given the priority placed on retention of vegetation in its current state. It is additionally apparent that were the hedges subject to either traditional or modern forms of management their height would be substantially reduced, thereby largely eliminating their value as screening. Even if the boundaries could be thickened whilst retaining their height, it is improbable that this could entirely hide the development from external view. In any case, doing so would not alter the fundamental failure of the scheme to integrate, or remove the ability to perceive its failure upon passing between it, the rest of the village, and the landscape beyond.
19. Subject to usual cost restraints related to provision of affordable housing, local materials could be used within the development. But whilst this would reflect at least one dimension of local distinctiveness, it would make no difference to the broader failures of the scheme to integrate.
20. The development would not be exposed within the wider landscape and would not be open to distant view. The appellant further emphasises that the Council's landscape assessment places the site within an area of 'low value'. Be that as it may, it does not alter my assessment above, or make any difference to the harm that I have identified in relation to the distinctive character of the village and its immediate setting.
21. I therefore find that the development would cause significant harm to the character and appearance of the area.

(b) Listed building

22. The Church of St Giles is a Grade I listed building, and therefore a designated heritage asset amongst those of the highest significance. Whilst the Planning (Listed Building and Conservation Areas) Act 1990 sets out the desirability of preserving the settings of listed buildings, paragraph 199 of the Framework states that great weight should be given to the conservation of designated

- heritage assets. In this context, any harm should require clear and convincing justification.
23. Insofar as it is relevant to this appeal the special interest and significance of the church resides in its medieval fabric, its architectural design, landmark value, historic and ongoing function as a rural place of worship, and the important role it plays in local identity. Within this context the magnificent three stage tower is its most externally distinctive and visible feature.
 24. Aside from its remarkable height, the tower features an attractive Perpendicular design executed in stone, embodying historic expressions of wealth, piety and power, remarkable relative to the size of the settlement. Aside from also being a 'place to hang bells', it was without doubt a feature of beauty both designed and intended to be seen from within its broader setting. Indeed, it is not possible to fully appreciate the historic architectural quality, grandeur or scale of the tower standing in close proximity to it. Whilst Historic England notes the historic importance of the tower as a 'spiritual reference point' within the broader rural area and landscape, the extent to which its elaborate design might also have been influenced by its position on a historic pilgrim route which partly followed Quarry Lane remains open to speculation. Either way, appreciation of its significance does not, and presumably never has required the church itself to be visited, and in these more secular times, viewing the tower is inevitably the way in which most people now experience the significance of the church. Visibility of the tower, and views of it within the surrounding setting, thus make a substantial contribution to the significance of the listed building. The quality and importance of such views however varies.
 25. I have been provided with no evidence of a direct historic connection between the site and the church. The predominantly open agricultural character of the site, as too the openness of adjoining space to the south, nonetheless continues to broadly reflect that of the immediate setting of the church as it existed historically. The once similarly open setting on the north and west sides of the churchyard has otherwise been lost or seriously compromised by modern development. This greatly detracts from appreciation of the significance of the church and its tower in views from these directions.
 26. The parts of the site closest to the churchyard are now indeed amongst the few locations from which a largely unobstructed view of the church can be obtained from within open space outside the churchyard itself. The site otherwise survives as a key space from and across which the historic architectural quality, grandeur and scale of the tower together remain capable of being appreciated both without loss of clarity, and within a physical and visual context broadly resembling that which was historically present. In this context it is likely that a larger proportion of the church would be visible in the absence of intervening trees, and unkempt hedgerows. Seasonal change can again be anticipated. Such vegetation otherwise has less permanence than the church, and as established above, could be subject of marked change through ordinary management. Notwithstanding the helpful role it plays in reducing the visibility of existing development on the north side of the church from certain perspectives, its presence thus carries little weight in my overall assessment.
 27. Insofar as the site contains an agricultural shed, unlike most development on other sides of the church, its simplicity and very modest scale does little to detract from appreciation of the significance of the tower either close at hand

- or in views from the east and northeast. Its character is otherwise consistent with that of the space within which it stands. Though its roof covering does draw the eye, this is both capable of change, and would see alteration were the Class Q scheme to be implemented. Domestication in this context would result in some additional change, but this would be limited in nature.
28. My findings thus confirm the important role played by the site in appreciation of the significance of the church, and the valuable contribution that this makes to the significance of the church itself. The site, and its southern half in particular, thus forms an important positive component of the setting of the listed building.
29. The development would see some open space retained within the southern part of the site. The church and its tower could continue to be viewed from within and across these spaces, and more people might be able to access these spaces that at present. Moreover some 'new' views would be 'created' through the removal of trees or hedging to facilitate road building.
30. Views across the site from Quarry Road and footpaths towards the east could however be similarly improved or opened up through ordinary management of the vegetation on site. The scheme would otherwise complete the encirclement of the church by development. Any retained open space would thus inevitably be subordinate to the suburban layout of the development and would be of suburbanised character. Whilst subsequent appreciation of the significance of the listed building would consequently be lacking in any sense of historic context, it would also be severely compromised by the presence of suburban housing, roads, a car park and fencing required to secure school facilities. The foreground thus provided to the tower in views from the east would be a far greater source of visual distraction than the existing agricultural shed, or indeed the shed as converted under the Class Q scheme. From within the northern part of the site it is furthermore likely that any existing views of the tower would be directly obstructed by buildings, with the effect far more pronounced than currently exists in relation to development immediately to the north of the church. In all these regards the ability to appreciate the significance of the church would be diminished.
31. Subject to separate consent, a short section of the outer face of the churchyard wall abutting the site would be repaired as part of the scheme. The nature and necessity of this work however remains unclear. The appellant has nonetheless sought to secure this through an obligation within a submitted Section 106 Agreement (S106). Though repair could potentially be beneficial, the potential benefit would be so small in nature, both in the context of the wall, and the listed building as a whole, as to be almost insignificant. Though the wall is itself a feature which helps to define the curtilage and immediate setting of the church, the works would do nothing to alter my findings above.
32. An information board would be provided, and the appellant has again sought to secure this through the S106. Its relevance to the development is however open to question. Indeed, insofar as it has been promoted as assisting interpretation of the church and thus appreciation of its significance, this could only be relevant as a means of mitigating harm. No such harm is however acknowledged by the appellant. Though an information board positioned within the development could supply a source of interesting facts, it would nonetheless provide a formalised suburban context within which appreciation of

the significance of the church would subsequently take place. This would accentuate rather than mitigate the adverse effects identified above. Though an information board could be more constructively positioned off-site, this would have an even less convincing link to the development. The above being so, even if provision of the board could be properly secured, it would do nothing to alter my findings above.

33. By having both an individually and cumulatively negative impact upon the ability to appreciate the significance of the church, the development would fail to preserve the positive contribution the site makes to its setting. The harm caused to the significance of the church as a whole would be less than substantial, with the adverse effects in this context of moderate nature. In view of the statutory presumption that preservation is desirable, such harm attracts considerable importance and weight. In accordance with paragraph 202 of the Framework it is necessary to balance this harm against the public benefits of the scheme.
34. Insofar as a number of claimed heritage benefits have been advanced by the appellant, these are covered by my assessment above. Given my overall findings, these claimed benefits attract no weight in favour of the scheme.
35. The development would provide up to 40 dwellings, 30% of which would be affordable, with the latter secured by the S106. This would help to meet a strategic need for new market and affordable housing, both helping to address a modest 0.9-year shortfall in the Council's 5-year supply of deliverable housing sites (5YHLS), and a significant 62% shortfall in affordable housing delivery.
36. However, as outlined above, Secondary Villages are defined within the District's settlement hierarchy as suitable for development serving localised rather than strategic housing needs. Indeed, given its limited level of services and public transport links Leigh-on-Mendip is clearly not amongst the most sustainable locations for growth considered in relation either to the District as a whole, or its rural parts. In this regard, relative to its size and status, a not insubstantial total of 22 dwellings have already been delivered in the village since the beginning of the plan period, whilst 8 further permissions remain to be implemented. The cumulative effect of adding up to 40 further dwellings would be to expand the village housing stock well in excess of the guideline figure of 15% set out for such settlements in the Local Plan. Though there is a continuing local need for affordable housing, the available evidence indicates that this stands at only 2 units, whereas the development could provide as many as 12. In each regard growth would be disproportionate.
37. Populating the development would thus inevitably draw people into the village from elsewhere in the District. Estimates of the growth in population this would entail vary between 18-25%. This would obviously be far less sustainable in every dimension than if the related need was provided for in the locations and within the communities in which it currently exists, in locations which have the range of services and public transport links necessary to properly support such growth, and in locations where both these factors apply. Meeting the limited localised need for affordable housing would clearly be beneficial, and both this and the provision of housing where a shortfall exists are considerations capable of attracting significant weight. However, given my findings above, in this case the benefits would be limited by the lack of sound planning rationale for

locating a development of the size proposed on the edge of the village in question. I therefore attach limited weight to the benefits.

38. Housing delivery in some parts of the District is constrained by an inability to demonstrate that no adverse impact on the integrity of habitats sites would arise due to nutrient discharge. This is not an issue unique to Somerset, and in other locations solutions have been identified. Though the constraint is one of unknown duration, it appears likely that a solution will eventually be found. A large part of the District otherwise remains unaffected. I therefore attach very little additional weight on the scheme's provision of housing in the presence of broader constraint.
39. In common with any development its construction would generate trade and support employment. Such benefits would be neither unique to the development nor to the location, and their overall scale relative to the wider economy would be very small. Insofar as future occupants would be economically active, this would be true wherever they lived, and is presumably true wherever they currently live. Though some additional benefit might nonetheless derive to the local pub through increased patronage, I have been presented with no evidence that a development of the scale proposed is necessary to maintain the vitality of the village or area. At best therefore these are considerations which attract very limited weight.
40. Again, in common with any housing development, Council Tax would be paid by new households. However, as its purpose is to help pay for services used by residents, it cannot be considered a benefit. New Homes Bonus would also be generated. But whilst this exists as an incentive for local authorities to permit development, the extent to which it does anything other than help to balance existing budgets is open to question. The Council does not therefore consider it to be a public benefit, and I see no reason to disagree.
41. The development would provide a playing field and car park for the local primary school, each secured by the S106. This has been promoted in line with paragraph 95 of the Framework, which states that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. It has not however been made clear how providing a playing field and car park for an existing school would help to deliver this objective.
42. The car park has additionally been promoted as benefitting highway safety. Parking on street near the front of the school can indeed result in vehicle conflicts given the narrowness of Quarry Lane and the presence of a bend. Parking at the rear of the school would however be less convenient given the greater travel distance involved. Ensuring its use would therefore require other measures which could include locking the front gates of the school. The latter would in turn penalise anyone arriving on foot, whose journeys would be unnecessarily lengthened. The practicality of this or other measures required to compel use of the car park is therefore open to question. Parking issues in relation to the school themselves only arise on weekdays during term time and at limited times during the school day. Both during these times and indeed at any other time, parking on-street in exactly the same locations by persons with no connection to the school can also occur. This would not be addressed by provision of the car park. For these reasons provision of the car park would be a public benefit of uncertain nature, to which I thus attach very limited weight.

43. The playing field would increase the amount of outdoor open space directly accessible by the school. It would however be of unconventional nature given the necessity to retain a linear orchard across its centre, and the need for its careful management in line with ecological recommendations. Both would constrain use of the space, which it has been suggested would be used for outdoor learning. This would presumably be in addition to or instead of existing facilities which exist nearby adjacent to Halecombe Quarry. Whilst it would not therefore be a wholly new resource, it would also not remove the existing need for the school to access more conventional recreational facilities elsewhere in the village. That being so I attach limited weight to the benefit.
44. The development has also been promoted as providing a net gain for biodiversity. There is however a general expectation within national policy that opportunities will be taken to achieve such gains, and this would remain to be something properly secured through the reserved matters. It is also apparent that far more meaningful benefits could be achieved by simple improvements in management of the site in its current use. The above being so I attach negligible weight to any claimed biodiversity benefits.
45. Though the appellant includes the construction of energy efficient dwellings as a benefit, the baseline is one in which the site contains no dwellings. In this regard it has not been demonstrated that the development could do any better than mitigate and/or reduce the demands and impacts of resource use to which it would give rise. It follows that in the absence of any positive overall effect, there would be no public benefit.
46. The development would therefore give rise to a range of public benefits which individually attract no more than limited weight, and which would be incapable of delivery without causing significant harm to the character and appearance of the area. The latter would not in itself be publicly beneficial. Neither individually nor collectively would these benefits clearly or convincingly outweigh the harm that would be caused to the significance of the listed building through a failure to preserve its setting.

(c) Conclusion

47. For the reasons outlined above I conclude that the site is an inappropriate location for the proposed development given significant harm that it would cause to the character and appearance of the area, and its failure to preserve the setting of a Grade I listed building. It would therefore conflict with Policy DP1 of the Local Plan which states that all development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness, and Policy DP3 which seeks to secure proposals which preserve and, where appropriate, enhance the significance and setting of the district's Heritage Assets. Insofar as both policies contain provisions related to public benefits, the identified conflicts would not be resolved by those identified and considered above.

Other Matters

48. The scheme would conflict with the development plan taken as a whole. In the absence of a 5YHLS, the Framework however indicates that for the purposes of decision making the policies most important for determining the application are 'out-of-date'.

49. Even so, I am satisfied that the policies relating to design and heritage with which I have identified a conflict are broadly consistent with those set out within the Framework. I have furthermore established the same in relation to the rationale underpinning the spatial strategy. When assessed against the Framework itself, my findings in relation to the listed building in any case provide a clear reason for refusing planning permission. Insofar as it has been referenced by the appellant, the 'tilted balance' is not applicable.
50. The site falls within a Mineral Safeguarding Area which is designated as a buffer to the nearby Halecombe Quarry. The County Council thus objected to the scheme on grounds that adverse effects on future living conditions could constrain future activity, thus giving rise to harm to the broader economy. The District Council did not however refuse the application on this basis, and insofar as this appears to have been due to a lack of awareness of the County Council's objection, the District Council's position on this matter was wholly ambiguous at the Hearing. It did however fall short of citing the above as an additional reason for refusal. As such and given that I have resolved to dismiss the appeal on other grounds, this is not a matter I need to consider any further.
51. The Council has additionally identified the potential for the development to have a significant effect on the integrity of the Mells Valley Special Area of Conservation, which is designated in relation to Greater Horseshoe Bats. These fly in and out of the designated area, and surveys have confirmed activity by Greater Horseshoe Bats within the site. Mitigation has been proposed and would remain to be properly secured within the context of the reserved matters. Had I been minded to allow the appeal and the circumstances existed in which planning permission could be granted it would have been necessary to examine these matters in further detail, conducting an Appropriate Assessment in consultation with Natural England. However, as I am dismissing the appeal for other reasons no further consideration is required.
52. In addition to the items noted above, the S106 also serves to secure a required offsite open space contribution, travel plan, and footpath connection. Again, as I have resolved to dismiss the appeal on other grounds, it is not necessary for me to examine these obligations in greater detail.

Conclusion

53. For the reasons set out above the effects of the development would be unacceptable, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR

APPEARANCES

For the Appellant

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For the District Council

Jayne Boldy BA(Hons)	Mendip District Council
Simon Trafford	Mendip District Council

For the County Council

Andrew Gunn MRTPI	Somerset County Council
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Interested Parties

Cllr Philip Ham	District and County Councillor
Frank Higgins	Local resident
Cllr David Mattick	Parish Council/Parochial Church Council
Mark Reynolds Bsc(Hons) MSc MRTPI	Context Planning (for Parish Council)
Alan Williams	Midsummer Norton Schools Partnership

Documents presented at the Hearing

Appeal Decision APP/D0121/W/22/3292961

Appellant's submissions as to the application of paragraph 2020 of the Framework.

Appendix 3 of the Landscape Character Assessment 2020.

Definitive footpath map covering east side of Leigh-on-Mendip.

Draft S106 Agreement.

Superseded Local Plan Village Inset Plan.

S106 Agreement relating to Halecombe Quarry.