

APPEAL DECISIONS – 14 JANUARY 2021

Site: Land south of Beacon Road, Minehead
Proposal: Outline application for the erection of 5 No. dwellings
Application number: 3/21/19/007
Reason for refusal: Appeal – Dismissed, Costs – Refused
Original Decision: Chair - Refusal



The Planning Inspectorate

Appeal Decision

Site Visit made on 9 November

2020 by David Wyborn BSc(Hons),

MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2020

Appeal Ref: APP/W3330/W/20/3257876

Land at Beacon Road, Minehead.

- 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 Way against the decision of Somerset West and Taunton Council.
 - The application Ref 3/21/19/007, dated 28 January 2019, was refused by notice dated 26 February 2020.
 - The development proposed is the erection of up to five new homes on land south of Beacon Road, Minehead.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Way against Somerset West and Taunton Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application has been submitted in outline with all matters reserved for consideration at the subsequent stage. Illustrative plans have been included which

show a possible layout and related development to accommodate 5 dwellings. I have treated these plans and details as indicative of the approach that the appellant has in mind for the development of the site.

4. The first reason for refusal states that the site lies within the North Hill Conservation Area. The Council has confirmed within its statement that the site actually lies within the Higher Town Conservation Area, which forms part of North Hill. It is not in dispute that the site lies within a Conservation Area. The appellant's heritage statement correctly identifies the name of the Conservation Area and therefore I am satisfied that no party has been prejudiced by the incorrect reference in the reason for refusal.

Main Issue

5. The main issues are:

- the effect of the proposal on the character and appearance of the area, with particular regard to the setting of the listed buildings, St Michael's Church and Clevelands¹, and whether the proposal would conserve or enhance the

¹ The listing description identifies the property as Cleveland, however, the sign on the road directing visitors says Clevelands and I have used this name in the appeal decision.

character or appearance of the Higher Town Conservation Area (the CA), and

- the effect of the proposal on biodiversity.

Reasons

Character and appearance

6. This section of North Hill rises above the lower areas of Minehead and is a prominent and attractive feature of the landscape. Across this part of the hillside the buildings are generally more closely sited together towards the lower slopes. Gradually, further up the slope, the buildings generally become more separated in larger plots with a dominance of mature trees, and the hillside then merges with the countryside beyond.
7. One of the landmark features of this part of North Hill is St Michael's Church, a Grade II* Listed Building, and in particular the tower. The tower forms a focal point that draws the eye, and often appears with a backdrop of the generally undeveloped and treed hillside. The Church is significant because of the 15th century origins, design and form and this includes its presence amongst this part of North Hill. The building is experienced from the adjoining roads and also in the extensive views from parts of Minehead where the generally verdant areas of surrounding hillside form part of the setting of this heritage asset.
8. Further around and up the slope of this part of the hillside is Clevelands, a Grade II Listed Building. The significance of the building includes its size, age, history and design with largely unaltered attractive architectural detailing. Clevelands is visible from various locations across Minehead, such as parts of Hopcott Road and Periton Road, and some of the areas of the town broadly north of these roads, including for instance, parts of Townsend Road. From these types of location there are direct views towards this elevated building and the treed backdrop forms part of its attractive and elevated setting which helps frame the building in the landscape.

9. The Higher Town CA covers parts of the town at the foot of North Hill and also includes extensive areas of the hillside and some of the buildings. The significance of this hillside section of the CA includes the verdant surroundings to the buildings, the subtle merging of the upper slope with the surrounding countryside and the landmark provided by the Church Tower.
10. The appeal site is located reasonably far up the slope of this section of North Hill within the CA. It lies parallel with Beacon Road and the land slopes down towards Clevelands and Cleveland Chalets, with the Church further down the slope. The site also slopes broadly from west down to the east. The site has an extensive row of pine trees along the road boundary and other trees, bushes and scrub across other parts of the site. Groups of trees are subject of a preservation order. Some of the trees, such as the row along the Beacon Road, are significant structurally within the landscape. Other trees and bushes are individually not of such importance, however, collectively across the site the combination of trees, bushes and scrub ensure that the site has a verdant and in part woodland character that merges fairly seamlessly with the generally treed character of the surrounding parts of this section of North Hill.
11. The indicative plans show the erection of 5 houses and detached garages across the site and this would require the clearance of bushes, scrub and some of the trees in these areas. Although the majority of the preserved trees should be able to be kept, the plans show level changes across much of the site, areas of hardstanding, three accesses and garden areas, all of which is likely to be necessary in some form to deliver the intended housing, notwithstanding the details at the reserved matters stage.
12. A belt of landscaping would be retained on a lower part of the slope and this could be supplemented with additional planting. Furthermore, the backdrop of the trees along Beacon Road and some trees adjoining the housing would be retained. However, because of the extent of the likely clearance works to accommodate the housing and related infrastructure, the result would still be that across a significant part of the site the verdant qualities that contribute to the character and appearance of this part of North Hill would be substantially eroded.
13. Sections of the proposed housing, indicatively shown as three stories facing the town, would, even if well designed and extensive landscaping details were submitted at the reserved matters stage, be quite conspicuous on this elevated part of the hillside. The extent of housing would erode the undeveloped character of the site and, together with the loss of vegetation, the contribution the site makes to the gradual transition to the countryside would be significantly diminished. The combination of all these changes, even having regard to any details that could be submitted at the reserved matters stage, would harm the character and appearance of this part of the hillside. The result would undermine positive aspects of the CA that contribute to its attractive and locally distinctive appearance.
14. The appeal site forms a general verdant backdrop to Clevelands and/or St Michael's Church tower, depending on the angle of view, from a variety of locations across Minehead. The loss of vegetation and replacement with housing would be experienced in many of the same views in conjunction with one or both of the listed buildings. The position of the new buildings would, in all likelihood, draw the eye and erode the characteristic backdrop and thereby harm the way that the listed buildings were presently framed and experienced in the landscape. The proposal would therefore unduly harm their settings.

15. I am mindful of the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 when considering the impact of development on conservation areas and the setting of listed buildings. Consequently, drawing all these matters together, the combined effect of the proposal would not preserve or enhance the character or appearance of the CA and it would harm the setting of both listed buildings. As a consequence, the proposal would detract from the significance of these heritage assets. The combined harm to these heritage assets would be significant, although this harm would still be less than substantial within the meaning of paragraph 196 of the National Planning Policy Framework (the Framework). In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.
16. The scheme would provide a boost to housing supply with up to 5 units of accommodation in a location that would have good access to services and facilities in the nearby town, and links to public transport. The site would be considered a windfall site and make effective use of the land. There would be related economic and social benefits to the area during construction and in subsequent occupation. However, as only 5 units of accommodation would be provided, the public benefits would be minor and afford limited weight in favour of the proposal.
17. The Framework advises that any harm to the significance of a heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the potential harm to the significance. I have found that the public benefits of the proposal afford limited weight and therefore they would not outweigh the harm to the CA and to the setting of the listed buildings. There would be harm to the significance of these heritage assets, which in accordance with the Framework, is required to be attributed great weight. For these reasons, I do not agree with the appellant's analysis and the conclusions of the Heritage Impact Assessment (July 2019).
18. In the light of the above analysis, I conclude that the proposal would harm the character and appearance of the area and, in particular, not preserve or enhance the character or appearance of the CA and detract from the setting of Clevelands and St Michael's Church. Accordingly, the proposal would conflict with Policies NH1 and NH2 of the West Somerset Local Plan to 2032 (the Local Plan) and the Framework which seek, amongst other things, to conserve and enhance the historic environment.

Biodiversity

19. The second reason for refusal indicates that there is insufficient information to make a detailed assessment of the biodiversity of the site and includes comments that the Ecological Survey and Assessment Report (16/11/2017) (the Ecological Report) is undated and may not be up to date. There are also concerns that no bat survey has been undertaken, no survey of nesting birds and no reptile survey.
20. The application was accompanied by the Ecological Report. The appellant has indicated that when the report was first submitted and uploaded this resulted in every other page being missing, including the page with the date of the report. It is explained that this matter was resolved when the full report was resubmitted and uploaded to the Council web site in March 2019 – 11 months before the Council determined the application.
21. The Ecological Report is a Phase 1 Habitat Survey undertaken by a qualified practitioner and the criticisms of the report, in terms of the date, for instance, are unfounded.

22. The Ecological Report provides a reasonable analysis in relation to nesting birds and reptiles and the survey and conclusions are adequate in these respects. However, in terms of bats, the Report explains that bat emergence surveys were not conducted as the survey was outside the optimum period for bat surveys and that the larger of the Monterey pines and to a lesser degree the standard ash to the west offered potential roosting sites.
23. Bats are a protected species and trees on the site appear to have the potential as roosts and other areas for foraging. The site is about 0.45km from the Exmoor Heaths Special Area of Conservation. While many of the trees on the site would be retained, it is not clear from the information whether trees which, in all likelihood because of the extent of development proposed, would be felled are roosting sites. Furthermore, the effect on foraging from the loss of scrub and other foliage has not been comprehensively analysed. In these circumstances, the Ecological Report does not provide the necessary certainty that any bats would be adequately protected on the site, notwithstanding the recommendations which include the provision of bat boxes and other mitigation and enhancement measures.
24. It would not be reasonable to attach a survey requirement as part of a condition in any approval. This is because, in accordance with Circular 06/2005, it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted.
25. Accordingly, I conclude that it has not been demonstrated satisfactorily whether any bats which may be present on or use the site could be adequately protected as part of the development proposal. As a consequence, the scheme would not accord with the Framework which seeks to conserve and enhance the natural environment.

Other Matters

26. I have taken into account all the objections, including from local residents, the Minehead Town Council, the North Hill Action Group and the Minehead Conservation Society, as well as the letters of support, and the responses to all these matters from the appellant. I have examined above the main issues that have been raised.
27. I also have taken into account that the site was identified in the Strategic Housing Land Availability Assessment (SHLAA) as having the potential for a greater level of development than that proposed in the present scheme. However, this is not determinative in relation to the consideration of a planning application and the detailed assessment of the key issues. I therefore afford the identification of the site within the SHLAA limited weight in this case.
28. The appellant has raised detailed concerns and frustration with the processing of the application by the Council that led to the refusal after a lengthy period of time. However, the way in which the Council handled the application is not a matter for me to consider in the context of this appeal, which I have determined on its own merits.

Conclusion

29. For the reasons given above, the scheme would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

Costs Decision

Site visit made on 9 November 2020 by **David Wyborn**

BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2020

Costs application in relation to Appeal Ref: APP/W3330/W/20/3257876 Land at Beacon Road, Minehead.

- 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 Way for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal of planning permission for the erection of up to five new homes on land south of Beacon Road, Minehead.
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Decision

1. The application for an award of costs is refused.

Procedural Matter

2. I have treated the application as seeking a full award of costs based on the details and range of case made in the submissions.

Reasons

3. The Planning Practice Guidance (the Guidance) advises, regardless of the outcome, costs may be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. In summary, the applicant has explained that the Council has not carried out appropriately the application process and the requirements for ever more detailed assessment regarding issues that have already been determined as acceptable in principle has been inappropriate. The case is made that the acceptability of the site in principle was made through the Local Plan process with the site identified as suitable for development in the Strategic Housing Land Availability Assessment (SHLAA). This was followed by positive preapplication advice and therefore the site must be

accepted as appropriate for development. It is argued that this has not been questioned through any of the stages simply the level of detail that is required.

5. Furthermore, the Council has not worked in a positive and proactive way as required by the National Planning Policy Framework to look for and agree solutions. The applicant considers that if the Council had been consistent then it would have granted planning permission.
6. In terms of the reasons for refusal, the Council would not have refused the application on ecological grounds and not raised issues with the lack of detail in the report if it had taken into account the missing pages that had been supplied many months before the decision. If the Council had considered the professional report in its entirety the Council would have realised that the ecological issues had been addressed. This error led to unnecessary confusion and extra costs.
7. In terms of the other reason for refusal, the Council took many months to process the application and it appeared there was scope to resolve matters. The applicant commissioned reports as requested and this included a Heritage Impact Assessment which demonstrated that the impacts would be acceptable. However, the Council refused the proposal on this ground, ignoring the findings of the report and even incorrectly naming the Conservation Area. These are more examples of unreasonable behaviour.
8. The applicant considers that the Council should reimburse the costs if the appeal is dismissed because it would have misled the applicant regarding the suitability of the site. In the case that the appeal is allowed the costs should be paid for the wasted time and expense in having to prove the case at appeal.
9. The Council has responded to these points to say that the processing of the application took a considerable time because of the substantial local interest and the need to work through a series of issues. The requests for information reflect the validation requirements and to address key issues with the site. The effect of the proposal on heritage assets had been raised at the pre-application stage and the report was important, necessary and a normal request.
10. It is said that the Council made the agent fully aware of the view of the then Landscape and Biodiversity Officer in relation to perceived inadequacies with the ecological assessment and that it did not include surveys of various wildlife which are protected and that the site had potential habitats and/or foraging routes.
11. The Council dispute the assertion that the principle of the site had been agreed. It was highlighted in the SHLAA but a detailed assessment of the site's constraints and suitability for development had not been undertaken. The site was not allocated for development in the West Somerset Local Plan to 2032.
12. The Council believe that it did work positively to address concerns, however, there were fundamental issues with the proposal and the approach of the Council to refuse the application was not unreasonable for the two reasons set out.
13. In looking at these issues, the Guidance explains that all parties are expected to behave reasonably throughout the planning process although costs can only be awarded in relation to unnecessary and wasted expense at the appeal stage¹. I have

¹ Behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.

noted the arguments of the applicant, however, these predominantly concern how the Council processed the proposal at the application stage rather than its conduct at the appeal stage.

14. The incorrect naming of the Conservation Area in the reason for refusal was unfortunate but did not lead to any material level of additional costs or wasted expense at the appeal stage. It was also unfortunate that it appears the Council used the older and incomplete version of the Ecological Impact Assessment as their basis for the reason for refusal. However, at the appeal the applicant referred to the existing and completed version to seek to address the reason for refusal and again this did not add any material level of costs. It will be seen that I consider that the issues regarding the potential effect on bats was well founded and this meant that the reason for refusal as a whole was not unreasonable.
15. In terms of the first reason for refusal, seeking information in the form of a technical report from an applicant does not require the decision maker to agree with the findings of the subsequent submissions. The Planning Report did reference the Heritage Impact Assessment and explained why it disagreed with the findings. Such issues are matters of judgement, based on technical information and assessments, and it will be seen that I agree with the Council on this matter.
16. Equally it will be seen from the decision that the identification of the site within the SHLAA was not determinative. Consequently while it is understandable that the applicant may place some weight on this matter, together with the preapplication advice, it does not prejudice the decision maker in assessing the proposal on its merits at the application stage.
17. Drawing all these matters together, the council provided satisfactory evidence at the appeal stage that justified to a sufficient extent the two reasons for refusal, although there was some inaccuracies in naming the wrong CA and with highlighting issues in the Ecological Impact Assessment.
18. As a result, it follows that in terms of the issues raised by the applicant in the costs claim that relate to the appeal process, I cannot agree that the Council has acted unreasonably in this case and the appeal could not have been avoided. Accordingly, the appellant was not put to unnecessary or wasted expense.

Conclusion

19. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

David Wyborn

INSPECTOR

Site: Silk Mills Cottage, Silk Mills, Holford, TA5 1RY

Proposal: Change of use from woodland to residential with reinstatement of the original stone cottage

Application number: 3/16/18/003

Reason for refusal: Dismissed

Original Decision: Delegated - Refusal



The Planning Inspectorate

Appeal Decision

Site Visit made on 9 November

2020 by David Wyborn BSc(Hons)

MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2020

Appeal Ref:

APP/W3330/W/20/3257419 Silk Mills

Cottage, Holford, TA5 1RY

- 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 Andrew Gray against the decision of Somerset West and Taunton Council.
 - The application Ref 3/16/18/003, dated 28 February 2018, was refused by notice dated 14 February 2020.
 - The development proposed is described as "to sympathetically reinstate the remaining shell of the original stone cottage at Holford Silk Mill in line with the original cottage including retaining its woodland setting unchanged as far as possible. The change of use is from woodland to residential".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The case is made that the decision of the Council was unlawful. However, this would be a matter for the courts rather than for the considerations under a section 78 appeal. I have therefore considered the proposal based on its planning merits.

Main Issue

3. The main issues are the effect of the proposal on:

- the character and appearance of the area, having regard to the setting of the Holford Conservation Area, the effect on the non-designated heritage asset and the location of the site within the Quantock Hills Area of Outstanding Natural Beauty.
- biodiversity, and
- highway safety for pedestrians.

Reasons

Character and appearance

4. The site forms part of an attractive woodland with a stream running through the land. Parts of the site are visible from the adjoining road where there are some public views over the stone wall into the valley below. The site includes part of the previous Silk Mills Factory which was part of the local textile industry which operated from the 16th century. In acknowledgment of the site's significance and its historic, economic and social importance, the main parties accept that it should be considered a non-designated heritage asset and I agree with this assessment.
5. The industrial archaeology is discernible within the wider site, although many of the buildings have largely gone. The main standing structure is described as Silk Mills Cottage, and while there is some evidence that it may historically have been residential accommodation, the information does not appear to be categoric in this respect. Nevertheless, it is presently a ruin with the external stone walls largely standing, but with no roof, internal walls or first floor.
6. The structure has an enchanting character in this tranquil woodland setting. It lies amongst the general woodland and this main remaining built presence has largely merged into the surroundings, with the trees overhanging it and with no clear demarcation with the wider valley area. In this way the site makes a positive contribution to this location within this part of the Quantock Hills Area of Outstanding Natural Beauty (the AONB).
7. The Holford Conservation Area (CA) covers a reasonably extensive part of the village. Part of the significance of the CA includes the relationship of open fields and spaces, treed areas and the built form of cottages, houses and buildings, such as the church. The boundary of the CA runs along the road by the site and then drops down the valley side and includes part of the woodland area and a section of the stream. The appeal site, and in particular the building, is reasonably close to, but outside, the CA. The adjoining woodland area, including the building, forms the attractive surroundings in which this part of the CA is experienced and therefore forms part of the setting of the CA.
8. The proposal would use the existing fabric of the structure, extending up the walls in the limited places where necessary and with the construction of a new roof. Internally a first floor would be constructed and windows, utilising some of the existing openings, would be installed as part of the works to alter the structure to a dwelling. Externally the red lined application site is drawn fairly tightly around the proposed dwelling and the access from the road. An area for car parking at the base of the fairly steep drive is shown on the plans.

9. I have very carefully considered all the submissions from the appellant and the clearly stated intention that the works and use would be undertaken sensitively in an effort to restore the building in a way that would preserve the building and not cause harm to the surroundings.
10. The physical works to the building in themselves and in isolation may be judged acceptable. The introduction of a residential presence as part of this application would, however, in my judgement, lead to a range of harmful changes that even if they did not take place immediately by the initial occupants, or require planning permission, would gradually erode the distinctive rural character of the site. For instance, the plans show car parking within the lower area of the site. This is the type of provision that would be necessary to ensure safe and convenient access to the dwelling for most occupiers and visitors, including the less ambulant, especially with the fairly steep drive.
11. There would also be a need for some form of curtilage and even if tightly drawn around the building residential occupation would, in all probability, bring domestic paraphernalia and other changes such as lighting (including from the dwelling windows themselves), planting and seating areas. For instance, the submissions mention railings would be added to the sides of the bridge in the interests of safety, potentially under permitted development rights. This is an example of the minor but likely alterations and additions that would gradually evolve from the residential use of the site and which cumulatively would erode the tranquil and woodland quality of the site over time.
12. With the location of the proposed dwelling reasonably close to overhanging and mature trees, and while I have noted the appellant's arguments in these respects, I consider that there would be future requests from occupiers for the removal and/or cutting back of some trees to improve light and alleviate potential damp conditions. Once residential use had been approved it would be difficult to refuse such requests which sought to ensure acceptable living conditions, even with these trees the subject of a preservation order. Indeed the present proposal already incorporates the removal of some of the trees adjoining the building. The loss and cutting back of such trees over time would harm the wooded and verdant quality of the area.
13. Taking all these matters together, the introduction of a permanent residential use to the site would, in all likelihood, lead to harmful changes which would suburbanise the woodland surroundings to the building and materially and adversely harm the present character and appearance of the site. I do not consider that it would be reasonable, or indeed practically possible, to try to prevent these changes from occurring through planning conditions or a planning agreement. Even if the structure was a dwelling in the past this use has long ceased and the character of the site has now changed. Acceptance of the residential use as now proposed would, in my view, bring an inevitable consequence of change to the site and this change would be harmful for the reasons explained. This would be the case even with the tightly drawn red line of the application site.
14. The National Planning Policy Framework (the Framework) explains that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues. It follows from my analysis that the scheme would not conserve the landscape and scenic beauty of this part of the AONB. This weighs substantially against the scheme.

15. The structure on the site is gradually deteriorating and there may be few, if any, viable options available for its preservation. However, the proposal would likely cause harm by suburbanising the surroundings and thereby detract from the way that the remnants of the industrial archaeology would be experienced. Indeed, I consider that the harm proposed by the present scheme would be greater than allowing the building to stand as it is at the moment, accepting that gradual decline would continue to take place. As the existing fabric of the structure would be retained by the appeal proposal, I consider the likely harm to the non-designated heritage asset as a whole would weigh to a moderate extent against the scheme.
16. Furthermore, the harmful changes I have identified would be in proximity to the boundary of the CA. These likely changes would detract from the qualities that contribute to the significance of the CA. The Framework advises that any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification and the conservation of the asset is a matter of great weight. In this case, the harm to the setting of the CA as a whole, and therefore its significance as a designated heritage asset, would be less than substantial and the Framework policy is that this needs to be weighed against the public benefits including where appropriate, securing its optimum viable use.
17. While the conversion to a dwelling may be viable it is not an optimum use because of the likely harm that I have identified. The scheme would provide an additional dwelling, to a Passivhaus standard, in a general village location, where there would be economic and social benefits to the local area during construction and subsequent occupation. There may be wider and on-going benefits to the economy if the accommodation was used as a holiday let. The works would provide a small boost to housing supply in a secondary village as identified in Policy SC1 of the West Somerset Local Plan to 2032 (the Local Plan). Furthermore, the proposal would constitute a windfall housing site making effective use of the land. However, given that only one unit of accommodation would be provided, the cumulative benefits would be limited.
18. The harm to the setting of the CA would be localised and, in the context of the CA as a whole, minor. Nevertheless this harm is required to be attributed great weight. The harm I have identified to the heritage asset would not be outweighed by the benefits of the scheme.
19. In the light of the above analysis, I conclude that the proposal would harm the character and appearance of the area, including the setting to the CA, the nondesignated heritage asset and the AONB. As a consequence, the scheme would not comply with Policy NH1 of the Local Plan and the Framework which seek, amongst other things, that development should sustain and/or enhance the historic rural heritage, particularly those elements which contribute to the areas distinctive character and sense of place.
20. I have noted the analysis of Local Plan policies set out in the appellant's statement. While the Council have only mentioned Policy NH1 in the reason for refusal, I also consider, having regard to my findings above, that the scheme would not comply with Policy NH2 of the Local Plan concerning the management of heritage assets and Policy NH14 of the Local Plan regarding the need to have regard to the statutory purposes of the AONB.

Biodiversity

21. The application was accompanied by an Ecological Appraisal (November 2017). The report confirms that an initial ecological appraisal was undertaken on 25 July 2016 and a further revalidation site survey undertaken on 16 October 2017. This report explains that the site is within the Quantocks Site of Special Scientific Interest (SSSI) and adjoins the Exmoor and Quantocks Oakwoods Special Area of Conservation (SAC).
22. After surveys of the site, the Ecological Appraisal concluded that the buildings were not suitable for roosting bats, but did note that the continued deterioration of the structures may result in the formation of suitable roost features. However, the Appraisal indicates that four trees surrounding the building had multiple highly suitable roosting features capable of supporting colonies of bats and that there were moderate quality foraging opportunities through the woodland which is connected to the wider landscape by linear features including the stream.
23. The Council sought further bat survey information based on the advice of the County Council Ecologist. He commented that given the proximity to the SAC he could not discount the possibility that the identified surrounding trees were not being used as roosts by barbastelle bats, for which the SAC is designated, and that barbastelle bats are affected by disturbance due to prolonged human activity in the vicinity of roost sites.
24. The appellant has explained that as it seemed that the Council wished to refuse the application, obtaining a bat survey would not have made a difference to the outcome. Furthermore, the case is made that, based on the Ecological Appraisal, the ecological issues could be the subject of a condition in any approval.
25. I note the approach of the appellant in this case, however, Circular 06/2005 explains that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The information available indicates that the site could be a roost for barbastelle bats², and with the link with the adjoining SAC, there is a reasonable likelihood of bat species being present. In accordance with the Circular there are not the exceptional circumstances that would allow a planning condition to address this matter following any planning approval.
26. Consequently, it is not clear whether protected species are present and, if so, whether they would be adversely affected by the development. In these circumstances, I cannot be certain, if permission was to be granted, that I would have met my responsibilities, as the competent authority, under the Conservation of Habitats and Species Regulations 2017.
27. It follows that I conclude that there is the potential for the proposal to adversely and unduly affect the biodiversity of the site. Consequently, the proposal would not meet with the requirements of Policy NH6 of the Local Plan and the Framework which seek, notably, that development should demonstrate that it will not generate unacceptable adverse impacts on biodiversity.

Highway safety

28. Holford is a fairly dispersed village and is served from the A39 via roads which are mainly single carriageway and generally without footways and street lighting. The

² The County Council Ecologist also raises the issue of potentially Bechstein's bats being present.

proposed dwelling would be within reasonable walking distance of the public house, village hall and the bus stops on the A39. There are two roads from the site to the A39. The more northerly route is narrow in places. However, the more southerly route has a reasonable width for much of its length, and there are refuge areas, such as private drives, where walkers could step back from approaching traffic.

29. This latter route is gently curving in places and with the village location and the nature of the road, which would generally limit traffic speeds, together with the ability to step back from approaching vehicles, the reasonably level and convenient walk to and from the site to the A39 would not present an unsafe route.
30. Accordingly, I conclude that the proposal would provide a safe and easy pedestrian access to the services of the village and therefore comply with Policy SC1.4 of the Local Plan and the Framework in this respect.

Other Matters

31. I have taken into account all the objections from local residents and the comments of the Parish Council, and also the detailed responses from the appellant which seek to address each matter raised. I have had regard to all these submissions and considered the main issues in this appeal in the analysis above.
32. I also note the frustration and concerns raised with how the Council addressed the application and dealt with communications with the appellant. However, these are not matters for my considerations as part of the appeal which I have considered on its planning merits.

Conclusion

33. I have found harm to the character and appearance of the area and it has not been demonstrated that the biodiversity of the site would not be adversely affected. These are matters that weigh to a substantial extent against the scheme. The site would have an acceptable pedestrian route to local facilities but the provision of a safe route is neutral in the overall analysis. The benefits of the scheme merit only limited weight in favour and would not be outweighed by the harm.
34. Consequently, while I have had regard to all the development policies that have been raised during the consideration of the proposal, the scheme would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR

Site: 106 UPPER HOLWAY ROAD, TAUNTON, TA1 2QA

Proposal: Erection of a wooden perimeter fence at 106 Upper Holway Road, Taunton (retention of works already undertaken)

Application number: 38/20/0188

Reason for refusal: Appeal – Dismissed,

Original Decision: Delegated Decision – Refusal



Appeal Decision

Site visit made on 1 December 2020 by **C J Ford BA (Hons) BTP MRTPI**

a person appointed by the Secretary of State

Decision date: 4 January 2021

Appeal Ref: APP/W3330/D/20/3259419 106 Upper Holway Road, Taunton TA1 2QA

- 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 Miss Claire Sperring against the decision of Somerset West and Taunton Council.
 - The application Ref 38/20/0188, dated 5 June 2020, was refused by notice dated 11 September 2020.
 - The development is front of property perimeter wood fence.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The original planning application was made retrospectively. The appeal has therefore been considered on the same retrospective basis.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site forms part of a residential estate. It appears the dwellings were originally laid out with open plan, mainly grassed front garden areas, similar in character to the neighbouring highway verges and street corners. However, over time, the distinction between the boundaries of the front garden areas and the public amenity space have become more clearly defined.
5. In most cases, this is the result of very low 'knee rail' perimeter wooden fencing and the planting of shrubs, boundary treatments which are broadly sympathetic to the original open plan design. Examples of taller wooden fencing or other such treatments are far less common. However, where they do exist, they have generally not exceeded a height of approximately 1m. (The fence which exceeds this height at No 75 Upper Holway Road, opposite the appeal site, does not benefit from planning permission and so can be given very little weight in the determination of this appeal). Therefore, despite the increased boundary definition described above, the properties have retained fairly open frontages and this openness is an important part of the character of the area.
6. The submitted plans indicate the fence maintains a height of 1.22m above ground level. Although this is only around 22% more than some of the other boundary treatments found in the locality, the resulting greater degree of enclosure is plainly apparent and it has a significant harmful visual impact when observed amongst the characteristic fairly open frontages. Furthermore, as the garden area rises a little between the public footway and the front door to the house, it creates the perception that the fence beyond the front boundary is taller than its actual height, thereby compounding its harmful incongruous appearance. The trees found on the highway verge do not provide adequate mitigation in terms of public views of the development, particularly during the winter months.
7. While I greatly sympathise with the personal circumstances expressed by the appellant and acknowledge the benefits that are derived from the fence, a boundary treatment of up to 1m in height, consistent with others found in the area, would provide similar benefits. Consequently, these considerations do not justify or outweigh the identified harm of the appeal development. Although the support expressed by neighbours is also recognised, the development must be duly considered against planning policy.
8. In light of the above, it is concluded the development has an unacceptably harmful effect on the character and appearance of the area. It conflicts with Policy DM 1 of the

Council's Adopted Core Strategy 2011-2028 which, amongst other things, seeks to ensure development does not unacceptably harm the character and appearance of any settlement or street scene.

Conclusion

9. For the reasons given above and having had regard to all other matters raised, the appeal is dismissed.

Christian Ford

PLANNING DECISION OFFICER