

APPEAL DECISIONS – 29 APRIL 2021

Site: BAR 21, 19-21 THE AVENUE, MINEHEAD, TA24 5AY

Proposal:

Alleged unauthorised:-

- (a) construction of a rear extension in the position as shown edged green on the plan annexed hereto
- (b) construction of a timber toilet block in the position as shown edged purple on the plan annexed hereto
- (c) erection of a 2.75 metre high timber fence and gates in the position as shown edged light blue on the plan annexed hereto
- (d) erection of a timber pergola in the position as shown edged yellow on the plan annexed hereto
- (e) construction of an area of raised decking with a fence and a glazed panel in the position as shown edged dark blue on the plan annexed hereto
- (f) installation of timber cladding at first floor level on the south and east elevations of the building

at Bar 21, 19-21 The Avenue, Minehead

Application number: ECC/EN/18/00058

Reason for refusal: Appeal – Dismissed, Costs – Refused

Original Decision:



The Planning Inspectorate

Appeal Decision

Site visit made on 3 March 2021 by **P N Jarratt BA DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 March 2021

Appeal Ref: APP/W3330/C/20/3260776 Cafe Bar 21, 21 The Avenue, Minehead, TA24 5AY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr W Wynn against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice, numbered ECC/EN/18/00058, was issued on 21 August 2020.
- The breach of planning control as alleged in the notice is

- a) the construction of a rear extension in the position as shown edged green on the plan annexed to the notice;
- b) the construction of a timber toilet block in the position as shown edged purple on the plan;
- c) the erection of a 2.75 metre high timber fence and gates in the position as shown edged light blue on the plan;
- d) the erection of a timber pergola in the position as shown edged yellow on the plan;
- e) the construction of an area of raised decking with a fence and a glazed panel in the position as shown edged dark blue on the plan;
- f) the installation of timber cladding at first floor level on the south and east elevations of the building.
- The requirements of the notice are:
 - a) demolish the extension to the rear of the building and remove from the land all materials resulting from such demolition;
 - b) demolish the timber toilet block and remove from the land or materials resulting from such demolition;
 - c) remove from the land the 2.75 metre high timber fencing with gates;
 - d) demolish the timber pergola and remove from the land all materials resulting from such demolition;
 - e) take up the raised decking area with associated fencing and glazed screen panel and remove all resulting materials from the land;
 - f) remove the timber cladding from the building and remove all resulting materials from the land.
- The period for compliance with the requirements is 9 months.
- The appeal is proceeding on the grounds set out in section 174(2), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
- **Summary of decision:** allegation corrected, appeal dismissed and notice upheld following variation.

Procedural Matters

1. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.
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2. The appellant has appealed on ground (b) that the matters alleged in respect of allegation 3(f) relating to timber cladding on the first floor level on the south and east elevations of the building have not taken place. However, this is a matter for consideration on ground (c), which is how I have considered it below.
 3. Where a case relies on legal grounds, the onus of proof rests with the appellant and the level of proof is on the balance of probability.

The appeal site and relevant planning history

4. The appeal property is a semi-detached building located on the commercial frontage of The Avenue within the Wellington Square Conservation Area. The ground floor and the open areas to the front, side and rear are used in connection with the café/bar. The outside area contains the various structures the subject of the allegation.
5. Permission was granted for a change of use from A1 retail sales to A3 restaurant/café in July 2013 (3/21/13/050) and for the display of nonilluminated signage in May 2014 (3/21/14/035).
6. In March 2020 permission was refused for the retention of a rear toilet block, 2.75 high timber fencing with gates, 2 portable timber carts and a timber pergola (3/21//18/080).

The appeal on ground (c)

7. An appeal on this ground is that there has not been a breach of planning control. The appellant states that allegation 3(f) relating to timber cladding on the first floor level on the south and east of the building was installed as part of advertisement consent 3/21/14/035 and he believed that the cladding formed part of that consent. It is pointed out that although condition 4 of the consent required the removal of the adverts within 5 years, this was not followed up by the Council who would have been able to deal with the matter under the Advertisement Regulations.
8. The display of advertisements is controlled through a specific approval process and separate planning permission is not required in addition to advertisement consent. Advertisement consent grants permission for the structure, but if the structure and/or the advertisement is different to that approved, other than changes that can be regarded as *de minimis*, then no consent exists. In this case, the Council advises that the timber cladding is different to that approved in the 2014 application in that it is higher obscuring the lower part of the first floor windows and also that the signage is different. From my observations when I visited the site, the assessment of the Council appears correct.
9. Accordingly, a breach of planning control has occurred as no permission exists for the timber cladding and the appeal on this ground therefore fails.

The appeal on ground (d)

10. An appeal on this ground is that it is too late for enforcement action to be taken. The appellant states that the gates and fencing subject to allegation 3(c) were substantially completed in August 2016 and are therefore immune from enforcement action through the passage of time.
11. The appellant has submitted a declaration, which takes the form of an unsworn statutory declaration which has not been witnessed because of the difficulty in gaining access to a Solicitor during the current Covid restrictions. The appellant states in the declaration that the 2.75m high timber fence and gates were substantially completed by his contractor Mr Andrew Hall prior to August 2016. Mr Hall has provided a letter dated 2 October 2020 to this effect.
12. The appellant has submitted an October 2016 Google street view photograph of the premises. This shows the front and side of the appeal site with some fencing shown and the timber cladding on the south elevation. The detail and extent of the fence is unclear and its height cannot be ascertained. The photograph also post-dates 21 August 2016 which is 4 years prior to the issue of the notice. Other than the appellant's declaration and Mr Hall's letter, no further evidence has been submitted to support the date when the works were executed such as invoices and receipts, which would normally be expected. However, notwithstanding this, and having regard to the *Gabbitas* case¹ I attach sufficient weight to the appellant's declaration to accept that, on the balance of probability, the fence and gates were erected before August 2016 and are immune from enforcement action by virtue of s191.
13. The appellant also claims that the timber cladding on the south elevation has been in place for over 4 years prior to the date of the notice. This is shown on the October 2016 Google street view photograph as extending across the front (south) elevation of the appeal property but stops short of the corner of the building and is absent from the

¹ *FW Gabbitas v SSE and Newham BC* [1985] JPL 630

east elevation. It cannot therefore be considered as being substantially completed and immune from enforcement action through the passage of time.

14. The appeal on this ground succeeds so far as allegation 3 (c) is concerned but fails in respect of allegation 3(f).

The appeal on ground (f)

15. In view of my conclusion on the ground (d) appeal, it is only necessary for me to consider the appeal under ground (f) so far as it relates to requirement 3(f).
16. The appellant considers that the step to remove all the cladding is excessive on the basis that the cladding on the front (south) elevation is immune from enforcement action. However, as I have found above, the cladding was not substantially completed 4 years prior to the notice it is not immune.
17. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and therefore I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach.
18. The appeal on this ground fails.

The appeal on ground (g)

19. An appeal on this ground is that the time for compliance is too short and that a period of 2 years would be appropriate and proportionate due to Covid restrictions. However, against this it is necessary to consider the continuing harm that the unauthorised development has on the street scene and Conservation Area and that this harm should be mitigated as soon as possible.
20. It is accepted that the hospitality sector has been severely affected as a result of enforced closure. Notwithstanding this, and in view of the difficult trading situation that has arisen, I believe that a period of 12 months would be a reasonable compliance period.
21. To this extent, the appeal on this ground succeeds.

Conclusions

22. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with correction and variations.

Decision

23. It is directed that the enforcement notice be corrected by the deletion of allegation (c) relating to the erection of the fence and gates; and varied by:

- i) the deletion of requirement (c) relating to the fencing and gates; and
- ii) the deletion of 9 months for the period for compliance and its replacement with a 12 month compliance period.

Subject to these variations the appeal is dismissed and the enforcement notice is upheld.



Costs Decision

Site visit made on 3 March by **P N Jarratt BA DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 March 2021

Costs application in relation to Appeal Ref: **APP/W3330/C/20/3260776 Café Bar 21, 21, The Avenue, Minehead, TA24 5AY**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr W Wynn for a partial award of costs against Somerset West and Taunton Council
 - The appeal was against an enforcement notice alleging the construction of various outdoor timber facilities.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant believes that additional expense has been incurred in communicating with the Planning Inspectorate and the Council as a result of a misleading letter sent by the Council to the Town Council and to two ward councillors. This letter, dated 26 November 2020, included details of the wrong breach of planning control and the steps to remedy that breach.
4. The Council has acknowledged that its officer merged the wrong details relating to another enforcement case into their notification letter. On being notified by the applicant's agent the Council responded promptly on 18 December 2020 apologising for the error and also notifying the Town Council and ward members.
5. Although the applicant is aggrieved that the letter caused confusion and invited adverse and misleading comments, in my view it would be difficult to confuse the applicant's business premises with the wrong reference in the letter to the storage of unauthorised mobile homes and caravans not connected with an

agricultural use. I would be surprised if the Town Council or ward members could not readily distinguish that the contents of the letter were erroneous.

6. The Council consider the matter to relate to a small administrative error, which appears to be the case. Although the applicant claims the error has caused unnecessary stress and anxiety. I do not consider that this should have led to anything more than the agent notifying the Council of the error. It seems that the appellant has been disproportionate in his response to the Council's error and in his concern over the consequences as far as his business plans and licence applications may have, bearing in mind the extent of unauthorised development that has been carried out at the appeal premises.
7. I note also that the applicant raises exception to the grounds of appeal quoted in the Council's letter claiming that anyone wishing to make representations cannot fully understand the grounds appealed. In this case, the Council referred to a ground (a) appeal which I note was one of the grounds originally pleaded by the applicant. However the applicant did not pursue this ground of appeal and it was therefore unnecessary for the Council to refer to it in the letter of 18 December 2020 having been notified by the Inspectorate on 19 November 2020 of the grounds. It was also unnecessary for the Council to respond to the ground (a) matters in their statement received on 22 December 2020. However, none of this has any material impact on the application for a costs award.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

P N Jarratt

Inspector

Site: 29 Quay Street, Minehead, TA24 5UL

Proposal: Erection of raised area of decking and outbuilding (retention of works already undertaken)

Application number: 3/21/20/045

Reason for refusal: Appeal – Dismissed,

Original Decision: Chair – Refused



Appeal Decision

Site visit made on 24 February 2021 by **Adrian Hunter**

BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2021

Appeal Ref: APP/W3330/D/20/3260947 29 Quay Street, Minehead, Somerset TA24 5UL

- 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 Mark Nixon against the decision of Somerset West and Taunton Council.
 - The application Ref 3/21/20/045, dated 18 June 2020, was refused by notice dated 14 September 2020.
 - The development proposed is erection of raised decking and outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the application is retrospective, and the development has already been undertaken. For the avoidance of doubt, I have determined the appeal on the plans as submitted.
3. For reasons of precision and clarity, I have taken the description of development from the Council's Decision Notice.

Main Issues

4. The main issues in this appeal are:

- Whether the proposed development would preserve or enhance the character or appearance of the Quay Street Conservation Area (QSCA) and affect the setting of 29 Quay Street, a Grade II Listed Building; and
- The effect of the proposal upon the living conditions of neighbouring residents, in particular from overlooking.

Reasons

5. The appeal site lies within the Quay Street Conservation Area (QSCA). The QSCA is mainly focused around the historic core of the existing harbour and the structures associated with it, along with the buildings which front the Quay Side. Within the QSCA, built development predominately faces towards the coastline, with the form, scale, materials and detailing of the buildings being defining features of its character and appearance. Other defining features include the harbour and views of it along Quay Side, and the existing heavily treed embankment that steeply rises to the rear, providing a distinct and obvious backdrop to the buildings.
6. The appeal site is a three storey, partially thatched, Grade II listed building, which forms part of a terrace of buildings that line the western side of Quay Street. The special interest and significance of the building is therefore informed by its architectural interest as a building of some age, along with its relationship with neighbouring buildings.
7. The outbuilding and decking area are positioned in a part of the appeal site which is accessed via a set of steep steps and, due to the surrounding topography and their position, are located above the roof heights of both the appeal and surrounding properties. Consequently, the development is visible from a number of surrounding viewpoints. When seen against the backdrop of the existing embankment, the proposal represents a form of development that is a visible feature in views along Quay Side, and introduces an unacceptable form of development which is at odds with the verdant and sylvan backdrop to the listed building and the QSCA. As a result, the proposal fails to adequately respond to the sensitivity of its location.
8. Whilst the surrounding trees, along with the potential for additional planting and screening would, to a certain degree, lessen the visual impact of the proposal, this would however, in my view, not be to a sufficient extent so as to overcome the identified harm to the heritage assets.
9. Given the above, I find that the proposal would fail to preserve the special interest of the listed building and the significance of the QSCA. Consequently, I give this harm considerable importance and weight in the planning balance.
10. Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
11. The appellant has not advanced any arguments in relation to the development's public benefits. Consequently, the development would conflict with Policies NH1 and NH2 of the West Somerset Local Plan 2032 (LP) and the Framework. Amongst other things, these policies seek to conserve the local character and historic environment and protect the setting of listed buildings. The proposed development would also conflict with the aims of The Framework as it would fail to sustain the

significance of the designated heritage asset where the public benefits would not outweigh the harm.

Living conditions

12. Despite being located in a position that is higher than surrounding dwellings, due to the steepness of the topography and the presence of existing trees, views onto neighbouring land is restricted. Furthermore, even without the decking in place, this part of the appeal site is in use as a garden associated with the appeal property. As such, the proposed decking would not materially increase overlooking of surrounding residential properties.
13. For the above reasons, I therefore conclude that the proposed development would not harm the living conditions of surrounding residents through overlooking and, in this respect, accords with Policy BD/3 of the LP and Paragraphs 127 of the Framework. These policies, amongst other things, seek to avoid development that would have an unacceptable impact upon the amenities of neighbouring dwellings.

Other Matters

14. The appellant has referred me to other developments to the rear of a number of properties along Quay Street. Having reviewed the information before me, whilst some of these developments are visible within the street scene, I do not consider that their presence outweighs the harm found from the appeal proposal to the identified designated heritage assets. In any event, I am required to consider the appeal on its own merits.
15. Reference has been made by a number of surrounding residents with regards to the impact of the proposal upon slope stability within the area, although I have not been provided with any evidence to substantiate these concerns. Therefore, on the basis of the information before me, it would be unreasonable to withhold planning permission for this reason alone.

Conclusion

16. Although I have found no harm in terms of the impact of the proposal upon the living conditions of surrounding residents, this would be outweighed by the harm from the other main issue. Therefore, for the above reasons, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR

Site: Land off Shurton Lane, Stogursey

Proposal: Outline application with all matters reserved except for access for a residential development of up to 70 No. dwellings

Application number: 3/32/19/0011

Reason for refusal: Appeal – Dismissed,

Original Decision: Delegated Decision – Refused



The Planning Inspectorate

Appeal Decision

Hearing Held on 2 and 3 February 2021 Site visit made on 4 February 2021 **by**

Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/W3330/W/19/3243508 Land off Shurton Lane, Stogursey TA5 1RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Land Allocation Limited against Somerset West and Taunton Council.
 - The application Ref 3/32/19/011, is dated 18 March 2019.
 - The development proposed is described as being for 'residential development'.
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Decision

1. The appeal is dismissed and planning permission for residential development of up to 70 dwellings is refused.

Procedural Matters

2. The planning application was submitted in outline form, with access being for determination and matters relating to appearance, landscaping, layout and scale being reserved for future consideration. The appellant wrote to the Council on 16 October 2019 conforming that the proposal should be considered as being for a development of up to 70 dwellings, with 35% affordable homes provision in line with the Council's policy requirement. I have therefore considered the appeal on the basis of it concerning a development for up to 70 dwellings.

3. The Council failed to determine the application within the prescribed period. Although this appeal was submitted on 18 December 2019, the Council mistakenly sought to determine the application on 20 December 2019 and issued a decision notice on that day purporting to refuse planning permission for three reasons (the R/R). The Council's decision notice has no formal status and I have therefore treated the Council's R/Rs as being putative ones.
4. The Council's second putative R/R raised a concern that the development would be an inefficient use of land, as it was thought its density would be comparatively low at nine dwellings per hectare (dph). That being based on information contained within the submitted application. The appellant has subsequently clarified that the development's density would be around 21dph. The Council has confirmed that with that clarification its concern about the efficiency of the site's use has been addressed and that the matter raised via the second putative R/R was no longer a contested one. I have therefore considered the appeal accordingly.
5. The third putative R/R contended that, in the absence of the adequate assessment of noise arising from the operation of the adjoining Little Lukes Farm, the occupiers of the development could experience unacceptable living conditions. However, the appellant has submitted an acoustic appraisal with the appeal and the Council in the Statement of Common Ground (SoCG) of 21 April 2020² has confirmed that its concern in this regard could be addressed through the imposition of a planning condition. I see no reason to take a contrary view and I have therefore treated the safeguarding of the living conditions of the prospective occupiers as being uncontested.
6. At my request after the Hearing had finished sitting the Council submitted:
 - documentation relating to the designation of the Exmoor and Quantock Oakwoods Special Area of Conservation (the SAC); and the conservation objectives for and condition of this SAC; and
 - consultation comments made by the Somerset County Council in its capacity as the local education authority.
7. As per the timetable agreed at the Hearing, the appellant has submitted an updated Unilateral Undertaking (UU) that was executed on 10 February 2021. That UU supersedes the 'original' UU executed on 1 May 2020. The planning obligations contained in the UU would secure:
 - 35% affordable homes provision.
 - The payment of a contribution of £3,263.00 per dwelling for the provision of off-site children's play equipment.
 - The provision in perpetuity of and the management for open space within the development.
 - The payment of education contributions, calculated on a formulaic basis determined by the final number of dwellings within the development, for pre-school, primary school and secondary school facilities.

² Entered into between the appellant and the Council

- The implementation of a travel plan for the occupiers of the development and the payment of monitoring fees associated with that plan's implementation.
8. Following the receipt of the updated UU, the Hearing was closed in writing on 12 February 2021.

Main Issue

9. Having regard to the Council's first putative R/R, I consider that the main issue is whether the site would provide an appropriate location for the development, having regard to local and national planning policies relating to the location for new development.

Reasons

10. The development would occupy pastoral farmland with an area of 3.37 hectares. The site adjoins part of Stogursey's northern built up area and lies to the west of Shurton Lane. Shurton Lane forms part of the local public highway network and within the immediate vicinity of the site it has a width sufficient to accommodate a single vehicle. As part of the proposed development Shurton Lane would be widened to enable vehicles travelling in opposite directions to pass each other.
11. Stogursey is a quite modestly sized village, where a limited range of everyday services and facilities are available. Those everyday services and facilities comprise: the Stogursey Church of England Primary School; two village shops, one of which also includes a sub post office; the Greyhound Inn public house; the St Andrew's church; Victory Hall and Youth Club with associated recreation ground; and a play area off Burgage Road. Within the village or adjoining it there is a vehicle repair garage and a number of farms. The nearest secondary school to Stogursey is in the region of 14.9 Km (9.3 miles) from the village³. Employment opportunities within Stogursey are very limited.
12. Stogursey is served by some regular, but low frequency bus services, including one that is currently operated by EDF Energy in association with the construction of the Hinkley Point C power station (HPC). By bus the journey times between Stogursey and Taunton or Bridgewater are around an hour³. Generally, amongst existing residents of Stogursey I consider it likely that there is a high dependency on private motor usage when travelling to and from places of work or in gaining access to the full range of services and facilities available in the larger settlements in the wider area.
13. Following the creation of Somerset West and Taunton Council on 1 April 2019, the development plan relevant to Stogursey continues to comprise the West Somerset Local Plan to 2032, adopted in November 2016 (the WSLP), and the saved policies of the West Somerset District Local Plan of April 2006.
14. Policy SC1 of the WSLP sets out the spatial strategy underpinning the approach to new development. The supporting text to Policy SC1 states '*The policy seeks to achieve a beneficial distribution of new development within the local plan area, so as to maintain or strengthen the current service roles and functions of the various settlements*'. To that end Policy SC1 identifies a

³ Appendix E in the Strategic Housing Land Availability Assessment of March 2020 ³
Based on the timetables appended to the appellant's interim travel plan

hierarchy of settlements, with most new development expected to be directed to the 'main' centres of Minehead/Alcombe, Watchet and Williton.

15. Under Policy SC1 Stogursey has been identified as a 'primary village' where *'limited development ... will be permitted where it can be demonstrated that it will contribute to wider sustainability benefits for the area'*. Policy SC1 goes onto state:

'Development within or in close proximity (within 50 metres) to the contiguous built up area of ... primary ... villages will only be considered where it can be demonstrated that: A. It is well related to existing essential services and social facilities within the settlement; B. There is safe and easy pedestrian access to essential services and social facilities within the settlement ...'

16. Within the definitions section of Policy SC1's supporting text, limited development is defined as *'... individual schemes of up to ten dwellings providing about a 10% increase in a settlement's total dwelling number during the Local Plan period, limited to about 30% of this increase in any five year period'*. For the purposes of Policy SC1 the dwelling number for Stogursey at the 'start of the plan period' was identified as being 388 dwellings in the village, rather than the wider parish area⁴. At the Hearing the Council clarified that Stogursey's dwelling number of 388, as well as those for the other primary villages, quoted in Policy SC1's supporting text should be taken as being the position when the WSLP was submitted for examination in 2015, rather than the situation at the beginning of the local plan period in 2012⁵.

17. While the supporting text for Policy SC1 does not form part of this policy's actual wording, it assists with this policy's interpretation. In essence for primary villages, such as Stogursey, the intention of Policy SC1 is *'... to achieve a manageable rate of change over time'*⁶. Importantly Policy SC1, in respect of the identified primary villages, allows for some new housing to be delivered just beyond the established built up areas for those villages. Policy SC1 therefore does not operate as an absolute bar upon housing in the countryside, with limited development being permissible when it can be demonstrated that it will contribute to wider sustainability benefits for the area and would arise within or in close proximity to the contiguous built up area of the settlements. In essence Policy SC1 supports organic growth at the villages, provided such growth would be proportionate.

18. Paragraphs 77 to 79 of the National Planning Policy Framework of February 2019 (the Framework) provide the national policy approach for the location of rural housing. Paragraph 78 states:

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.'

⁴ As clarified by the Council during the Hearing

⁵ The period for the WSLP being 2012 to 2032 as explained in section 1.2 of the local plan ⁶ Paragraph 68 of the Inspector's examination report for the WSLP

19. Although Policy SC1 predates the publication of the current version of the Framework, I consider that it is consistent with the Government's policy for rural housing. That is because Policy SC1 seeks to facilitate a scale and distribution of development commensurate with the size and nature of the settlements, in what is a very rural area.
20. The appeal site lies just beyond the settlement boundary for Stogursey and it is therefore in the countryside for the purposes of the development plan. That said under Policy SC1 Stogursey's dwelling stock could be increased by about 10% by 2032 (the 10% allowance), either in the identified settlement boundary or within 50 metres of this village's existing built up area. Stogursey's 10% allowance through to 2032 is 39 new homes. As the appeal site in part is within 50 metres of Stogursey's settlement boundary it could make a contribution to Stogursey's 10% allowance. Any contribution that the appeal site could make is, however, in part dependent on how many dwellings have already been constructed or benefit from any extant planning permissions granted since 2015.
21. At the Hearing the Council explained that since 2015 planning permissions had been granted for the construction of an additional 14 (net) dwellings within Stogursey. However, none of those dwellings have been commenced or completed. Of the 14 permitted dwellings, seven would form part of the Paddons Farm development, for which planning permission was originally granted in 2008 for 59 dwellings (the historic permission). The historic permission has in part been implemented with 39 dwellings having been built and occupied, leaving 20 homes that could still be built under the historic permission. A new planning permission for 27 dwellings at Paddons Farm has recently been granted. It is therefore only seven of the permitted dwellings at Paddons Farm that benefit from a planning permission post-dating 2015. It is those seven dwellings that the Council considers should, for the purposes of Policy SC1, be counted against the Stogursey's 10% allowance until 2032.
22. To meet the limited development provisions of Policy SC1 for Stogursey, 25 further dwellings or so could be granted planning permission for the period through to 2032. Albeit of those 25 dwellings only 30% should come forward in any five year period in order to meet with limited development definition.
23. I consider a scheme of up to 70 dwellings would not amount to 'limited development' for the purposes of Policy SC1, with such a scheme potentially yielding a net exceedance of 45 dwellings above Stogursey's 10% allowance. The provision of up to 70 extra dwellings would represent an 18% increase in Stogursey's 2015 housing stock. The proportional increase rising to 21.65%, when the 14 unbuilt permitted homes are allowed for. A development of up to 70 dwellings alone would approach twice the 10% allowance for Stogursey.
24. The Council undertook a housing needs survey for Stogursey in 2018. The results from that survey indicated that six householders identified a need for affordable homes to rent, while a further eight households identified a need for affordable shared ownership dwellings. The Council has also reviewed interests to live in Stogursey registered with the 'Somerset Homefinder' service and there are twelve householders who have expressed an interest in living in Stogursey. The Homefinder service does not distinguish between interests in renting or buying homes, nor does it provide an indication of whether those expressing an interest are already resident in the Stogursey or are looking to move to it.

25. I consider the fact that the Paddons Farm development has been 'stalled' for some time and none of the 14 dwellings benefitting from post 2015 planning permissions have been commenced, are indicative of there being limited existing demand for additional homes being built within or adjoining Stogursey. In that regard I consider it of note that while works on the construction of the HPC are now well underway, there is no obvious indication that the need to house a large construction labour force is generating an immediate demand for additional housing to be provided in Stogursey, which the appeal development might be capable of assisting in meeting. The demand for additional homes arising from HPC being a potential housing market challenge that the WSLP is alert to.
26. The housing need data that is available suggests that there is no pressing level of local need warranting the provision of up to 70 new dwellings in Stogursey, including up to 25 affordable homes. The provision of up to 25 affordable housing would comply with the 35% target identified in Policy SC4 of the WSLP and the Council expects that occupiers for those dwellings would be found.
27. There is no doubt that the development would contribute to meeting the general need for affordable homes in the Council's area. Nevertheless, the level of need that has been recorded for affordable homes in Stogursey suggests that many of the affordable dwellings yielded by the proposed development would not be in the optimum location for this form of housing. In that regard the Council is of the opinion that Minehead/Alcombe, Williton and Watchet are the settlements with the greatest demand for affordable homes, given their accessibility to everyday services and facilities.
28. When the WSLP was in preparation the appeal site had been identified as an 'early release' site. However, that identification did not amount to a housing allocation and the WSLP's examining Inspector remarked:
- 'Stogursey is defined as a primary village under policy SC1. The identified early release site has a capacity of some 60 dwellings. Whether this site would or would not be in accordance with the strategy and policy SC1 would depend on the rate and phasing of development and thus compliance with the 'limited development' criteria of policy SC1 and the terms of policy SV1'⁶.*
29. I find the examining Inspector's comments are unsurprising, avoiding potential fettering for decision making in respect of any subsequently submitted planning application. If there was an obvious need for a significant increase in the amount of housing in Stogursey of 60 or more homes, then as part of the plan making process an allocation for this village could reasonably have been expected to have been included in the WSLP. That is because the WSLP at its adoption only included allocations for around half of the overall housing requirement for the whole of the local plan's period⁷. For the purposes of the determination of this appeal I therefore consider the Council's previous identification of the site as an early release site for housing does not, of itself, provide any tangible support for the appeal proposal.

⁶ Paragraph 81 of the examining Inspector's report

⁷ Paragraph 78 of the examining Inspector's report

30. The occupiers of the development would generally have good access on foot and by bicycle to the limited services and facilities present in Stogursey. However, as I have indicated above, because of the very limited: range of everyday services and facilities available in Stogursey; and access to public transport, it is likely amongst the development's occupiers that there would be a high dependency on private motorised vehicle usage. Additionally, many adults travelling to and from their places of work would need to make use of private motorised vehicles, with employment opportunities not being readily accessible on foot or by bicycle, with the approach roads in and out of this village being devoid of footways and streetlighting. I am of the view that this site in accessibility terms would not be a good location for a significant increase of homes at Stogursey.

31. A travel plan would be secured via the UU and it would promote the use of modes of travel other than by private motor vehicles. I recognise that the availability of a travel plan would give rise to some compliance with Policy TR1 of the WSLP, through seeking to encourage the use of sustainable modes of transport. However, in practice I consider the opportunities for a modal shift to walking, cycling and the use of public transport would be very limited and that this development would contribute very little to the promotion of sustainable transportation. I therefore consider that because of the site's location on the edge of a village in a very rural area, in practice the sustainable travel measures outlined in the appellant's 'Interim Travel Plan' would do very little to encourage significant levels of walking, cycling and public transport usage amongst this development's occupiers.

32. The high dependence on private motorised vehicle usage amongst occupiers of the proposed development would be comparable with the position for the existing residents Stogursey. Nevertheless, I consider that is something weighing against the proposed development and reinforces why Stogursey has been identified for nothing other than limited development by the Council in the WSLP. I therefore consider that the development would not accord with Policy TR2 of the WSLP. That is because this development would not be located so as to maximise the attractiveness of modes of transport other than the private car and while it would complement existing service and facility provision in Stogursey to some degree, it would nevertheless generate '... new unsustainable transport patterns ...'.

33. Section 9 of the Framework promotes sustainable transport and opportunities to improve walking, cycling and public transport. It also points out that sustainable travel solutions will vary between urban and rural areas. Although the site is within a rural area, it is not within an isolated rural location. However, given the quantum of the additional homes proposed and the limited access to nearby employment opportunities and a full range of everyday services and facilities in Stogursey, I consider section 9 of the Framework offers no particular support for this proposal, with some harm to the environment likely to arise through the generation of vehicular emissions.

34. I consider the provision of up to 70 dwellings at Stogursey would amount to much more than limited development for the purposes of Policy SC1. In the absence of demand for this level of new housing in Stogursey having been demonstrated to be present, I consider that a development of this scale would be unwarranted and would be contrary to the spatial strategy identified in Policy SC1 of the WSLP. I also consider that there would be some conflict with Policy SV1 of the WSLP because while the development might assist in maintaining the existing level of service provision within a primary village, it would not help to create a balanced community at a level appropriate to Stogursey's role and

function. That is because the proposed development would accentuate the imbalance between the amount of housing and nonresidential uses within or very close to Stogursey. There would as I have indicated above be some conflict with Policy TR2 of the WSLP.

35. I therefore conclude that the appeal site would be an inappropriate location for the development.

Planning Balance and Overall Conclusions

36. The development would be contrary to the spatial strategy stated in Policy SC1 of the WSLP, with the proposal being much more than limited development within close proximity to a 'primary village'. There would also be some conflict with Policies SV1 and TR2 of the WSLP. While the proposed development would accord with various development plan policies, such as

those relating to the delivery of affordable homes and the mitigation of new development's effects on the character and appearance of an area, biodiversity and local infrastructure, overall I consider that this proposal would be contrary to the development plan when taken as a whole. It is therefore necessary for me to consider whether there are any material considerations indicating that my decision should be made otherwise than in accordance with the development plan.

Housing Land Supply

37. There is disagreement as to whether the Council can demonstrate the availability of a five year supply of deliverable housing sites (5yrHLS) within what was the former West Somerset Council's area⁸. When assessed against the housing requirement underpinning the WSLP the appellant contends that at best there is a 3.93 year housing land supply⁹, while the Council argues that there is a 5.21 year supply¹⁰. The agreed period for considering the 5yrHLS being April 2020 to March 2025, with an assessment base date of 31 March 2020¹².
38. The Council in providing its January 2021 5yrHLS update has undertaken a calculation using the Government's Standard Method (SM) for establishing a local housing need (LHN). However, paragraph 73 of the Framework advises that the LHN should only be used in instances when the adopted strategic development plan policies are more than five years old. The WSLP will have its fifth anniversary in November 2021 and at this time, in line with the guidance contained in the Framework, I consider the 5yrHLS position should be assessed against the WSLP's housing requirement, as opposed to a LHN figure derived from using the SM.
39. The principal difference between the parties with respect to the 5yrHLS position concerns whether six sites with either resolutions to grant planning permission (as opposed to extant permissions) or expected to become the subject of applications should or should not be included in the 5yrHLS. The disagreement concerns several hundred dwellings and concerns the definition for 'deliverable' housing sites stated in Annex 2 of the Framework.
40. Having regard to the definition for deliverable used in the Framework, I consider that the dwellings expected to be yielded by the previously mentioned six sites, in the

⁸ It being agreed that for this appeal 5yrHLS considerations should relate to the area administered by the former West Somerset Council

⁹ Section 4 and Table 3.1 in the appellant's updated HLS statement of 29 January 2021

¹⁰ The Council's 'Note on 2020 Housing Delivery Test Figure, Housing Need Figures and Housing Supply of January 2021 (the Council's HLS note 2021)' ¹² Paragraph 1.2 of the HLS SoCG

absence of extant planning permissions, should not have been treated as contributing to the 5yrHLs as at the end of March 2020. I therefore consider that for the purposes of the determination of this appeal the appellant's assessment of there being a housing land supply of around 3.93 years, at best, should be preferred. That said the actual dwelling shortfall for the five year period is quite small, given the WSLP's housing requirement per year is 155 dwellings (unadjusted).

41. In the absence of a 5yrHLs, the most important development plan policies for determining the application, most particularly Policy SC1, are out of date and paragraph 11 of the Framework indicates that the presumption in favour of sustainable development is engaged. Planning permission should therefore be granted unless '*... any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*' (paragraph 11d)ii of the Framework).

Benefits

42. In relation to the delivery of housing from this site, for the appellant it was explained at the Hearing that when time allowances for the purchase of the site by a developer and obtaining reserved matters approval are made, around 45 dwellings could be completed in the five year period. The provision of 45 dwellings or so in the five year period would make a useful contribution to the supply of housing in the Council's area and that is a matter that I consider attracts substantial weight. The provision of 25 or so affordable homes would be beneficial, however, as I have indicated about those homes would not necessarily be optimally located and I therefore attach moderate weight to the delivery of those homes in this instance.
43. The development would generate some employment during its construction phase. However, that construction phase would be likely to coincide with the building of HPC and the employment benefits associated with the appeal development are likely to be greatly outweighed by HPC's construction. I therefore attach moderate weight to the economic benefits associated with the appeal development's construction phase. There would be some economic benefits arising from the employment and spending of the occupiers of the development. However, those economic benefits would be likely to arise whether this site or others in the Council's area were developed for housing and I therefore consider this benefit attracts moderate weight.
44. I consider the development could be designed so as to avoid visual harm. While that would be beneficial, it is something that should apply to any new development within the Council's area and I therefore consider it is a matter attracting modest weight.
45. The development would make provision for on-site open space and biodiversity improvements. However, those benefits are intended to neutralise potentially adverse effects and might well be needed wherever a development of this scale was located. I therefore attach very modest weight to these benefits of the development.

Overall conclusion

46. I am mindful of the Government's objective of significantly boosting the supply of homes (paragraph 59 of the Framework). However, as I have indicated above, I am not persuaded that expanding Stogursey's housing stock by such a significant proportion would be appropriate, with there being no clear evidence that building up to 70 homes on this site would result in homes being delivered where they would be needed. Locating housing where it would be needed being something that paragraph

POST HEARING DOCUMENTS

- 1) Letter of 16 October 2019 from the appellant to the Council conforming the development would be for up to 70 dwellings
- 2) Email exchanges between the local education authority (Somerset County Council) and the Council concerning school capacity and education contributions
- 3) Background information concerning the Exmoor and Quantock Oakwoods Special Area of Conservation
- 4) Executed Unilateral Undertaking of 10 February 2021

Site: 11, 12, 14 & 15 Doniford Meadow, Doniford, Watchet, TA23 0TL

Proposal: APP/H3320/W/19/3236050

Application number: 3/39/18/017

Reason for refusal: Appeal – Dismissed,

Original Decision: Delegated Decision – Refused



Appeal Decision

Site visit made on 26 January 2020 by **L J O'Brien BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th May 2020

Appeal Ref: APP/H3320/W/19/3236050 Nos 11, 12, 14 & 15 Doniford Meadow, Doniford, Watchet TA23 0TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Dr David Jenkins against the decision of West Somerset Council.
 - The application Ref 3/39/18/017, dated 5 June 2018, was refused by notice dated 18 March 2019.
 - The application sought planning permission for erection of two pairs of holiday chalets without complying with a condition attached to planning permission Ref 66604/1, dated 14 October 1964.
 - The condition in dispute is No 1 which states that: The buildings hereby permitted shall be used as holiday accommodation only to provide accommodation for persons for the time being bona fide on holiday in the area and they shall not be occupied for permanent residential purposes.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time the application and decision were made, the Local Planning Authority was West Somerset Council. However, West Somerset Council has since merged with the former Taunton Deane Borough Council to form Somerset West and Taunton Council.

Nevertheless, the relevant adopted Development Plan in this case still includes the West Somerset Local Plan to 2032, November 2016 and saved policies contained within the West Somerset District Local Plan, April 2006.

Background and Main Issue

3. The appeal site, Nos 11, 12, 14 and 15 Doniford Meadow, comprises four bungalows. Though the bungalows may currently be unoccupied, their current lawful use is as holiday lets. A temporary permission was granted in December 2000 which allowed a change to residential use including holiday use for a limited period. An application, and subsequent appeal, to remove the condition which imposed the temporary restriction were made and dismissed in 2003 due to the effect on the character and appearance of the area and the inappropriate location of the properties.
4. The current proposal is for the removal of a restrictive occupancy condition attached to the original 1964 planning permission which would allow the properties to be occupied as permanent residential dwellings. The Decision Notice does not give details explaining the reason for the imposition of the original 1964 condition. However, the Council refused the application and consider the condition remains necessary, citing that the site is not considered to be an appropriate location for four permanent dwellings due to its position in the open countryside and within flood zone 3.
5. Following submission of a Flood Risk Assessment (FRA) by the appellant dated August 2019 the Environment Agency withdrew their previous objection in respect of flood risk by a submission dated 6 January 2020. The Local Planning Authority have also confirmed in writing that they no longer wish to sustain their second reason for refusal which was predicated on the absence of a detailed FRA. I agree with this approach.
6. Consequently, the main issue is whether the condition restricting the use of the buildings to holiday accommodation is necessary and reasonable having regard to whether or not the development occupies an acceptable location for permanent residential dwellings with particular regard to the availability of nearby services and any implications for the surrounding countryside .

Reasons

7. The appeal site is situated within a rural location in Doniford, a small scattered settlement with no defined development boundary. There is some sporadic development in the vicinity of the appeal site; some limited residential properties, holiday accommodation (including caravans) and a farm shop. There is also a small shop which forms part of the Haven Holiday site nearby.
8. Policy SC1 of the West Somerset Local Plan to 2032, November 2016 (LP) sets out the settlement hierarchy for the area and identifies existing settlements as well as setting guidelines for development which is acceptable within 50m of a settlement. Policy OC1 of the LP: Open Countryside Development, sets out that the open countryside includes all land outside of existing settlements where development is not generally appropriate.
9. The appeal site is outside of an existing settlement and is beyond the 50m limit, it is therefore, in policy terms, within the open countryside. LP Policy OC1 sets out exceptions where development will be permitted. The proposal does not fall within any of the exceptions which would make the principle of permanent residential dwellings in this location acceptable.

10. The appeal site is some distance from any facilities or local services. The nearby Doniford Farm farm shop has a restaurant area and a limited variety of products for sale. The second shop is sited within a Haven Holidays site and is therefore less likely to be utilised by those living within the area. Those living within the area, therefore, are highly likely to rely upon facilities and services within other larger settlements.
11. Transport links within the vicinity of the appeal site are also poor. Furthermore, the roads in the area do not have regular, accessible or continuous pavements and these characteristics are likely to discourage pedestrians and cyclists thus further increasing the reliance on private motor vehicles.
12. I note that there is a bus stop a short walk away from the site; however, sections of the route do not have any pavements and, in my view, the bus service cannot, therefore be considered as a viable means of transport which would be readily accessible to potential future residents. Residents in the area would, consequently, be heavily reliant on the private car to travel.
13. For the reasons set out above, I consider that the site is physically separated and remote from nearby settlements and as such it can properly be described as isolated and would not, therefore, represent an appropriate location for permanent residential dwellings.
14. I recognise that those staying on the site as holiday makers still have to travel to visit attractions and purchase supplies amongst other things. However, this kind of travel is a fundamental part of rural tourism which is an essential contributor to the rural economy and the balance of factors to be considered under these circumstances is different to those present in this case. The requirements and travel patterns of permanent residents are also different to those of tourists. Permanent residents, for example, would have a general reliance on local services such as schools and health care services which are some distance away from the site and not readily accessible via walking, cycling or public transport.
15. I acknowledge that there are a number of other residential properties nearby. However, I have been provided with few specific details of the circumstances in which these were allowed. Many may have been approved under a different planning context. The properties at 1- 10 Doniford Meadows were, for example, allowed to change to residential use under a Certificate of Lawful Use granted over ten years ago. In any event, each case must be treated on its own merits and the existence of other examples is not sufficient reason to justify a development which I consider in itself to be inappropriate.
16. I therefore conclude that the condition restricting the use of the buildings to holiday accommodation is necessary and reasonable as the buildings do not occupy an acceptable location for permanent residential dwellings with particular regard to the availability of nearby services and with regard to the implications for the surrounding countryside. Accordingly, the proposal would conflict with the aims of Policies SC1 and OC1 of the LP which set out the settlement hierarchy and the criteria which must be met in order for development within the open countryside to be permitted.
17. The proposal would also be at odds with saved Policy H/6 of the West Somerset District Local Plan, April 2006 which sets out that the Council will permit the change of use of existing buildings to permanent residential accommodation provided that, amongst other things, the site has satisfactory accessibility.

18. The development would also fall short of the expectations of The National Planning Policy Framework which seeks to prevent the development of isolated homes in the countryside unless they meet certain specific exceptions which are not met in this appeal.

Other Matters

19. Whilst the buildings have already been built, the removal of the condition to allow permanent residential occupation of the properties would be a change of use which would alter their current use to such an extent so as to warrant careful consideration of any implications.
20. I acknowledge the appellant's suggestion, supported by a letter from an accountant, that the holiday lets are no longer financially viable. However, the area has a number of other seemingly successful holiday complexes in close proximity to the appeal site and, in my view, as the properties are in a scenic coastal location, I consider they are in a location which would be likely to attract significant numbers of tourists.
21. I note the appellant's observation that other holiday accommodation in the area benefits from facilities such as swimming pools and on-site activities which are not present at the appeal site. I also recognise that the area has changed since the bungalows were built and some of the facilities associated with a holiday park are no longer present on site. However, I have not been provided with detailed evidence which substantiates this as a reason for the apparent shortfall in rental income.
22. Furthermore, as mentioned in the appellant's submission, the bungalows are in need of upgrading and, in my view, this could be a further factor constraining their letting. Whilst I recognise the appellant's concerns regarding the financial burden of undertaking the required works, as a business it is reasonable to expect a level of financial commitment to maintain the long-term viability of the holiday lets.
23. The appellant has advised that the holiday lets are advertised via their website, a visit Somerset website and the Lady, but argues that despite this their customers are returning holiday makers who are ageing and thus their customer base is decreasing. In my view, the details within the appellant's submissions do not amount to sufficient substantive information to evidence that the holiday bungalows have been robustly marketed such that I may be able to reasonably conclude that such use is not viable.
24. Moreover, based on the evidence before me, I am not persuaded that there is no longer a demand for this kind of accommodation in the area and I have not been provided with a degree of detail to enable me to conclude that the business as a whole is no longer viable. Consequently, I afford the financial viability of the holiday lets limited weight in the planning balance.
25. I recognise that effective re-use of existing buildings is actively encouraged. I also note the benefits of the scheme in respect of striving to meet the Government's aim to significantly boost the supply of housing. I particularly acknowledge the potential future need for housing in the area, for instance for workers at Hinkley Point. However, as outlined above, I do not consider that the site is an appropriate location for permanent residential dwellings and as such these factors do not outweigh the harm I have identified.

26. I have noted the issues raised regarding the effect on highway safety. However, as this proposal is going to be dismissed for other reasons and the other concerns expressed do not have a direct bearing on the main issue, it is not necessary for these to be explored further as part of this appeal.
27. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached that the condition restricting the use of the buildings to holiday accommodation is necessary and reasonable as the buildings do not occupy an acceptable location for permanent residential dwellings. The other considerations presented by the appellant do not outweigh the conflict with the development plan I have found in this instance.

Conclusion

28. For the reasons given above I dismiss the appeal.

L J O'Brien

INSPECTOR

Site: Chilcombe House, 30 Trendle Lane, Bicknoller, TA4 4EG

Proposal: Application for Outline Planning Permission with all matters reserved except for access for the erection of 1 No. dwelling and detached garage in the garden to the side with associated access

Application number: 3/01/20/016

Reason for refusal: Appeal – Allowed

Original Decision: Delegated Decision – Refused



The Planning Inspectorate

Appeal Decision

Site visit made on 9 March 2021 by **John Wilde CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 13 April 2021

Appeal Ref: APP/W3330/W/20/3263909 Chilcombe House, 30 Trendle Lane, Bicknoller TA4 4EG

- 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 J Bridgland against the decision of Somerset West and Taunton Council.
 - The application Ref 3/01/20/016, dated 21 August 2020, was refused by notice dated 21 October 2020.
 - The development proposed is the erection of one dwelling and garage with access off Trendle Lane.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of one dwelling and garage with access off Trendle Lane at Chilcombe House, 30 Trendle Lane, Bicknoller TA4 4EG in accordance with the terms of the application, Ref 3/01/20/016, dated 21 August 2020, subject to the conditions contained within the attached schedule.

Procedural matter

2. The application was made in outline with access for determination at this stage and all other matters reserved for later determination.

Main Issues

3. The main issues are:-

- a) The effect of the proposed development on the character and appearance of the area, and
- b) Whether or not the proposed development would be in an accessible location.

Reasons

Character and appearance

4. The appeal site is an area of garden belonging to Chilcombe House lying to the east of that property. The site is bordered on the north and south by Trendle Lane and Chilcombe Lane respectively and lies within the Quantock Hills Area of Outstanding Natural Beauty (AONB). Paragraph 172 of the National Planning Policy Framework (the Framework) makes clear that great weight should be given to conserving and enhancing landscape and scenic beauty in such areas. Chilcombe House lies towards the eastern end of Trendle Lane, at nearly the furthest point from the centre of the village, with only two properties further to the east. There is however an almost continuous line of development from Chilcombe House into the centre on the village on the south-western side of Trendle Lane.
5. The proposed dwelling would be seen as an infill dwelling and, given the size of the plot, would retain a reasonable distance to Chilcombe House and to its eastern neighbour, commensurate with the spacing between other properties along Trendle Lane. In terms of its positioning it would not therefore jar with the existing grain of the area.
6. Whilst the proposed development would be visible from Trendle Lane it could be set back into the site, as shown on the illustrative proposed site plan. There are a number of trees between Chilcombe House and the appeal site and further landscaping could be conditioned such that the proposed house and garage would look unobtrusive and very similar to other development in the vicinity.
7. A length of hedgebank bordering Trendle Lane would have to be removed to make way for the proposed access. However, the position of the access would be on the outside of a bend such that visibility splays would be available with only a relatively short length removed. Furthermore, the resulting access would be similar to a number of other accesses already in existence on this side of the lane.
8. Overall, although an area of garden would be replaced with built form, and a short length of hedgebank lost, I consider that the result of this would not be so obtrusive or so out of keeping as to cause noticeable harm to the AONB in the wider sense. The integrity of the AONB would therefore, as a whole, be conserved.
9. There would therefore be no conflict with policies SV1, SC1 or NH14 of the West Somerset Local Plan to 2032. The former of these requires that development at primary villages should be designed to form an integral and harmonious addition to the settlement's existing character. Policy SC1 requires, amongst other things, that development respects the character of the existing settlement whilst policy NH14 makes clear that applications for development should, amongst other things, conserve or enhance the natural beauty of the AONB.
10. My attention has also been drawn to the Bicknoller Village Design Statement (DS). Whilst not part of the development plan the DS recommends that developments which involve the removal of field hedges should be resisted. However, the hedgebank in question forms the boundary of a domestic curtilage, and is not therefore strictly a field hedge. The weight that I can give to this recommendation is therefore very limited.

11. In arriving at this conclusion I am aware of the previous appeal decision relating to the site. In that proposal however the access would have been off Chilcombe Lane, where there are far fewer existing accesses and consequently the proposed one would have been far more conspicuous. I cannot therefore take the previous appeal as a compelling precedent for refusing the current one.

Location

12. Policy SC1 of the West Somerset Local Plan (LP) makes clear that Bicknoller is defined as a primary village where development within or in close proximity to the contiguous built-up area will be considered against a number of criteria. The first of these requires that the proposed development is well related to existing essential services and social facilities within the settlement, and the second requires that there is safe and easy pedestrian access to these facilities.
13. The local shop and village hall are about a 10 minute walk along Trendle Lane, while the journey to the pub takes another few minutes. I acknowledge that Trendle Lane is narrow. However, it is so narrow that the speeds of vehicles are restricted and vehicle movements are also generally low. Furthermore, there are several entrances where pedestrians can move out of the way of vehicles and these entrances become more numerous as the centre of the village is approached. I accept that in inclement weather residents may be tempted to use a car to access the village facilities. This would however be relatively rarely and would produce a minimum number of trips.
14. My attention has been drawn to another planning application in the village which went to appeal and where the Inspector found against the proposed development on the grounds of its location relative to services. That development was however for a greater number of dwellings along a different lane, and that lane has a more rural aspect than Trendle Lane with fewer existing accesses, as well as being a more direct route into the village for vehicles. I cannot therefore take this other decision as a compelling precedent.
15. Criterion d of policy SC1 requires that development does not generate significant additional traffic movements over minor roads to and from the more major road network. Highways Development Control consider that the proposed development will not create a highway safety or efficiency issue and I have been given no significant evidence that would lead me to an alternative conclusion.
16. On this issue therefore I find that there would be no conflict with policy SC1. Nor would there be conflict with policy TR2 of the LP which requires, amongst other things, that development does not generate significant additional traffic movements over minor roads.

Conditions

17. The attached schedule of conditions is based on those suggested by the Council and agreed by the appellant. In the interest of the final character and appearance of the area I have imposed conditions relating to the submission of a soft and hard landscaping scheme, details of boundary treatment, submission of samples of finishing materials and tree protection measures.
18. To ensure the adequate provision of drainage infrastructure I have imposed a condition requiring details of a drainage scheme to be submitted and approved by the local planning authority.

19. In the interests of highway safety I have imposed conditions requiring details of the construction, drainage and visibility splays of the proposed access to be submitted, a condition limiting the gradient of the access and a condition controlling the erection of gates. I note that the Highway Authority recommended a visibility splay of 25m whereas the Local Planning Authority have suggested 43m. Taking into account the likely low speeds of traffic, the recommendations in Manual for Streets and the fact that one of the Council's main concerns was the loss of a hedgebank I have reverted to the distance of 25m in my condition.
20. To facilitate sustainability I have imposed a condition requiring secure cycle parking to be installed and for certainty I have imposed a condition listing the submitted plans.

Conclusion

21. In light of my above reasoning and having regard to all other matters raised, including strong local objections and a petition, I conclude that the appeal should be allowed.

John Wilde

INSPECTOR

Schedule of 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) The development hereby permitted shall be carried out in accordance with the following approved plans: 2188A-DR-A-050 - 000 location plan, 2188A-DR-A-050-001 proposed site plan, 2188A-DR-A-050-002 existing and proposed roadside elevations.
- 5) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 6) A hard and soft landscaping scheme shall be submitted to and approved in writing by the local Planning Authority prior to such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted and a hedge bank to the rear of the visibility splays hereby approved.
 - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development.
 - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species and the hedgebank shall be retained once planted and any plants that die shall be replaced in the same species in the next planting season..
- 7) Details of the proposed boundary treatments on the application site shall be submitted to and approved in writing by the local planning authority. Such details shall include the location of all boundary treatments shown in a scaled plan and details of the height, type, materials, finish and colour of the proposed boundary treatments. The approved details shall be carried out in accordance with the approved details, prior to the occupation of the dwelling hereby approved.
- 8) Before development commences (including site clearance and any other preparatory works) a scheme for the protection of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2012. Such fencing shall be erected prior to commencement of any other site operations and at least two working days' notice shall be given to the Local Planning Authority that it has been erected. It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning

- Authority. No activities whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.
- 9) Prior to occupation of the building, works for the disposal of sewage and surface water drainage shall be provided on the site to serve the development, hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be retained and maintained in that form.
 - 10) No works shall be undertaken on drainage at the access until details for the provision of drainage at the access to the site has been first submitted to and approved in writing by the local planning authority. The drainage shall be provided in accordance with the approved details prior to the occupation of the dwelling hereby approved. The drainage shall thereafter be retained in the approved form.
 - 11) The access and visibility splays shall be provided prior to the construction of the dwelling hereby approved and shall be provided in accordance with the approved plans. The access shall thereafter be retained in the approved form.
 - 12) The gradient of the proposed access shall not be steeper than 1 in 10. Once constructed the access shall thereafter be maintained in that condition at all times.
 - 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking and re-enacting that Order, with or without modifications, no vehicular access gates shall be erected at any time unless they are set back a minimum distance of 5m behind the highway boundary and hung so as to open inwards only.
 - 14) There shall be no obstruction to visibility greater than 600 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 25 metres either side of the access. Such visibility shall be fully provided before the development hereby permitted is occupied and shall thereafter be maintained at all times
 - 15) Details of secure cycle parking/storage (1 per bedroom) shall be submitted to and agreed in writing by the Local Planning Authority prior to occupation of the hereby approved dwelling and the approved cycle parking/storage shall be provided prior to the occupation of the dwelling and shall thereafter be retained. Reason: In the interests of highway safety.
 - 16) Before the dwelling hereby permitted is first occupied, a properly consolidated and surfaced access shall be constructed (not loose stone or gravel) details of which shall have been submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the agreed design and shall be maintained in the agreed form thereafter at all times.

