

APPEAL DECISIONS – 13 JANUARY 2022

Site: SWAYNES, STOKE ROAD, MEARE GREEN STOKE ST GREGORY,
TAUNTON, TA3 6HY

Proposal: Application for a Lawful Development Certificate for the proposed use as a dwelling house within Class C3 use without restrictions at Swaynes, Stoke Road, Meare Green, Stoke St Gregory

Application number: 36/20/0027/LP

Reason for refusal: Dismissed

Original Decision: Delegated Decision



The Planning Inspectorate

Appeal Decision

5 Site visit made on 22 November 2021 by **Gareth**

Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2021

Appeal Ref: APP/W3330/X/21/3279394 Swaynes, Stoke Road, Meare Green, Stoke St Gregory, Taunton TA3 6HY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Peter Matravers against the decision of Somerset West and Taunton Council.
 - The application Ref: 36/20/0027/LP, dated 16 November 2020, was refused by notice dated 15 June 2021.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is as a dwellinghouse within Use Class C3 without restriction.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. 'Swayne's is a large mobile home sited on land that was originally part of the garden of the neighbouring property known as 'The Cottage'. It had temporary three-year planning permissions granted in 1988 and 1991. In 1994, permanent planning permission was granted for "*Siting a mobile home*" (LPA Ref: 36/94/0010). That permission was subject to one planning condition stating "*This permission shall enure for the benefit of Mrs E.M. Gregory only and not for the benefit of the land. On cessation of the aforementioned occupancy the mobile home shall be removed, and the land returned to its former use/condition*".
3. The afore-mentioned Mrs Gregory died on 9 February 2010. After that, 'Swaynes' was occupied by Mrs Gregory's daughter and son-in-law until his death in 2014. The daughter-in-law continued to live at 'Swaynes' until August 2018, when 'Swaynes' and 'The Cottage' were sold to the present owners.
4. The appellant's case that 'Swaynes' is an unrestricted C3 dwellinghouse is threefold. First, that over time, and more than ten years ago, the mobile home became a building, and it was occupied as a permanent dwelling for over ten years. Secondly, that a material change of use occurred when 'Swaynes' became a building with a C3 use separate from 'The Cottage', also over ten years ago. Thirdly, that the original occupancy condition has been breached for over ten years. In all three cases, it is put that the time limit for taking enforcement action has expired and the use applied for is therefore now lawful and unencumbered by any occupancy restriction. These are the main issues which I shall consider to reach a view about whether the Council's decision to refuse the LDC was well founded.
5. The application has been made for a proposed use under s192(1)(a) of the 1990 Act. However, the arguments made about events already having occurred, such as the caravan now being a building and its residential use, as well as the time limits referred to and the potential immunity from enforcement action, means that the application should have been made under s191 of the 1990 Act. I therefore agree with the Council on this point. Nevertheless, like the Council did, I shall consider the evidence on its face and make my decision accordingly. This is less of an issue because I am not granting the LDC.
6. The consideration to be given to the appeal is a legal determination that does not have regard to matters of planning merit. The onus to make out the case in legal grounds of appeal rests with the appellant and the appropriate test of the evidence is the balance of probabilities.

Reasons

Building

7. There does not appear to be any dispute that when the mobile home arrived at the site it did not meet the definition of a caravan in the Caravan Sites and Control of Development Act 1960 (CSCDA 1960). Therefore, despite its large size, this factor alone does not show that it is now a building. This issue therefore turns on whether the caravan has lost its mobility having regard to its attachment to the ground and its permanence.

8. The lean-to extension/porch added to one side of the caravan is attached by the wooden batten mounted at eaves level which supports the joists that hold up the corrugated Perspex roof. However, other than that, the roof and other parts of the wooden extension, such as the door frames and sections of timber panelling, merely abut the caravan. It is not built into the caravan and it is a lightweight structure that could very easily be detached. The extension is also attached to the adjoining double garage, but it is the extent of the attachment to the mobile home that is the issue here.
9. The extension also only functions as a covered space which does not contain anything integral or essentially needed for living such as a kitchen or bathroom. These are still contained within the original caravan. Thus, the extension has not affected the mobility of the mobile home or its status as being a structure designed or adapted for human habitation.
10. I saw the brick chimney/flue, the gutters, and down pipes and that the caravan is attached to mains services, including a sewerage connection. However, most large 'static' caravans have such features, and they are easily detachable. Looking underneath the caravan I saw that it is secured by chains, but this is again very common to prevent the unit moving in high winds for example. The caravan could be readily delinked from its securing points. I also saw that the unit is supported on what appears to be original jacks and the subframe with axles and sets of wheels are still in place.
11. Against this background, whilst the extension itself as operational development is probably immune from enforcement action and I appreciate that the caravan has been in place for over 33 years, none of what has been added to it means that the original unit is no longer mobile. Moreover, given that the burden of proof rests with the appellant, there is nothing to substantiate that the mobile home is not capable of being moved from one place to another. Whilst its appearance is not an essential test of mobility, it is still easily identifiable as a large static/park style home, particularly given its elevation by about 2 feet off the ground and the identifiable subframe, axles and wheels. Having a separate postal address has no bearing on whether the caravan has progressed to become a building.
12. I have had regard to the appeal decision referred to by the appellant (Ref: APP/D0840/X/21/3269674). However, the extension attached to the caravan in that case appeared to be significantly larger and more integrated than is the case in this appeal. The other appeal decision therefore carries little weight.
13. For these reasons, as a matter of fact and degree, the caravan is not a building. It is still a caravan. I therefore do not need to consider the length of time that it has been residentially occupied. This evidence does not show, on the balance of probability, that a dwellinghouse within Use Class C3 is lawful.

Material Change of Use

14. I note what the appellant says about the 1994 planning permission and the misgivings over the precise effects in planning terms over what was granted. The appellant goes on to give their interpretation of what the 1994 planning permission allowed. Nevertheless, in the context of what has been applied for in this appeal, the crux of the appellant's case is that a material change of use occurred when 'Swaynes' was converted to a permanent building and a C3 residential use separate from 'The Cottage' and the use of land for the siting of a residential caravan.

However, given that I have found 'Swaynes' is not a building, while Mrs E. M. Gregory was in occupation, she was living in a caravan in accordance with the condition on the planning permission.

15. Reference is also made to the creation of a separate planning unit. However, the reason for imposing the condition on the 1994 planning permission refers to its relationship to 'The Cottage'. The Council has also drawn attention to what appears to have been an ancillary relationship to the main house taken from evidence submitted with an earlier LDC application. Furthermore, although the land where the mobile home and the adjoining garage are has now been firmly fenced off from 'The Cottage', the 2018 photographs show only a low fence between the mobile home and the main part of the garden to 'The Cottage'. The fence appears to stop short of the steps into the caravan on the side wall next to 'The Cottage' garden, thus there was no barrier to persons going from the mobile home across to 'The Cottage'.
16. Against this background, it is not clear that there was any new planning unit created possibly until more recently. Moreover, the caravan was occupied up until 2018 for residential purposes in the residential garden to 'The Cottage'. Given that the residential use of a caravan is a use of land, it seems likely to me that the occupation of the mobile home was consistent with the existing use of the land. Also, given that a residential use was taking place within a residential garden, and bearing in mind what I set out above, there does not appear to have been any material change to the character of the land. Thus, despite what the appellant asserts about a sui generis use, there was no material change of use.
17. All in all, the appellant has not made out their case on this point.

The condition

18. I have already found above that what is on the site is still a caravan that meets the definition under the CSCDA 1960. A residential use of a caravan is a use of land. It is not a building or therefore a dwellinghouse. As such, considering whether there has been a breach of the condition on the 1994 planning permission would be tantamount to making a finding on an application under s191(c) of the 1990 Act. However, what was applied for, irrespective of whether the application should have been under s191 or s192, was a dwellinghouse in Use Class C3. I also note that the background information submitted to the Council in support of the application did not advance the immunity argument related to a breach of the condition.
19. Under s191(4) of the 1990 Act, if on an application under this section I am provided with information satisfying me of the lawfulness at the time of the application of the use, operations or other matter described in the application, or a description that could be modified or substituted, I may issue a certificate to that effect. However, that is a discretionary power which does not permit me to grant a LDC for something totally different to what was applied for. Finding that there had been a failure to comply with the condition on the 1994 planning permission could, in this case, only lead to a finding about lawfulness related to the 1994 planning permission. Such a finding would, to my mind, be fundamentally not the same as seeking to establish the lawfulness of a structure which might have become a building and had then had a material change of use to a dwellinghouse within Use Class C3. The starting and end points for considering each type of case are entirely different. I therefore decline to exercise the power under s191(4).

20. The evidence about breaching the condition is not relevant to this LDC application and it does not go to showing that there is a dwellinghouse within Use Class C3. If necessary, the breach of condition issue should be subject to a separate application to the Council. As an aside, I make no criticism of the appellant for making the case out that the condition has been breached, because they were probably responding to this being in the Council's reasons for refusal of the LDC. Nevertheless, it is not an issue for consideration now.

Conclusion

21. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a dwellinghouse within Use Class C3 without restriction was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Gareth Symons INSPECTOR

Site: CATTLEWASH, ILBEARE, FITZROY ROAD, NORTON FITZWARREN,
TAUNTON, TA2 6PL

Proposal A: Alleged unauthorised change of use of land from agriculture to domestic curtilage at Cattlewash, Ilbeare, Fitzroy Road, Norton Fitzwarren, Taunton, TA2 6PL

Application number: E/0210/20/10

Reason for refusal: Allowed on Ground F and it is directed that the Enforcement Notice be varied by the deletion of “for the keeping and exercising of domestic dogs” in the requirements and the substitution of the following requirement “for domestic purposes”. Subject to this variation the enforcement notice is upheld.

Proposal B: Alleged breach - construction on land of two dog kennels at Cattlewash, Ilbere, Fitzroy, Norton Fitzwarren, Taunton TA2 6PL

Application number: E/0152/20/21

Reason for refusal: Dismissed



Appeal Decisions

Site visit made on 7 December 2021 by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 13 December 2021

6 Appeal A Ref: APP/W3330/C/21/3281471 Land at Cattlewash, Fitzroy, Norton Fitzwarren, Taunton, TA2 6PL

- 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 Simon Malloy against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice, numbered E/0210/20/19, was issued on 12 July 2021.
- The breach of planning control alleged in the notice is the change of use of that part of the land edged blue on the plan attached to the notice from agricultural use to domestic use.

- The requirements of the notice are to cease the use referred to in the allegation including the cessation of the use of that part of the land shown edged blue on the plan for the keeping and exercising of domestic dogs.
 - The period for compliance with the requirements is one month.
 - The appeal is made on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/W3330/C/21/3281500 Land at Cattlewash, Fitzroy, Norton Fitzwarren, Taunton, TA2 6PL

- 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 Simon Malloy against an enforcement notice issued by Somerset West and Taunton Council.
 - The enforcement notice, numbered E/0210/20/19, was issued on 12 July 2021.
 - The breach of planning control alleged in the notice is the construction on the land of two dog kennels in the approximate position delineated in green on the plan attached to the notice.
 - The requirements of the notice are (1) to demolish the kennels referred to in the allegation, and (2) remove from the land all materials resulting from such demolition.
 - The period for compliance with the requirements is one month.
 - The appeal is made on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
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Decisions

Appeal A

1. The appeal is allowed on ground (f) and it is directed that the enforcement notice be varied by the deletion of "for the keeping and exercising of domestic dogs" in the requirements and the substitution of the following requirement "for domestic purposes". Subject to this variation the enforcement notice is upheld.
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Appeal B

2. The appeal is dismissed.

Procedural Matters

3. Both notices have been issued with the same reference (E/0210/20/19), which is a confusing practice followed by the Council.
4. The notices also referred to the incorrect dates for when they take effect. The Council subsequently amended the dates to 23 August 2021.

The site and relevant planning history

5. The appeal site outlined in red on the plan attached to the notices is located in open countryside and contains two distinct areas.

6. The area fronting the highway includes an old barn type building known as Cattlewash and a large dwelling under construction. To the rear and beyond a public footpath that crosses the site is a field outlined in blue on the plan which is the subject of Appeal A. Within the blue outlined land are buildings outlined in green and described in the notice as two dog kennels and which are the subject of Appeal B. Adjacent to these two kennels is a further kennels building which, I am advised, is immune from enforcement action through the passage of time.
7. It appears to me that the blue outlined area is a separate planning unit to that occupied by the buildings fronting the highway.
8. In 2012 a Certificate of Lawful Development for the continued use of the building (Cattlewash) as a residential dwelling was issued (20/12/0032). In October 2017 a replacement dwelling was approved.
9. The appellant states that the Certificate allowed the use of the remainder of the land as domestic curtilage but that aspect of the Certificate was subsequently quashed¹. An application for a change of use from agricultural to domestic was refused and dismissed on appeal in May 2021.

Appeal A – the appeal on ground (f)

10. In Appeal A the appellant considers that the requirements are excessive and go beyond the Council's power to prevent the exercising of dogs and that the exercising of dogs within the field does not constitute a material change of use. The Council claims that this is not a requirement of the notice. However the Council's response is somewhat puzzling as the requirements of the notice are clearly stated and refer to the ".....keeping and exercising of domestic dogs."
11. As the allegation refers to a change of use from agriculture to domestic use, it is not necessary to refer to anything more in the requirements than to state "cease the use of the land for domestic purposes" and I propose to vary the requirements accordingly.
12. The neighbours in the next door property known as 'Ilbeare' agree that the incidental exercising of dogs in the field is disproportionate but have concerns over how such use would be enforced. They suggest that the notice should specifically request the removal of all dog enclosure fencing in and bordering the field. However, the allegation makes no specific reference to enclosure fencing and nor has the Council made the removal of the fencing a requirement of the notice. I cannot make such a variation to the notice without it causing injustice to the parties and I do not intend to do so. If the Council consider it expedient in the future to take separate enforcement action in respect of any such enclosures which may require planning permission, that will be for them to determine.
13. The appeal on this ground succeeds and the notice will be varied accordingly.

¹ It should be noted that 'curtilage' is not a use of land but as both parties have failed to include a more detailed planning history of the site, it is not clear why such a term was used.

Appeals A and B - appeals on ground (g)

14. The appellant requests that the time for compliance be extended to 6 months. The appellant states that he is in discussion with the Council regarding the potential change of use of the small existing dwelling on the site to an ancillary use that could provide alternative kennels. Additionally, the construction of a replacement dwelling is imposing significant financial and time constraints on the appellant.
15. The Council considers that the kennels should be easy to remove and that the domestic dogs could be housed in the dwelling on site whilst the new dwelling is under construction.
16. The neighbour questions the justification for an extension of the compliance period considering that there are alternatives that would minimise any financial strain and that the keeping of dogs as a hobby should not be allowed to continue to the detriment of the public. He points out that the appellant's thoughts in respect of the use of the existing dwelling as kennels was the subject of an application in 2017 but that this application was subsequently withdrawn. He points out and that even if such an application were to be approved and the conversion undertaken all within the 6 month compliance period, this would require a significant acceleration to the pace of work since 2017.
17. Although the neighbour is critical of the period of time that has elapsed for the appellant to take action to resolve the situation, the appellant is exercising his rights to appeal the notices.
18. Notwithstanding this, a six month compliance period is excessive. It would not be in the public interest for the harm caused by the unauthorised operations and use to remain longer than the minimum necessary and the shorter period of one month would be reasonable in order for the appellant to make the necessary arrangements to comply with the requirements of the notices.
19. In reaching this conclusion, I am mindful that the lawful kennels will remain on the land albeit that neither party has considered it necessary to indicate by way of these appeals the number of dogs housed in those kennels, and indeed, whether that lawful use incorporates the exercising of dogs on the appeal site.
20. The appeals on this ground fail.

Conclusions

Appeal A

21. For the reasons given above I conclude that the requirements are excessive in Appeal A and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (f) succeeds to that extent.

Appeal B

22. For the reasons given above I consider that the appeal should be dismissed.

P N Jarratt **Inspector**

Site: ZEALS COTTAGE, TOLLAND ROAD, TOLLAND LYDEARD ST
LAWRENCE, TAUNTON, TA4 3PW

Proposal: Erection of extension to garage to form car port with store over at Zeals Cottage, Tolland Road, Tolland, Lydeard St Lawrence (retention of part works already undertaken)

Application number: 41/21/0001

Reason for refusal: Dismissed

Original Decision: Chair Decision



Appeal Decision

Site Visit made on 9 November 2021 by R E Jones BSc (Hons) DipTP MRTPI
an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Appeal Ref: APP/W3330/D/21/3280265 Zeals Cottage, Tolland Road, Tolland Lydeard St
Lawrence, Taunton TA4 3PW

- 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 Brown against the decision of Somerset West and Taunton Council.
 - The application Ref 41/21/0001, dated 20 January 2021, was refused by notice dated 1 June 2021.
 - The development proposed is garage extension to form a carport with store over.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect of the proposed extension on the character and appearance of the host property and surrounding area.

Reasons

3. Tolland Road is a rural lane that serves a scattering of dwellings and farm buildings. Woolcotts, a modest dwelling along with the Old Village Hall opposite the appeal site, typify the majority of buildings along this part of the lane in having a simple vernacular appearance and symmetrical proportions. Buildings in the vicinity are often positioned close to the road or set back marginally from it. This intimate arrangement along with the understated form and appearance of buildings along it, contributes to the road's rural character.

4. The proposed extension would project from the flank wall of the existing double garage at an angle towards the side boundary of the host property. This splayed arrangement would result in the profile of the combined structure having an awkward and jarring appearance, that would be noticeably at odds with the building's opposite. Moreover, the proposal would result in the garage having an elongated frontage that combined with its 1.5 storey height and proximity to the road would give it a prominent appearance that would accentuate its discordance. Accordingly, the proposal's shape, scale and location would be visually unacceptable in the context of this part of Tolland Road.
5. The gap created in the road frontage by the appeal site is not particularly wide and it is acknowledged that in some instances passing motorists may only have fleeting views of the proposal, given the screening effect from existing roadside vegetation from longer distance views. That said, Tolland Road is a narrow rural highway where vehicles would also be travelling at low speeds in anticipation of oncoming traffic. Furthermore, I noted during my site visit a small number of pedestrians using the road. Accordingly, the proposal would be perceptible to passers-by and in this respect its incongruous appearance would be enduring.
6. The garage would be constructed using materials to match the existing garage and dwelling. Although this is supported, it would not address the effect of the building's scale and appearance.
7. Notwithstanding, my concerns regarding the proposal's effect on the road's rural character, it would be positioned at a lower land level to the more elevated and taller host dwelling, in addition to having a more reduced massing and overall scale. Therefore, when combined with the existing garage, the proposal would not overly dominate the host dwelling or harm its appearance to the extent that its setting would be unacceptably harmed.
8. Although I have found that the setting of the host dwelling would not be harmed, the proposed extension would have an unacceptable effect on the character and appearance of the surrounding area. It would fail to accord with Policy D6 of the Taunton Site Allocations and Development Management Plan (2016), which requires proposals to be less damaging to the character of the surroundings than an extension or conversion which meets the need. It would also fail to meet the requirements of Paragraphs 130 and 134 of the National Planning Policy Framework which require that proposals are visually attractive in terms of architecture and layout, whilst being sympathetic to local character.

Other Matters

9. The proposal would provide additional storage and home working space at the host dwelling. There would be benefits in this given the need for more flexible ways of working and accommodation that meets that need. But, there may be other alternative, less harmful, ways of fulfilling those space requirements within the curtilage of the host dwelling.
10. Letters of support have been submitted from nearby residents indicating, amongst other matters, that the proposal would resolve the appearance of an existing dilapidated boundary fence. Presumably it is implied it would mask that boundary's appearance, however, this could be improved in ways other than the construction of the proposal. Accordingly, I attach limited weight to that argument.

11. Other nearby examples of buildings positioned close to the road have been provided. However, from my site visit, I observed that none were directly comparable to the proposal in terms of its position, angular form and overall discordance. As a consequence, I have given limited weight to those examples, and in any event, I have considered the appeal scheme on its own merits.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

R E Jones

INSPECTOR

Site: Rural building on land off Chilcombe Lane, Bicknoller

Proposal: Conversion of redundant rural building into 1 No. dwelling with associated works

Application number: 3/01/20/017

Reason for refusal: Dismissed

Original Decision: Delegated Decision



The Planning Inspectorate

Appeal Decision

Site Visit made on 9 November 2021 by R E Jones BSc

(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Appeal Ref: APP/W3330/W/21/3277247 E 311485 N 138944, Chilcombe Lane, Bicknoller, Somerset TA4 4ES

- 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 Mrs Rebecca Maynard against the decision of Somerset West and Taunton Council.
 - The application Ref 3/01/20/017, dated 11 December 2020, was refused by notice dated 12 February 2021.
 - The development proposed is described as "the application comprises a request to convert a substantially built redundant rural building into a single dwelling located in close proximity to the rural settlement of Bicknoller and the transport connections on the A358".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A previous appeal decision¹ at the site dismissed the change of use of the land from equestrian to residential use and the conversion of the existing stable to a dwelling. The proposal before me is broadly the same, although I note that the appellant has provided further landscaping details having regard to the site's location within the AONB.

Main Issues

3. The main issues in this appeal are:

- the effect of the development on the character and appearance of the area and the Quantock Hills Area of Outstanding Natural Beauty (AONB); and
- whether the site is an appropriate location for residential development, in the context of the development plan and national policy and with particular regard to the accessibility to services.

Reasons

Character and Appearance

4. The appeal site is accessed off Chilcome Lane, a narrow rural road bounded on either side by mature trees and hedgerow. The site is located outside of the nearest settlement of Bicknoller and is within the AONB. Paragraph 176 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. Moreover, the scale and extent of development within AONBs should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
5. The site's roadside frontage consists of a raised bank abutting the highway, which supports a dense covering of mature trees and hedgerow. This screens a stable building on the elevated land above, although it can be glimpsed through the site access and gaps between the trees. The western boundary of the site is characterised by a further line of established trees and hedgerow. The stable is cut into the slope of the land and assumes a recessed position that makes it less visible when viewed from the field and higher land to the south. The existing vegetation surrounding the site makes a valuable contribution to the immediate area's rural character and atmosphere along Chilcombe Lane, as well as limiting the presence of the stable building within this protected landscape.
6. The creation of a visibility splay at the site access with Chilcombe Lane would result in the partial removal of the bank and vegetation along the site's frontage. There are no details of the full extent of tree / hedgerow removal and whether translocation of the boundary would be a viable option. If it were, it could nonetheless take some years to re-establish. Therefore, the works along the existing boundary would likely result in the site appearing more visible from Chilcombe Lane.
7. The new tarmac section of drive and parking and turning area proposed to the dwelling's north east would have a harsh appearance in the context of the site's natural surroundings. Together with parked vehicles, external domestic paraphernalia and lighting requirements, an intensive domestic environment would be created, where currently one does not exist. The effect of this change, together with work to the roadside boundary, would unacceptably erode the scenic qualities of the AONB and the rural character and appearance of this part of Chilcombe Lane.
8. The appellant's commitment to the delivery of an acceptable landscape scheme is noted. This could be provided through a planning condition. However, in the absence of a tree survey accompanying the appeal, there is no detailed information on the existing landscape features on site, for example, their condition, scale and species and whether their loss could be acceptably mitigated. Moreover, there are no details on whether any additional planting would enhance the site's landscape qualities.

9. Comparisons have been made between the appeal proposal and a recently constructed dwelling on Chilcombe Lane². I do not have the full details that led to the Council's approval of that scheme. However, that development, I observed, is located close to and viewed in context with the existing residential properties along Trendle Lane. The appeal site, in contrast, is more divorced from that grouping of dwellings, located further away and on the southern side of Chilcome Lane where there are largely agricultural fields and areas devoid of any development. I cannot therefore take this other decision as a compelling precedent.
10. Therefore, in light of the above, the proposal would cause significant harm to the character and appearance of the area and the AONB. It would be contrary to Policies SD1, SC1, OC1 and NH14 of the West Somerset Local Plan to 2032 (adopted 2016) (the Local Plan), which, amongst other things, require proposals to not harm the prevailing landscape character and are designed to minimise adverse impacts on the quality and integrity of the local landscape character. It would also fail to accord with Paragraph 176 of the Framework and the Council's AONB Management Plan.

Whether the site is an appropriate location for residential development

11. The main parties agree that the appeal site is in the open countryside and located outside the development limits of Bicknoller, to the north. Accordingly, the proposal would need to accord with Policies SC1 and OC1 of the Local Plan. Policy SC1 includes the requirement for new dwellings to be well related to existing essential services and social facilities of a nearby settlement and there being a safe and easy pedestrian access to those amenities.
12. The proposal's proximity to Bicknoller's facilities and services has not changed since the determination of the previous appeal, while the route from the appeal site to the village core is lengthy, unlit and without footways. This is not an attractive pedestrian route, especially in poor light, which would discourage walking to access the village's services and facilities. Therefore, occupiers of the proposed dwelling would be heavily reliant on the use of a car or other vehicle.
13. The appellant's Sustainability Statement indicates that there is a bus service to larger towns nearby departing from the A358 close to the junction with Dashwoods Lane. This is around 500m away from the appeal site and would be partly accessed along the unlit Chilcombe Road. Once on the A358, pedestrians would have to travel along a very narrow footpath that would be unlit for most of its length. This route is unappealing, particularly given the proximity to fast moving traffic along the A road, and it is unlikely to be suitable for a wide range of future residents. Therefore, future occupiers would be likely to favour journeys to access amenities by car.
14. The appellant has referred to the similarities between the proposal and the dwelling the Council approved some 200m to the north off Chilcombe Lane. As referred to earlier, I do not have the full details that led to that scheme's consent. Nonetheless, it is located closer to services and facilities and residents of that property would have to walk less along the dark and narrow road to the village centre.
15. The Council approved a scheme at Ivy Cottage, Sampford Brett³ that also relates to a conversion of a building to a dwelling. The appellant indicates that this dwelling is sited further away from services and facilities. Again, I do not have the full details of that case, although the Council have indicated that it was within a settlement

² Approval Refs 3/01/15/009 (outline) & 3/01/16/004 (reserved matters)

³ Approval Ref 3/28/19/002

therefore was assessed against different development plan policies. I cannot therefore take those decisions as compelling precedents.

16. In terms of national policy, Paragraph 80 c) of the more recent Framework (2021)⁴ supports the conversion of redundant buildings to dwellings in isolated countryside locations providing proposals enhance the immediate setting. However, I have not been provided with any details of how the setting of the land surrounding the barn would be improved and whether the tree loss along the frontage and western boundary would be effectively mitigated.
17. As a conversion opportunity the proposal would align favourably with aspects of the Framework that promote the efficient use of buildings and land, as well as limiting the use of natural resources. However, this would not resolve the conflict with other aspects of the Framework that relate to dwelling conversions in isolated locations and within AONBs.
18. Therefore, the changes proposed, together with the policy arguments and case examples referred to do not persuade me that the circumstances at the appeal site have changed, such that a dwelling would be acceptable at this location. It would represent an inappropriate location for residential development, in the context of local and national policy, with particular regard to the accessibility to services and facilities and fails to accord with Policies SD1 and TR2 of the Local Plan. These require proposals to secure improvements to the social and natural environmental conditions in the area and complement existing service and facility provision nearby without generating new unsustainable transport patterns. It would also be contrary to the objectives set out in Paragraph 80 of the Framework.

Other Matters

19. The Council raised no concerns in respect of the proposal's impact on highway safety, biodiversity and drainage. However, the lack of concern in those respects weighs neutrally in my assessment of the case.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR

⁴ National Planning Policy Framework, 2021

Site: Land adjacent to 1a St Decumans Road, Watchet, TA23 0AT

Proposal: Variation of Condition No. 02 (approved plans) of application 3/37/20/021

Application number: 3/37/21/007

Reason for refusal: Allowed

Original Decision: Delegated Decision



Appeal Decision

Site Visit made on 27 September 2021 by **Mr S Rennie BSc**
(Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2021

Appeal Ref: APP/W3330/W/21/3276277 Land adjacent to 1a - St Decumans Road, Watchet, Somerset, TA23 0AT

- 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 KMS Associates Europe Ltd against the decision of Somerset West and Taunton Council.
 - The application Ref 3/37/21/007, dated 16 February 2021, was refused by notice dated 14 May 2021.
 - The application sought planning permission for the erection of a house without complying with a condition attached to planning permission Ref 3/37/20/021, dated 21 January 2021.
 - The condition in dispute is No 2 which states that:
The development hereby permitted shall be carried out in accordance with the following approved plans: (A1) Dr No 2409 100C Elevations and Sections (A1) DrNo 2409 101 C site layout (A1) Dr No 2409 102C Plans.
 - The reason given for the condition is:
For the avoidance of doubt and in the interests of proper planning.
-

Decision

1. The appeal is allowed and planning permission is granted for 'Variation of Condition No. 02 (approved plans) of application 3/37/20/021' for the erection of a house at land adjacent to 1a St Decumans Road, Watchet, Somerset, TA23 0AT in

accordance with the terms of the application, Ref 3/37/21/007, dated 16 February 2021, subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
2409 302 Proposed Plot & Dwelling & Existing Woollam Place Development Location Plan (A1)
2409 301 + C Plans Elevations & Sections
2409 300 B Street Scene for Illustrative Purposes Only
- 2) The details regarding the works for the disposal of surface water drainage shall be installed prior to the buildings occupation and thereafter retained and maintained in that form.

Preliminary Matters

2. This site has a long planning history. Planning application 3/37/19/014 was approved for a two storey dwelling, following an earlier refusal for a three storey dwelling. There have since been two approved applications to vary conditions, including the plans condition, to amend the position and design of the dwelling as approved under permission reference 3/37/19/014. The latest approval was reference 3/37/20/021, which has been partially implemented on site.
3. This appeal follows a refusal to vary the plans condition of this most recent consent, which was essentially for an alteration to the approved design and size of the dwelling, adding a third storey (loft accommodation) and an internal reconfiguration.

Main Issue

4. The main issue is the effect of the proposed dwelling to the character and appearance of the area.

Reasons

5. The current consent is for a two storey house with traditional pitched roof. The proposal would be to amend the design which would result in a three storey house with mono-pitched roof. The proximity, design approach and the materials proposed would mean that the dwelling would appear as part of the more modern residential development of Woollams Place. The mono-pitch roof is replicated on the existing Woollams Place and so this aspect of the design would not appear out of character.
6. A benefit of the two storey dwelling design previously approved was that it stepped down in height from the three storeys of Woollams Place to the single storey bungalow of 1a St Decumams Road. The proposal, by reason of a third storey, does not have such a significant step down from the height of the existing buildings at Woollams Place, but there still is a drop in height with the use of the mono-pitched roof. The dwelling would be lower in height than the nearest section of Woollams Place with its pitched roof, whilst the slope of the proposed mono-pitched roof would mean that its lowest edge would be closest to the neighbouring bungalow at No 1a. The edge of the side of the proposed roof nearest No 1a would not be significantly higher than the ridge of the bungalow roof (particularly due to the raised ground level of the bungalow), thereby maintaining the transitional visual stepped approach between Woollams Place and the adjacent bungalow. It may be more of a subtle and gradual step down in height, but it would be visually effective.
7. Overall, whilst I note the Council has previously refused a three storey dwelling at this plot, it is my view that the proposed dwelling would fit well with the appearance of

Woollams Place and would be of an appropriate height and form, considering its transitional position between more modern and traditional dwelling types and heights. It would not be out of keeping or dominate the bungalow, with there also being a gap to the side of No 1a which would help in this regard. As such, the proposal overall would have no harm to the character and appearance of the area.

8. The proposal would therefore be in accordance with policies NH13 (Securing high standards of design) of the West Somerset Local Plan to 2032, which seeks to require development to be of a high standard of design and make a positive contribution to the local environment, among other things.

Other Matters

9. The proposal would result in a tall new dwelling in a residential area. The orientation and distance of the proposed dwelling to other existing dwellings means that there would not be any significant overshadowing of any neighbouring properties over and above existing levels or from that already approved.
10. The arrangement of the proposed fenestration coupled with the distances to neighbouring properties leads me to conclude that there would be no significant loss of privacy.
11. The proposed dwelling would not result in unacceptable impacts to neighbour living conditions for those at any of the surrounding dwellings.

Conditions

12. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
13. It does seem apparent that development has commenced on site and so there is no necessity for the time limit condition. The Council in their suggested conditions has not included conditions requiring details of fences or restrictions on the external steps. I do not have full details as to why these are not suggested to be retained. On site I noted that there is a fence on the boundary with the bungalow property at 1a St Decumams Road. With regards the external steps as shown on the plans these did not appear to be in a position that would allow access to the garage roof. Considering the above, I have not reimposed these conditions.
14. The condition requiring the undertaking of works for the disposal of surface water drainage shall remain, as it is a reasonably necessary.
15. The Council have suggested an additional condition to restrict permitted development rights, but there is not sufficient justification before me for such restrictions. I am not convinced this is necessary to make the development acceptable.

Conclusion

16. For the reasons given I conclude that the appeal should succeed, subject to conditions, including an altered 'plans condition' to reflect the amended plans that illustrate the revised design of dwelling from that previously approved.

Mr S Rennie

INSPECTOR

Site: **BARNOAKS, WORTHY LANE, CREECH ST MICHAEL, TAUNTON, TA3 5EF**

Proposal: Conversion of garage with raising of roof and insertion of first floor for use as a home office and ancillary accommodation at Barnoaks, Worthy Lane, Creech St Michael

Application number: 14/20/0053

Reason for refusal: Dismissed

Original Decision: Committee



Appeal Decision

Site visit made on 24 August 2021 by Ms S Maur

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Appeal Ref: APP/W3330/D/21/3274240 **Site Address:**
Barnoaks, Worthy Lane, Creech-ST Michael, Taunton,
Somerset

- 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 Mrs E Holland against the decision of Somerset West and Taunton Deane Borough Council.
- The application Ref 14/20/0053, dated 4 December 2020, was refused by notice dated 8 February 2021.
- The development proposed is alterations to existing garage to form home office accommodations.

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the alterations to the garage on the character and appearance of the surrounding area.

Reasons for the Recommendation

4. The site is located to the north east of Creech St Michael and south of Creech Heathfield. The appeal site consists of a detached dormer bungalow with an existing garage located to the south west corner of the site. In its current form, the garage is a modest building with a low roof height; it appears as clearly ancillary to the host dwelling. The area is rural in character. The garage is the first building located towards the west of this row of dwellings and outbuildings. There is not a consistent building line, however, all the dwellings close to the appeal site are set back from the road. The buildings close to the highway are all modest buildings of a low height. This has resulted in an open character to the front of the houses.
5. The proposal consists of the conversion of, and alterations to, the existing garage to form a home office on the ground floor and raising the roof to add a first floor to provide space for storage and a playroom. The first-floor extension would be finished with horizontal timber clad walls and a tiled roof.
6. The height of the proposed alterations to the garage would result in a building that is of a significant height close to the road. This would disrupt the established character of the area where buildings close to the highway have a modest height. This would result in harm to the character and setting of the main dwelling and the character and appearance of the street scene and this part of the settlement.
7. The ridge line would run north/south to the street and there is landscaping along the side boundary to the west, which together would reduce the impact when viewed from the street on approach from the west. Similar roofing materials to those on the dwelling would be used. However, these factors would not mitigate against the harm caused when viewed head on and on approach from the east. The example provided, whilst a relatively large building, given its location and relationship to the host building is different as it is tucked away at the end of a private road. Therefore, this development does not have the same effect on the character and appearance of the area.
8. For the reasons identified above, the alterations to the garage would result in harm to the character and appearance of the area. This would conflict with Policy DM1 of the Adopted Taunton Deane Core Strategy 2011-2028 which seeks development that does not cause harm to the character and appearance of the host dwelling and street scene. There would also conflict with Policy D6 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016 (SA&DMP) in so far as it requires buildings with ancillary accommodation to not harm the character of the main dwelling. In addition, there would be conflict with the National Planning Policy Framework, which seeks to achieve good design and reflect the character of the area.
9. Any lack of conflict with other aspects of Policy D6 of the SA&DMP are neutral matters. As Policy D5 of the SA&DMP deals exclusively with extensions to dwellings, it would not be relevant to an application relating to an outbuilding. However, this does not minimise the conflict with the relevant policies in the development plan or the associated harm.

Other Matters

10. There would be benefits of having a home office on the ground floor and a playroom/ storage at first floor, however these are private benefits and only relate to a single household. As such they only carry limited weight and do not outweigh the harm that would be caused by the proposed development.

11. Although the existing garage is in a state of significant disrepair, the appeal scheme would not be the only means of rectifying this. The lack of any substantive impacts on biodiversity is a neutral matter in the overall consideration of the appeal. I have taken account of the support for the scheme and lack of objection from the Parish Council; however, I must reach my own view on the main issue in the appeal.

Conclusion and Recommendation

12. Based on the above, and having regard to all matters raised, I recommend that the appeal should be dismissed.

Ms S Maur

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

K Taylor

INSPECTOR

