

APPEAL DECISIONS – 21 JULY 2022

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

Proposal: Application for approval of reserved matters following outline application 3/01/20/016 for the appearance, landscaping, layout and scale for the erection of 1 No. dwelling and garage

Application number: 3/01/21/005

Reason for refusal: Appeal – Allowed
Costs - Allowed

Original Decision: Committee Decision – Refused



The Planning Inspectorate

Appeal Decision

Site visit made on 27 April 2022 by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 June 2022

Appeal Ref: APP/W3330/W/21/3289008 Land adjacent to 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 consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr & Mrs J Bridgland against the decision of Somerset West and Taunton Council.
- The application Ref 3/01/21/005, dated 2 July 2021, sought approval of details pursuant to condition No 1 of a planning permission Ref 3/01/20/016, granted on 13 April 2021.
- The application was refused by notice dated 16 November 2021.
- The development proposed is erection of one dwelling and garage with access off Trendle Lane.
- The details for which approval is sought are: appearance, landscaping, layout and scale.

Decision

1. The appeal is allowed and the reserved matters are approved, namely appearance, landscaping, layout and scale details submitted in pursuance of condition No 1 attached to planning permission Ref 3/01/20/016, granted on 13 April 2021, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs J Bridgland against Somerset West and Taunton Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:

- The effect of the proposal on the character and appearance of the area, including the Quantock Hills Area of Outstanding Natural Beauty (AONB); and
- Whether the proposal would represent a sustainable form of development, with particular regard to design aspects to minimise carbon emissions and reduce the impact on climate change.

Reasons

Character and appearance

4. The appeal site currently forms part of the garden area of Chilcombe House and lies within an area of rural character, within the Quantock Hills AONB. The locality is predominantly characterised by individually designed dwellings, set within spacious and verdant plots. The appeal proposal seeks approval of reserved matters, following the grant of outline planning permission for the construction of a dwellinghouse as part of a previous appeal.
5. The appeal site is considered spacious enough to accommodate a large dwelling such as the proposal. The new house would sit comfortably within its plot, and would not appear as a disproportionate addition within the wider street scene. The design approach of the proposed dwelling draws on the architectural style of Chilcombe House and is also characterised by its Georgian influence. Whilst this architectural style does not appear to prevail in the locality, I am satisfied that the development would not harmfully detract from its surroundings, given that the area includes a range of varying architectural styles, as well as a wide palette of colours and materials.
6. For the foregoing reasons, the proposal would not cause unacceptable harm to the character and appearance of the surrounding area. There would consequently be no conflict with Policy NH13 of the adopted West Somerset Local Plan to 2032 (LP), section 12 of the National Planning Policy Framework (the Framework) and the aims of the Council's emerging Design Guide. These notably seek to ensure that development proposals meet the highest standards of design and make a positive contribution to the local environment.
7. Furthermore, the proposed dwelling would be situated within the built envelope of the village, and would not therefore unduly stand out within the landscape. As a result, I am satisfied that the development would conserve the landscape and scenic beauty of the Quantock Hills AONB.

Whether sustainable development

8. As noted above, the principle of development on the site has been established as part of an earlier outline planning permission. Concerns have however been raised by the Council regarding the lack of information to demonstrate how the appeal development would minimise carbon emissions and reduce the impact on climate change.
9. The appellants' submissions confirm that the appeal scheme would incorporate a number of measures as part of the construction of the dwelling, such as a timber frame, underfloor heating and insulation to reduce heat loss through the walls. The orientation of the dwelling and large size of the windows would maximise solar gain

and reduce the need for artificial lighting, but also cut heating and energy consumption. The appeal scheme would also have to comply with the requirements of latest Building Regulations, including in respect of water efficiency of new dwellings.

10. Having regard to the available information, and in the absence of substantive evidence to the contrary, I am satisfied that the appeal scheme would represent sustainable development, having particular regard to its environmental credentials. Accordingly, the proposal would accord with Saved Policy BD/9 of the West Somerset District Local Plan 2006 and LP Policy NH13 which, amongst other things, require development proposals to incorporate measures to minimise carbon emissions and reduce the impact on climate change. Furthermore, the proposal would largely accord with the aims of the Council's Climate Positive (Interim Guidance) and emerging Design Guide, but also paragraphs 154 and 157 of the Framework.

Conditions

11. I have considered the conditions suggested by the Council, making minor amendments where necessary, to ensure compliance with the relevant tests as set out in paragraph 56 of the Framework and the national Planning Practice Guidance¹. A condition specifying the relevant drawings which the development must accord with is considered necessary, in order to provide certainty and clarity. The appellants have confirmed their agreement in respect of precommencement conditions.
12. As the site is sensitively located, it is necessary to request further details of the external materials, to preserve the character and appearance of the area. This is consistent with the condition that had been imposed as part of the outline permission, and is considered to be more precise than the condition suggested by the Council. Furthermore, conditions are needed to protect biodiversity, including in respect of details of a lighting scheme.
13. Conditions regarding the provision of parking and turning areas are required to preserve highway safety, and the installation of electric car charging points, in the interests of sustainability. I have however not imposed the condition seeking to restrict the use of the garage to the parking of vehicles, as it would not meet the test of reasonableness.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed.

S Edwards

INSPECTOR

¹ Paragraph: 003 Reference ID: 21a-003-20190723.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: (A3) DrNo 21-063/LP1 Location Plan
(A1) DrNo 21-063/2 A Proposed Elevations
(A2) DrNo 21-063/G1 Proposed Garage
(A2) DrNo 21-063/1 Proposed Plans
(A2) DrNo 21-063/SP1 Proposed Site Plan
(A2) DrNo 21-063/TPP1 Tree Protection Plan
- 2) 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.
- 3) To avoid hazel dormice and nesting birds getting harmed, the removal of hedgerow shall proceed in accordance with the following prescriptions. Prior to any works, including groundworks, commencing on site, vegetation clearance shall be carried in strict accordance with the following procedure, either:
 - a) Between April and August, a licensed dormouse ecologist will check the site for nests immediately before clearance. If there are no nests, then the hedgerow can be removed. If nests are present, then their removal shall proceed as per b) or c) below. The results shall be communicated in writing to the Local Planning Authority by the licensed dormouse ecologist within 1 week of the inspection.
 - b) In September or October, when dormice are still active but avoiding the breeding and hibernation seasons. A licensed dormouse ecologist shall supervise the work checking the site for nests immediately before clearance and, if needed, during clearance. All work shall be carried out using handheld tools only. If an above-ground nest is found it shall be left in situ and no vegetation between it and the adjacent undisturbed habitat shall be removed until dormice have gone into hibernation (December) as per method b). The results will be communicated in writing to the Local Planning Authority by the licensed dormouse ecologist within 1 week; or
 - c) Between December and March only, when dormice are hibernating at ground level, and under the supervision of a licensed dormouse ecologist: The hedgerow, scrub and/or trees will be cut down to a height of 30cm above ground level using hand tools. The remaining stumps and roots will be left until the following mid-April / May before final clearance to allow any dormouse coming out of hibernation to disperse to suitable adjacent habitat.

No vegetation clearance will be permitted between June and September inclusive, when females have dependent young. Written confirmation of the operations will be submitted to the Local Planning Authority by a licensed dormouse ecologist within one week of the works.

- 4) Prior to construction above damp-proof course level, a lighting scheme for bats, in accordance with the Guidance Note 08/18 and artificial lighting in

the UK (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not be disturbed or

prevent bats using their territory. The scheme shall accord with Step 5 of Guidance 08/18, including submission of contour plans illustrating Lux levels, which should remain below 0.5 Lux. All external lighting shall be installed in accordance with the specifications and locations set out in the lighting scheme, and these shall thereafter be maintained in accordance with the approved details. Under no circumstances should any other external lighting be installed without the prior written consent of the Local Planning Authority.

- 5) Prior to construction above damp-proof course level, details of the specification for the parking and turning areas, including details showing how they would be drained and surfaced, shall be submitted to and approved in writing by the Local Planning Authority. These areas shall be constructed and surfaced in accordance with the approved details prior to occupation of the development, and thereafter retained permanently and kept available for the occupiers of the dwelling at all times.
- 6) Prior to first occupation of the development hereby permitted, facilities for the charging of electric vehicles shall be provided on site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 7) Details of the proposed hedge to the western boundary shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the location of the planting and details of the mix of species shown in a scaled plan. The planting shall be carried out in accordance with the approved details, prior to the first occupation of the dwelling hereby permitted.

END OF SCHEDULE



Costs Decision

Site visit made on 27 April 2022 by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 June 2022

Costs application in relation to Appeal Ref: **APP/W3330/W/21/3289008 Land adjacent to Chilcombe House, 30 Trendle Lane, Bicknoller TA4 4EG**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs J Bridgland for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The national Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG adds that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case.
3. The applicants consider that the Planning Committee's decision to refuse the Reserved Matters contrary to the Case Officer's recommendation, has led to unnecessary or wasting expense through another appeal, as the outline application had already been subject to an appeal. It is argued that Members were against the principle of an additional dwelling on the site, and would have refused the application regardless of the proposal's design.
4. Members of the Planning Committee raised concerns regarding the design of the proposed dwelling, referring to its "excessive size, scale" and "incongruous appearance", and the effect that this would have on the character and appearance of the area. The Case Officer's report highlights the absence of cohesive design between the existing dwellings, and the proposed materials were found to be in keeping with other properties in the area.

5. Members also refused the application by reason of the lack of information regarding measures to minimise carbon emission and reduce the impact of the development on climate change. However, the matter was addressed within the Case Officer's report, which notably refers to the measures proposed by the applicants in the Design and Access Statement submitted in support of the application.
6. Members of the Planning Committee are entitled to reach a different decision to the Case Officer's recommendation, but they have to do so whilst relying on substantive planning grounds. The PPG stresses that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. In this instance, very limited information has however been presented by the Council to substantiate its position, either in terms of an explanation of the harm, conflicts with development plan policies or justification for its conclusions.
7. For these reasons, I find that the Council has relied on vague and generalised assertions, which are unsupported by objective analysis, and conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. A full award of costs is therefore justified in this instance.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Somerset West and Taunton Council shall pay to Mr and Mrs J Bridgland, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Somerset West and Taunton Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Edwards

INSPECTOR

Site: FOURWAYS, LANDLORDS HILL, HOLYWELL LAKE, WELLINGTON, TA21 0EH

Proposal: Change of use of land from agricultural to domestic curtilage at Fourways, Holywell Lake, Wellington

Application number: 21/21/0021

Reason for refusal: Appeal – Allowed

Original Decision: Chair Decision – Refused



The Planning Inspectorate

Appeal Decision

Site visit made on 3 May 2022 by **O Marigold BSc DipTP**

MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2022

Appeal Ref: APP/W3330/W/22/3291983 Fourways, Landlords Hill, Holywell Lake, Wellington TA21 0EH

- 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 Dr Bernard Newmarch against the decision of Somerset West and Taunton Council.
 - The application Ref 21/21/0021, dated 6 September 2021, was refused by notice dated 19 November 2021.
 - The development proposed is change of use of land from agricultural to domestic curtilage.
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Decision

1. The appeal is allowed and planning permission granted for the proposed change of use of land from agricultural to residential use, at Fourways, Landlords Hill, Holywell Lake, Wellington TA21 0EH in accordance with the terms of the application, Ref 21/21/0021, dated 6 September 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: EX01 Rev A Location Plan.

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any order revoking and re-enacting that Order with or without modification, no building incidental to the enjoyment of the dwellinghouse Fourways, or any gate, fence, wall or other means of enclosure shall be erected, nor any caravan sited, within the extended domestic area as outlined in red on plan EX01 Rev A Location Plan.

Preliminary Matters

2. In the banner heading above I have used the description of the proposed development set out in the Council's Decision Notice, because this is more concise than that used in the planning application form. The appellant has used the revised description in the appeal form and therefore I am satisfied that no parties would be prejudiced as a result. I also note that 'curtilage' is not a land use, and I have determined the appeal as being for residential use.
3. The appellant seeks to use the land for gardening activities such as a smallscale domestic vegetable plot and planting fruit trees to create a small orchard. Although some of those activities may not be development², permission is sought for a residential use of the land, which is a material change of use and therefore requires planning permission.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The surrounding area is predominantly rural in character. Though pleasant, the gently undulating landscape has no particular defining features or specific landscape designation. The appeal site consists of an agricultural field or paddock at the edge of the village. It has an attractive, natural appearance and views of the site are available from the road and the adjacent farm track and footpath.
6. Nevertheless, as a relatively small strip of land enclosed on one side by a track and on the other by Fourways and a tree-lined stream, the site makes little meaningful contribution to the wider landscape. When approaching the site from the north, it is visible in conjunction with the village to a greater extent than the surrounding landscape (where it is fleetingly visible despite hedgebanks). Public views of the site are already somewhat filtered by those trees and vegetation that form the site's boundaries, further limiting the visibility and contribution of the site to the surrounding landscape's character.
7. The track adjacent to the site provides vehicular access to a water infrastructure plant. The plant's physical effects, including gates, bollards and its use by lorries, mean that there is already a degree of urban influence on the site. This influence is also found by its close proximity to the appellant's dwelling and its garden, as well as from the well-used country lane that the site fronts onto, and the nearby village itself.

² Under provisions of section 55(2)(e) of the Town and Country Planning Act 1990 as amended

8. It is common ground that Policy SP1 of the Taunton Deane Borough Council Adopted Core Strategy 2012 (CS) provides no defined settlement boundary for the village. However, the farm track's position forms something of a 'natural', physical edge to the settlement. Taking these factors together, I find that the site makes little meaningful contribution to the wider landscape's quality or character, or the setting of the village.
9. Although not part of the appellant's proposal, the Council is concerned that, if permission is granted for domestic residential use, there may be further consequential changes. These might include ornamental gardens, children's play equipment and other paraphernalia, and the potential suburbanising effects of such changes. I accept that this may occur to some extent, and that insensitively sited buildings in particular may be detrimental to rural character here, albeit that residential use of the land would not be inherently harmful.
10. I have reasoned above that the contribution of the site to landscape character is limited on account of its layout, visibility, relationship to the village and to surrounding features. Furthermore, as suggested by the Council, a planning condition can be used to prevent any structures, buildings or means of enclosure that might otherwise be permitted development from being undertaken without requiring a further planning application. Moreover, Fourways would sit in a substantial plot, so were permission to be allowed, the potential for the proliferation of domestic paraphernalia throughout the site would be limited.
11. For the above reasons, I conclude that the proposal would not unduly affect the character and appearance of the area. Given the particular nature of the site and its context, it would suitably conserve the natural environment in compliance with CS Policies CP8 and DM1(d) and Policy SB1 of the Taunton Deane Site Allocations and Development Management Plan adopted 2016.
12. For similar reasons, the proposal would meet the National Planning Policy Framework's guidance that development should be sympathetic to local character. CS Policies CP1(h) and DM2 have been referenced in the evidence before me but given their particular focus they are not relevant to my reasoning above.

Conditions

13. The Council has provided a list of conditions, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance (PPG).
14. As well as the standard time limit for commencement, a condition requiring adherence to the approved plans is necessary for certainty. As I have already identified above, a condition is required (and justified within the terms of the PPG) in respect of the removal of permitted development rights for outbuildings and similar structures within the extended area, in the interests of the landscape's character and appearance. For this condition, I have slightly amended the Council's suggested wording, to ensure compliance with the relevant tests for the use of conditions.

Conclusion

15. For the reasons given above, having had regard to the Development Plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions set out above.

O Marigold

INSPECTOR

Site: **Appeal A - FIELD B, NEW ENGLAND, CURLAND COMMON ROAD, CURLAND, TA3 5SB**
Appeal B - Field B, Curland, Somerset, TA3 5SB

Proposal: Appeal A – Application for prior notification for the erection of a general purpose agricultural fodder storage building at Field B, Curland
Appeal B - Application for prior notification for the formation and continuation of an access track at Field B, Curland

Application number: Appeal A – 15/21/0004/AGN
Appeal B – 15/21/0005/AGN

Reason for refusal: Appeal A – Dismissed
Appeal B - Dismissed
Costs - Dismissed

Original Decision: Appeal A – Delegated Decision – Prior Approval Refused
Appeal B - Delegated Decision – Prior Approval Refused



Appeal Decisions

Site visit made on 27 April 2022 by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 June 2022

Appeal A Ref: **APP/W3330/W/21/3289971 Field B, Curland, Somerset TA3 5SB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr William Allen against the decision of Somerset West and Taunton Council.
 - The application Ref 15/21/0005/AGN, dated 10 September 2021, was refused by notice dated 1 December 2021.
 - The development proposed is described as "Application for prior notification for the formation and continuation of an access tract at Field B, Curland".
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Appeal B Ref: **APP/W3330/W/21/3289972 Field B, Curland, Somerset TA3 5SB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by Mr William Allen against the decision of Somerset West and Taunton Council.

- The application Ref 15/21/0004/AGN, dated 14 September 2021, was refused by notice dated 8 December 2021.
 - The development proposed is described as "Application for prior notification for the erection of a general purpose agricultural fodder storage building at Field B, Curland".
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Applications for costs

3. Applications for costs were made by Mr William Allen against Somerset West and Taunton Council. This application is the subject of a separate Decision.

Preliminary Matters

4. Whilst I have considered each proposal on its individual merits, I have dealt with both appeals in a single document, given that they relate to the same site and raise similar issues, and in the interests of brevity.
5. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits works for the erection, extension or alteration of a building or any excavation or engineering operations which are reasonably

necessary for the purposes of agriculture on units of 5 hectares or more. As set out in the GPDO, the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building, and the siting and means of construction of the private way. The local planning authority is required to give the applicant notice within 28 days following the date of received the applicant's application of their determination that such prior approval is required.

6. Four decisions are before me. There are firstly decisions dated 7 October 2021 for Appeal A and 13 October 2021 for Appeal B, confirming that prior approval is required, and then decisions dated 1 December 2021 for Appeal A and 8 December 2021 for Appeal B, refusing permission for the prior approval applications. In each case, it is the first of these decisions which must comply with the timescales set out in Part 6 of the GPDO (e.g.28 days). The period is exclusive so that day 1 is the day following the application date, and the clock stops at midnight on day 28.
7. The decisions stating that prior approval is required were therefore issued within the specified timescales, and indeed the appellant confirmed that the decisions were received shortly afterwards. Based on the evidence before me, I am therefore satisfied that the Council notified the appellant of its determination within 28 days as set out in the GPDO, and prior approval is subsequently not deemed to be granted.
8. There is a lengthy planning history associated with the appeal site. Following recent appeal decisions, the Council accepts that the agricultural unit exceeds 5 hectares. However, there is a dispute between the main parties regarding the size of the appeal site. Although the Council appeared to have previously accepted that this parcel of land was more than 1 hectare in area, the matter has been discussed by both parties as part of the appeal process. Furthermore, the parties disagree on whether the

proposed building is reasonably necessary for the purposes of agriculture within that unit, having particular regard to its size.

9. In *New World Payphones Ltd v Westminster City Council* [2019] EWCA Civ 2250, the Court of Appeal held that “on an application to an authority for a determination as to whether its “prior approval” is required, the authority is bound to consider and determine whether the development otherwise falls within the definitional scope of the particular class of permitted development”. Accordingly, I am required to determine whether the proposals comply with the relevant conditions, limitations and restrictions, before considering whether to grant prior approval for the siting, design and external appearance of the building, and the siting and means of construction of the track.

Main Issues

10. The main issues are:

- Whether the proposals would be permitted development under Schedule 2, Part 6, Class A of the GPDO; and
- If so, the effect on the character and appearance of the area, including the setting of the Blackdown Hills Area of Outstanding Natural Beauty (AONB).

Reasons

Whether the proposals would be permitted development

11. As noted above, it is agreed by the main parties that the appeal site forms part of a larger agricultural unit exceeding 5 hectares in size. The appellant owns the appeal site and a nearby piece of land known as Field A, and has lease agreements elsewhere. The appellant stated on the application forms that the agricultural unit is approximately 5.5 hectares, but I understand that additional lease agreements have enabled the size of the unit to be increased to around 10 hectares.
12. The Council has raised concerns regarding the size of the parcel upon which the building would be constructed. The appellant’s submissions include detailed notes and calculations, suggesting that the appeal site is larger than 1 hectare. For this exercise, a large part of the site has been subdivided into smaller parcels, and in that regard, the calculations appear relatively straightforward. However, it remains unclear how the smaller areas around the stream have been calculated.
13. The Council has provided its own measurements of the site using different sources, which seem to indicate that the site is in fact noticeably smaller than 1 hectare. Even when accounting for the gradient, I have been presented with limited information to explain the considerable difference between the appellant’s and Council’s measurements.
14. The appellant has referred to additional land contiguous with the appeal site, which he is currently farming. However, this is not supported by detailed evidence, for example in the form of a lease agreement, and I am unable to ascertain whether this area of land forms part of the agricultural unit. Overall, the information submitted by the appellant is not sufficiently precise and unambiguous. In the absence of further substantive evidence to the contrary, there is therefore no certainty that the site exceeds the 1 hectare threshold and meets the relevant requirements of Part 6, Class A.

15. There are also concerns regarding the size of the proposed building and whether it is reasonably necessary for the purposes of agriculture within that unit, due to the current scale of the enterprise. As part of the previous appeals, the Inspector found that "the quantum of development proposed would, on balance, be commensurate with the role and function of the agricultural unit in this case, having regard to the intentions of the unit". That said, she also noted that "any further development necessary to expand the enterprise as suggested would, in all likelihood, be subject to further scrutiny".
16. Cost information and projections have been supplied as part of the appeals, but this evidence is by no means comprehensive, and does not appear to be substantiated by verified accounts or returns. Whilst I have no reasons to doubt that the appeal building would be used for agriculture, insufficient evidence has been presented to demonstrate that it would be used for the purposes of a trade or business.
17. The appellant has indicated that the building is required for the storage of hay bales and other fodder, and that the footprint of the proposed building reflects that of the various piles of hay currently stored on the land. I appreciate that there may be a need for the storage of hay bales, which would otherwise carry on being stored outside.
18. However, as the structure would be constructed within 400 metres of the curtilage of a protected building (which is defined as a permanent building normally occupied by people), it could not be used for the accommodation of livestock. Even accepting that there is a need for the proposed building, insufficient evidence has been presented to justify its footprint and height. This is to my mind critical, given that the site lies in a sensitive location, within proximity to the Blackdown Hills AONB.
19. In the absence of further substantive evidence to the contrary regarding the existence of a trade or business, and information to justify the size of the building, other than for hay and fodder storage, I am not satisfied that the developments meet the requirements of Schedule 2, Part 6, Class A of the GPDO. There is firstly no certainty that the parcel of land forming part of the unit is more than 1 hectare in area, secondly that the proposed building is reasonably necessary for the purposes of agriculture and would be so used for the purposes of a trade or business. On this basis, I am not satisfied that the proposals can be regarded as permitted development.

Character and appearance

20. As the proposals fail to accord with the requirements of the GPDO, it is not necessary for me to consider whether to grant prior approval for the proposals, particularly in respect of their effect on the character and appearance of the area, including the Blackdown Hills AONB.

Other Matters

21. My attention has been drawn to other agricultural buildings which appear to have been constructed recently in the area. However, I do not have the full details of the circumstances which led to these proposals being accepted, and cannot therefore be certain that they represent a direct parallel to the proposals before me.

Conclusion

22. For the reasons detailed above, I conclude that both appeals should be dismissed.

S Edwards INSPECTOR



Costs Decisions

Site visit made on 27 April 2022 by S

Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2022

Costs application in relation to Appeal A Ref:

APP/W3330/W/21/3289971 Field B, Curland, Somerset TA3 5SB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr William Allen for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for "Application for prior notification for the formation and continuation of an access tract at Field B, Curland".
-

Costs application in relation to Appeal B Ref:

APP/W3330/W/21/3289972 Field B, Curland, Somerset TA3 5SB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr William Allen for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for "Application for prior notification for the erection of a general purpose agricultural fodder storage building at Field B, Curland".
-

Decisions

1. The applications for an award of costs are refused.

Reasons

2. The Planning Practice Guidance¹ (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. Paragraph 049 of the PPG lists different types of behaviours which may give rise to a substantive award against local planning authorities.

3. The applicant has referred to the lengthy planning history associated by the appeal site. It is argued that the Council has acted unreasonably in refusing to grant approval for developments which are required to meet the needs of the applicant. No rebuttal has been provided by the Council.
4. Prior approval applications have to be determined in accordance with the requirements set by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). As reflected by the

Paragraph: 030 Reference ID: 16-030-20140306.

correspondence between the main parties, it is clear that the applicant was given the opportunity to submit additional information to meet the requirements of the GPDO.

5. The Council determined the applications within the prescribed timescales and its submissions clearly outline their concerns in respect of the development proposals, and there is nothing before me suggesting that the Council acted unreasonably as part of the appeal process.
6. For these reasons, I find that unreasonable behaviour or wasted expense, as described in the PPG, has not been established. On this basis, awards of costs are not justified.

S Edwards

INSPECTOR

Site: CREECH MILLS, MILL LANE, CREECH ST MICHAEL, TAUNTON, TA3 5PX

Proposal: Alleged breach of planning control of operation of crane hire business at Creech Mills, Mill Lane, Creech St Michael

Application number: E/0150/15/19

Reason for refusal: Dismissed & Enforcement Notice Upheld

Original Decision:



The Planning Inspectorate

Appeal Decision

Site visit made on 21 June 2022 by Jessica Graham BA

(Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 6 July 2022

Appeal Ref: APP/W3330/C/21/3289195 Land at Creech Paper Mills, Mill Lane, Creech St Michael, Taunton, TA3 5PX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended ("the 1990 Act"). The appeal is made by South West Crane Hire against an enforcement notice issued by Somerset West and Taunton Council.
- The notice was issued on 2 November 2021.
- The breach of planning control as alleged in the notice is "the use of land as a crane hire depot".
- The requirements of the notice are to:
 - Cease the use of the Land for the operation of a crane hire company
 - Remove from the Land all plant, vehicles, storage containers and machinery connected with the use of the Land for the operation of a crane hire company.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld, with correction and variation, in the terms set out below in the Formal Decision.

Background

1. The appeal site is a wedge-shaped area of land at the western end of Creech Mills Industrial Estate. In January 2020 an application¹ for planning permission for the change of use of the land to a crane hire depot was refused by the Council. This refusal was subsequently upheld at appeal (“the 2021 appeal”) ².
2. The appeal site was previously occupied by Upstream Pipeline Services. The Appellant contends that this former occupier used the land as a “sui generis vehicle depot” between 2001 and 2016 such that, the time limit available for taking enforcement action having expired, that use became lawful.³ This contention is the subject of an application for a certificate of lawfulness of existing use (LDC), submitted by the Appellant to the Council on 2 November 2021.⁴ That application has not yet been determined. However, since the Council’s decision on the LDC application does not - for reasons I shall come to below - affect the outcome of this appeal against the enforcement notice (and vice versa), this need not delay my determination of the appeal. _____

¹ Ref 14/20/0008

² Ref APP/W3330/W/21/3274593

³ Per the time limits for enforcement action set out at s.171B of the 1990 Act. ⁴ Ref 14/21/0040/LEW

The terms of the notice

3. The breach of planning control alleged by the notice is “the use of land as a crane hire depot.” However, *use* of land is not in and of itself development, such as would necessarily require planning permission: for development (and thus, potentially, a breach of planning control) to have taken place, there must have been “the making of a material change in the use of the land” ³. I appreciate that this may appear a somewhat arid and pedantic point, but it is important that the allegation should be properly framed, as this shapes the requirements that may legitimately flow from it.⁴
4. In this case, there is no dispute that irrespective of whether or not the previous use of the land as a “sui generis vehicle depot” was lawful, the change from that use to the current use as a crane hire depot was material. That was the conclusion of the Inspector who determined the 2021 appeal, and it is not challenged by the Appellant in this appeal. It is clear from the written representations before me that the Council is seeking to enforce against that material change of use, and that the Appellant’s professional representative has understood this point. I am satisfied that I can correct the wording of the notice accordingly, without prejudice to either party.

The appeal on ground (f)

5. S.173 of the 1990 Act sets out the two purposes that the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred, and the second is to remedy any injury to amenity which has been caused by the breach. Here, the notice requires the cessation of the

³ Per the statutory definition of “development” set out at s.55 of the 1990 Act.

⁴ It is not necessary (though can often be helpful) to specify the use *from* which the material change is made.

unauthorised use and the removal from the land of items associated with that use, so it is clear that the purpose of the notice is to remedy the breach of planning control.

6. The Appellant's case is that the requirements of the notice exceed what is necessary to remedy the breach of planning control, since there is currently a lawful use that can be continued within the site; that use being the previous use as a "sui generis vehicle depot" which is currently the subject of the LDC application. The Appellant seeks the variation of the notice to require that "the use of the site return to that of a lawful sui generis vehicle depot."
7. I am not persuaded that any such variation is needed. The requirements of the notice cannot go beyond remedying the breach; there is no scope to require reversion to the lawful use, or to any other specified use. In any event, the notice does not operate to prevent any existing lawful use of the appeal site. It simply requires the current unauthorised use – for the operation of a crane hire company – to cease. Further, protection for any existing lawful use is provided by s.57(4) of the 1990 Act, which states: *Where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.*
8. The question of whether or not the appeal site does have a lawful use as a "sui generis vehicle depot" is not before me, but will be decided by the Council in its determination of the LDC application. The important point is that if that use is indeed lawful, then by operation of s.57(4) the fact that an enforcement notice has been issued in respect of the subsequent material change of use means that it could be resumed, without any need to obtain planning permission. It is perhaps worth noting here the contrast with the situation that would exist had the enforcement notice NOT been issued: any existing lawful use as a "sui generis vehicle depot" would have been lost upon the undisputed material change of use of the site to a crane hire depot.
9. For these reasons, the Council's decision on the LDC application does not have any bearing on my determination of this appeal. Any lawful use of the appeal site which subsisted immediately prior to the material change of use here enforced against may resume, whatever that lawful use turns out to have been. Similarly, my decision on this appeal does not have any bearing on the Council's determination of the LDC application. That will turn on the unrelated question of whether the time for taking action against the previous use (as a "sui generis vehicle depot") had expired by the date of the LDC application.
10. I conclude that the requirements of the notice do not exceed what is necessary to remedy the breach of planning control. The appeal on ground (f) fails.

The appeal on ground (g)

11. The ground of appeal is that the six month compliance period specified by the notice falls short of what should reasonably be required. The Appellant seeks an extension of time to 24 months.
12. In cases involving business operations, it is necessary to weigh the interests of the business and its employees against the harm caused by the activities that are the

subject of the notice. There is no indication that ceasing the use of this depot would necessitate the closure of the business, but the Appellant's undisputed evidence is that it would nevertheless have significant adverse impacts. Suitable alternative sites would be difficult to locate, and would require appropriate planning permission. The specialist crane operators employed by the Appellant are from the Taunton area, and would not want to drive a 60 mile round trip to Exeter before they start work in the Somerset region. Moving away from the Somerset area would have a huge financial impact on the business, with increased fuel bills and wages, and the need for cranes to travel longer distances to reach projects would adversely affect the environment.

13. On the other hand, the use of the appeal site for crane hire operations involves a substandard access road and junction which, according to the reasons given by the Council for issuing the notice, results in an unacceptable risk to the safety of road users and pedestrians. I note that the Inspector who determined the 2021 appeal also concluded that the development has "an unacceptable adverse impact on highway safety".
14. Taking all of this into account I conclude that the period for compliance should be extended, but to 8 months rather than the 24 sought. The additional two months will provide the Appellant with more time to assess alternative sites, and if necessary explore with the Council the potential for appropriate planning permission at such sites, without blunting the urgency of taking action. I consider that a compliance period of eight months would strike the right balance between the interests of the business, and the public interest in bringing the harm caused by the unauthorised development to an end.
15. To the extent that the human rights of the employees might be interfered with as a consequence of my decision to uphold the notice, that has to be weighed against the wider public interest. On balance, I consider that a period of eight months to comply with the requirements of the notice would not have a disproportionate effect on the business, its employees or its customers.
16. I conclude that the compliance period should be increased from six months to eight, and to that limited extent the appeal on ground (g) succeeds.

Conclusion

17. For the reasons given above, I conclude that the requirements of the notice are not excessive to remedy the breach of planning control, but that the period for compliance with the notice falls a little short of what is reasonable. I shall vary the notice prior to upholding it.

Formal Decision

18. It is directed that the enforcement notice is corrected by:

The deletion of the phrase "The use of the land as" and the substitution of the phrase "The material change in the use of the land to use as" in paragraph 3 and varied by:

The deletion of the word "Six" and the substitution of the word "Eight" in paragraph 6.

Subject to this correction and variation, the enforcement notice is upheld.

Jessica Graham INSPECTOR

Site: The Queens Head Inn, Holloway Street, Minehead, TA24 5NR

Proposal: Replacement of outbuildings with the erection of 5 No. apartments with associated refuse facilities and infrastructure (amended scheme to 3/21/20/072)

Application number: 3/21/21/051

Reason for refusal: Dismissed

Original Decision: Delegated Decision – Refused



Appeal Decision

Site visit made on 10 May 2022 by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 July 2022

Appeal Ref: APP/W3330/W/22/3291511 The Queens Head Inn, Holloway Street, Minehead TA24 5NR

- 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 Barry Richards against the decision of Somerset West and Taunton Council.
 - The application Ref 3/21/21/051, dated 21 May 2021, was refused by notice dated 29 July 2021.
 - The development proposed is demolition of outbuildings to construct 5 no. apartments with associated refuse facilities and infrastructure.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, the appellant has provided amended plans, including an additional window in the living room of Flat 4; clarification regarding its proposed rooflights and a change to the cycle parking arrangements. The Council has confirmed that it has no objection to the amended plans being considered at this stage.
3. Given the minor nature of the changes, I do not consider that the interests of any party would be prejudiced if I take these amended plans into account. I shall therefore determine the appeal based on the amended plans.
4. The Council's first reason for refusal refers to the effect of the proposal in terms of the amount of accommodation, the access to daylight for future occupiers of the

proposal, and privacy in respect of future occupiers of the adjacent Julian's Laundry. The Council's Planning Officer's Report also refers to the effect on the character and appearance of the area. Its subsequent evidence refers additionally to the effect of the proposal on outlook for future occupiers of the proposal, the size of the accommodation with regard to the Nationally Described Space Standard (NDSS) and the limited nature of the external amenity area.

Main Issues

5. The main issues are therefore:

- Whether future occupiers of the proposed development would be provided with satisfactory living conditions, in respect of daylight, outlook, internal living space and external amenity space;
- The effect of the proposal on the living conditions of future occupiers of residential development at Julian's Laundry in respect of privacy;
- The effect of the proposal on the character and appearance of the area, including the Wellington Square Conservation Area (CA) and nearby listed buildings; and
- The effect of the proposed car-free development on on-street parking in the locality.

Reasons

Living Conditions

6. Flat 4 would have rooflights serving its bedroom and a window in its gable end within its living room. In terms of daylight, the evidence before me is that the proposed rooflights would provide a greater amount of daylight than vertical windows of the same size. Their high-level position is intended to prevent overlooking to Julian's Laundry which has permission⁵ to be replaced with apartments and other uses. However, this elevated position means they would provide very little outlook to the occupiers of the bedroom.
7. The gable end window would provide some daylight and outlook to Flat 4's living room, but this would be restricted to some extent by the proposed roof above Flat 1. Other than the bedroom rooflights, Flat 4 would have no alternative source of daylight or outlook, including for its other rooms. Although adequate for the rest of the proposal, the limited number and type of windows serving Flat 4 would result in a poor living environment in terms of daylight and outlook for its occupiers.
8. Planning permission⁶ has been granted for the erection of three residential units on the site. I see no reason to doubt that this could be implemented and that it represents a realistic fallback. Compared to this previous permission, the proposal would result in a greater built floor area, mass and bulk, with more people using a smaller courtyard area for recreational open space within the site.
9. However, I have considered the proposal on its own merits. The site is close to public outdoor spaces such as parks and the seafront. It is not uncommon for flatted development to have little or no external amenity space and I have been provided with no Planning Policy stating a minimum requirement for such space. I therefore consider the proposal to be acceptable in this respect.

⁵ LPA reference 3/21/19/034

⁶ LPA reference 3/21/20/072

10. The Council's Appeal Statement says that some of the flats would be cramped internally and would fall below the NDSS. However, this differs from the Council's findings within its Planning Officer's Report and the Council has not stated which flats it considers to be sub-standard and in what way. On the basis of the plans and the evidence before me, I am satisfied that the flats would have sufficient internal living space, and would appear to comply with the NDSS, so would not be cramped.
11. I have considered whether the proposal's upper floor windows, in particular the rooflights serving Flat 4, would harm the privacy of future occupiers of the residential development at Julian's Laundry. However, I am satisfied that the sloping form of the rooflights, and their position above head height, would significantly restrict the views available from Flat 4 into the adjacent development, preventing any harmful loss of privacy.
12. The proposal also includes other first floor windows. The window serving the communal landing and staircase could, if necessary, be obscurely glazed and fixed shut to prevent any overlooking. Meanwhile, Flat 5's window positions, perpendicular to the Julian's Laundry development, would be similar to those previously approved and so would cause no greater harm. The existing boundary wall means that none of the proposed ground floor flats would be harmfully overlooked or cause any loss of privacy. As such, the proposal would ensure adequate living conditions for future occupiers of the residential development at Julian's Laundry in respect of privacy.
13. Nevertheless, the proposal would not provide satisfactory living conditions for the future occupiers of Flat 4, because of its lack of outlook and daylight. As such, this element of its design would fail to respond positively to its context and so would be contrary to Policy NH13 of the West Somerset Local Plan to 2032 (WSLP) adopted 2016.

Character and Appearance

14. The site is within the Wellington Square CA. Part of the area's significance is its tight, closely built-up appearance, reflecting the development of the commercial character of the surrounding town centre. When viewed from the road, the proposed front elevation would be very similar to the previous approval and reflects the CA's urban nature.
15. The proposed design uses blocked-in windows at first floor. Although somewhat contrived in design, they would be within the site and largely hidden from public view by the frontage development. On this basis, these windows would not harm the area's character or appearance. Reference has been made to the proposal representing an overdevelopment of the site. However, given the closely built-up nature of the area, I am satisfied that the scale, mass and bulk of the proposal would not appear out of place or harmful to the character and appearance of the area.
16. It is common ground between the parties that there would be no adverse effect on the CA and I concur that the character and appearance of the CA as a whole would be preserved. The site is close to a number of listed buildings. These include The Haven, Southways, The Market House and Market House Cottage, as well as the National Westminster Bank and Offices to the corner of Parade and Bancks Street. All are Grade II listed.
17. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special

architectural or historic interest. In determining the application, the Council did not identify any harm to the listed buildings or their settings. Given the nature of the appeal site and proposal, and their relationship to the listed buildings, I have no reason to disagree.

18. I conclude that the proposal would not harm the character and appearance of the area including the Wellington Square Conservation Area and nearby listed buildings. As such, in these respects it would comply with Policy NH13 of the WSLP which requires development to respond positively to its context.

Parking

19. Market House Lane is a narrow, one-way street, with car parking restricted by means of single and double yellow lines. During my morning site visit, I found a few parking spaces available in nearby streets, but this represents only a snapshot in time, and parking restrictions are in force on many streets locally. This suggests that there is existing pressure on on-street parking in the area.
20. The proposal would result in an intensification of the number of occupiers but makes no provision for car parking. The Highway Authority suggests an amendment to the existing Traffic Regulation Order (TRO) on Market House Lane, to prevent vehicle parking at all times near to the site access.
21. The provision of no car parking would be below the maximum number of spaces sought by Saved Policy T/8 and Table 4 of the West Somerset District Local Plan 2006 (DLP). However, as the policy states a maximum number of spaces, rather than a minimum requirement, I see no conflict with this policy. Whilst the provision of no parking is also below the optimum number of spaces sought by Somerset County Council's Parking Strategy 2013 (SPS), both Policy T/8 and the SPS allow deviations below the standard, where the site is welllocated to public transport or cycling or walking links.
22. In this case, the site is in the centre of Minehead, the main service and employment centre in West Somerset. As a result, future occupiers of the proposal would be well-located for access to services and facilities. Cycle parking is proposed within the site, which also has a reasonably regular public transport provision within easy walking distance.
23. Sustainable travel opportunities would not therefore be limited, and occupiers of the flats would have a range of transport options for day-to-day activities. Therefore, despite the increase in the number of flats above the previous approval, in the context of the site and given the alternative transport options available, it seems to me unlikely that the proposal would generate additional informal parking on the local highway network to cause undue pressure on existing on-street parking.
24. Regardless of any change to the TRO, I note that the Council has not raised any objections to the proposed site access and for the above reasons the proposal would not result in undue pressure on existing on-street parking. As such, there would be no conflict with Policy T/8 of the DLP, or the SPS.

Planning Balance and Conclusion

25. The appellant states that the Council cannot currently demonstrate a five-year housing land supply, and this has not been disputed by the Council. Even if I were to accept the appellant's position with regard to the scale of the Council's deficit, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing

additional dwellings to assist the Council in addressing its undersupply, as set out in paragraph 11 of the Framework.

26. The proposal would make a modest contribution to the supply of housing in the area, on a site within the town centre and close to a range of services and facilities. There would also be modest economic benefits resulting from both the construction phase and from future occupiers contributing to the local economy. Some limited ecological enhancement is also proposed.
27. However, although the proposal would contribute five additional dwellings to the Council's housing supply, the site already has planning permission for three dwellings. The net increase is therefore for two additional dwellings, and as such the benefits of the proposal would be reduced.
28. Weighed against these modest benefits is the harm that I have identified to future occupiers of Flat 4 in respect of living conditions. I therefore consider that, in this case, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
29. Although I have found that there would be no harm to the character and appearance of the area and no undue pressure on on-street parking, there would be harm to the living conditions of future occupiers. The proposal is therefore contrary to the Development Plan, read as a whole. No material considerations have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. I therefore conclude that the appeal should be dismissed.

O Marigold

INSPECTOR

Site: Land to the south of Higil Lea, Crowcombe,TA4 4BF

Proposal: Erection of 2 No. glamping pods, 1 No. shepherds hut and an implement shed on land for use as a tourist site (resubmission of 3/07/20/015)

Application number: 3/07/21/010

Reason for refusal: Appeal – Dismissed
Costs - Dismissed

Original Decision: Chair – Refused



The Planning Inspectorate

Appeal Decision

Site visit made on 27 April 2022 **by S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 July 2022

Appeal Ref: APP/W3330/W/21/3289579 Land to the south of Higil Lea, Crowcombe, TA4 4BF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Ware against the decision of Somerset West and Taunton Council.
 - The application Ref 3/07/21/010, dated 29 June 2021, was refused by notice dated 26 August 2021.
 - The development proposed is tourist development comprising: 2no. glamping pods, 1no. shepherds hut (and an implement shed).
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Ware against Somerset West and Taunton Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:

- Whether the proposal would be suitably located, having particular regard to national and local planning policies, which seek to restrict development in the countryside; and
- The effect of the proposal on the character and appearance of the area, including the Quantock Hills Area of Outstanding Natural Beauty (AONB).

Reasons

Location

4. The appeal site is located outside of any settlements limits and therefore lies, for planning purposes, in the open countryside which, as set out in Policy OC1 of the West Somerset Local Plan to 2032 (LP), includes all land outside of existing settlements. In such locations, Policy OC1 advises that development is not generally appropriate, and will therefore only be permitted in a set number of exceptions. The appeal scheme is for the erection of two glamping pods, a shepherd hut and an implement shed, and would therefore not meet any of the exceptions listed in Policy OC1.
5. LP Policy EC9 supports tourism developments outside settlements, but only in restrictive circumstances. The proposed development is modest in scale, and is therefore unlikely to adversely affect the vitality and viability of neighbouring settlements. However, limited evidence has been presented to demonstrate that the proposed location is essential to a business and could not be located elsewhere.
6. As the site lies in a relatively remote location, away from Crowcombe, it is highly likely that the development would give rise to new unsustainable transport patterns. The lack of street lighting and continuous footpath connecting the site to the nearest settlement would discourage pedestrians and cyclists from using alternative modes of transport to the private car. Whilst the development may not generate significant additional traffic movements, there is nevertheless a high likelihood that visitors would rely on the private car for the majority of trips to access services and tourist attractions, for the simple reason that other modes of transport would not represent attractive propositions.
7. Whilst it is argued that there is a bus stop near the site, and that the development could therefore be served by regular services running between Minehead and Taunton, this has not been supported by further evidence to demonstrate the frequency of the services. Having regard to the available evidence, I cannot therefore be certain that public transport could assist as an effective alternative to private motor vehicles.
8. As set out in paragraph 85 of the National Planning Policy Framework (the Framework), there are circumstances where sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. However, I have been presented with limited information to demonstrate that the appeal scheme would fulfil such needs. The appellant refers to local businesses within and around Crowcombe, but without further details, I cannot be certain that the appeal scheme would be beneficial for the community and the local economy. There is also limited evidence before me regarding the existence of a need for this type of tourist accommodation. Whilst it is accepted that glamping pods and shepherd huts may not be considered appropriate within the built envelope of a settlement, it is unclear whether other more suitable and less sensitive locations have been considered.
9. Given the above, I find that there are no exceptional circumstances in this instance which weigh in favour of the development, and conclude that the proposal would not be suitably located, having regard to national and local planning policies, which seek to restrict development in the countryside. Accordingly, the appeal scheme would conflict with LP Policies OC1, SD1, EC9 and TR2, which promote sustainable forms of development and seek to reduce reliance on the private car.

Character and appearance

10. Located within the Quantock Hills AONB, the appeal site is adjacent to a modest residential development and comprises an open field set to pasture, which is partially enclosed by soft landscaping, with a relatively narrow track of land running along the western boundary. It forms part of an undulating rural landscape providing far reaching views, which give the locality a pleasant and tranquil feel.
11. Despite the screening provided by the existing vegetation, the proposed change of use would alter the character and appearance of the site significantly. The access and parking area would result in the introduction of an urbanising feature, which would be evident within the public realm, notably from the site's entrance on Higil Lea. The installation of the proposed structures, together with the paraphernalia which would be associated with the tourism use, such as outdoor furniture, would add clutter to what is otherwise a largely undeveloped area.
12. Furthermore, the proposed use would increase the level of activity, noise and disturbance, which would detract from the sense of tranquillity in the surrounding area. As a result, the development would erode the contribution which the site currently makes to its surroundings and fail to conserve and enhance the landscape and scenic beauty of the AONB.
13. The proposal is supported by a Landscape Statement which found that in carefully selected views, the appeal scheme would have a neutral visual impact on the surrounding area. These findings rely to a large extent on significant tree and hedgerow planting to mitigate the visual impact of the development. However, the vegetation would inevitably take time to mature, and there is also no certainty that it would remain in place for the lifetime of the development, as planting could disappear for a number of reasons, such as disease, weather or accidental damage.
14. Given the above, the appeal scheme would cause unacceptable harm to the character and appearance of the area, and would fail to conserve and enhance the landscape and scenic beauty of the Quantock Hills AONB, to which I ascribe great weight, in accordance with paragraph 176 of the Framework. The proposal would therefore be contrary to LP Policies NH5 and NH14, which seek to protect the quality and integrity of local landscape character areas, and nationally designed landscape areas such as the Quantock Hills AONB. It would also conflict with the aims of the Framework, which seek to protect and enhance valued landscapes, and recognise the intrinsic character and beauty of the countryside.

Other Matters

15. The appellant has drawn my attention to several schemes, which have been either approved by the Council or allowed on appeal. Having considered the presented information, these developments do not however appear to represent a direct parallel to the proposal before me, particularly in respect of the circumstances and location of the cases. Furthermore, I note that where conflicts with the development plan were identified, these were found to be outweighed by other considerations. For these reasons, very limited weight has been afforded to these approved schemes.

Conclusion

16. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR



Costs Decision

Site visit made on 27 April 2022 by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 July 2022

Costs application in relation to Appeal Ref: **APP/W3330/W/21/3289579 Land to the south of Higil Lea, Crowcombe TA4 4BF**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Andrew Ware for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal of planning permission for tourist development comprising: 2no. glamping pods, 1no. shepherds hut (and an implement shed).
-

Decision

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

Reasons

2. The national Planning Practice Guidance¹ (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG identifies different types of behaviours, which may give rise to a substantive award local planning authorities.
3. The applicant considers that the appeal was unnecessary as the proposal complies with the development plan, and the Council acted unreasonably in failing to substantiate its reasons for refusal and interpret the development policies and guidance contained within the National Planning Policy Framework (the Framework) correctly. It is also argued that the Council did not determine similar cases in a consistent manner.
4. The Council's reasons for refusal as set out in the decision notice are complete, precise, specific and relevant to the planning application. Whilst a landscape statement was submitted in support of the resubmission, this was not found to overcome the concerns of the Case Officer and Landscape Planning Officer regarding the effect of the development on the Quantock Hills Area of Outstanding Natural Beauty. Furthermore, the Council's submissions have sought to address the comments made by the applicant regarding the application and interpretation of development plan policies in other applications and appeals.

5. As set out in my decision and having considered the available evidence, I have found that the circumstances and context of each scheme were different and did not represent a direct parallel to the appeal proposal. These issues largely raise matters of planning judgment, and I am satisfied that, in the context of this appeal, the Council appropriately substantiated its concerns about the proposal within its submissions, having regard to the particular circumstances of the case. It follows that the Council did not act unreasonably in deciding to refuse planning permission for the development.
6. Given the above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. On this basis, an award of costs is not justified.

S Edwards

INSPECTOR