

DECISIONS – 14 MAY 2020

Site: The Blade Mill, Woodford Road, Monksilver, Taunton, TA4 4HW

Proposal: As approved in 2014 difficult to refuse. Bi-folding doors are not in keeping. Too big. Prefer patio doors centrally placed under apex/first floor window. Remove PD rights.

Application number: 3/24/19/002

Reason for refusal: Dismissed



The Planning Inspectorate

Appeal Decision

Site visit made on 10 March 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2020

Appeal Ref: APP/W3330/D/19/3242832

The Blade Mill, Woodford Road, Monksilver TA4 4HW

- 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 Alex McTaggart against the decision of Somerset West and Taunton Council.
 - The application Ref 3/24/19/002, dated 8 September 2019, was refused by notice dated 29 October 2019.
 - The development proposed is the erection of a two storey side and rear extension and associated works.
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have taken the description of the development from the appellant's appeal form because this more succinctly describes the proposal.

Main issue

3. The effect of the proposal on the significance of The Blade Mill, a non-designated heritage asset, and the surrounding area, including the setting of Exmoor National Park.

Reasons

4. The Blade Mill is a two-storey dwelling sited adjacent to a highway and a watercourse. It is a former waterpowered metal workshop, constructed from local stone under a slate roof. It has a simple and utilitarian form reflecting its former use and the local vernacular within this hamlet of dwellings. The property has been included on the Somerset Historic Environment Record since 2016 and is a non-designated heritage asset.
5. The significance of the heritage asset derives from its illustrative historical value and its aesthetic value. These values are evident in the character and appearance of the building, its scale, form and materials and also its relationship to the landscape including roads and rivers. These all relate to its historic use. This can still be clearly appreciated even though it is already converted to a dwelling. The National Planning Policy Framework (the Framework) sets out at paragraph 197 that a balanced judgement is required when assessing proposals that affect the significance of such assets. Regard should be had to the scale of any harm or loss and the significance of the asset.
6. T The proposed extension would substantially add to the overall mass and scale of this simple rectangular building. The extension would have eaves and ridge heights to match the host building and extend the footprint significantly beyond the existing elevations in two different directions. Consequently, the scale and form of the extensions do not respect the simple utilitarian form and scale of the building. Whilst the extension would be set back from the road and frontage, this element of subservience would not mitigate the harm.
7. Furthermore, the asymmetrical gable to the rear would fail to reflect the existing form, and the lack of corbel details at eaves would not respect the architectural details of the host building. The proposal would substantially increase the amount of fenestration and its visual prominence, particularly on approaches from the west. Whilst most of the openings would match the existing windows on the north-east elevation, they would appear domestic in their proportions, harmful to the character of the building. Consequently, the proposed additions would appear incongruous and fail to respect the form and design of the building and its significance as a non-designated heritage asset.
8. The host building is located on the opposite side of the road to the majority of the development within this small settlement. Therefore, it is distinct and visually prominent on approaches in either direction. The road is the boundary for Exmoor National Park (ENP). As such, the site lies outside, but adjacent to, an area whose landscape and cultural heritage value should be protected and afforded great weight in any planning decisions. This is set out at paragraph 172 of the Framework. Given the harm previously identified to this heritage asset of cultural significance, and the prominent siting and close relationship of the building to ENP, the proposals would also cause harm to the setting of the National Park. However, one additional rooflight would not result in any demonstrable light pollution.
9. In conclusion, the proposal would harm the significance of The Blade Mill, a non-designated heritage asset, and the surrounding area, including the setting of Exmoor National Park. As such the proposal would be contrary to Policies NH1, NH2 and NH14 of the West Somerset Local Plan to 2032, adopted November 2016 and paragraphs 172 and 197 of the Framework. These policies seek, amongst other aims to conserve and enhance the built and historic environment and achieve

high quality design so as to conserve and enhance the natural beauty and cultural heritage of ENP and its setting.

Other matters

10. The appellant has drawn attention to the historic planning approval¹ at the site. Since that permission was granted, the value of the building as a heritage asset has been recognized through the Somerset Historic Environment Record. This occurred while the historic planning approval remained extant. Whilst material, this timing is not defining, and significantly no development had commenced on implementing the planning approval at that stage. Moreover, the current proposal is different in form, scale and detail compared to the historic planning approval. Furthermore, the permission has lapsed. As such, whilst the historic planning approval is material, it has limited weight.

¹ LPA ref: 3/24/14/001

11. The appellant has raised concerns in regard to inconsistencies between the pre-application advice, the officer report and the Council's formal Decision Notice. However, these do not have any significant weight in the determination of this Appeal Decision. Furthermore, the appellant highlights that the dwelling is small, but there is no evidence that it is unsuitable for modern day living.

Conclusion

12. In summary, the scale of harm to the non-designated heritage asset would be modest and the significance of the asset is equally modest. Furthermore, some modest harm would occur to the setting of the ENP, which the Framework establishes as having great weight. As such, the harm identified is not outweighed by the limited weight associated with elements in favour of the scheme including the historic planning approval.
13. For the reasons given above I conclude that the appeal should be dismissed.

James Taylor
INSPECTOR

Site: LAND TO REAR OF 16 TOWN FARM, NORTH CURRY, TAUNTON

Proposal: Erection of bungalow on land to rear of 16 Town Farm, North Curry
(resubmission of application 24/18/0012)

Application number: 24/19/0021

Reason for refusal: Approved



Appeal Decision

Site visit made on 27 January 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2020

Appeal Ref: APP/W3330/19/3240938

Land to the rear of 16 Town Farm, North Curry TA3 6NP

- 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 West of England Developments Ltd against the decision of Somerset West and Taunton Council.
 - The application Ref 24/19/0021, dated 5 June 2019, was refused by notice dated 6 September 2019.
 - The development proposed is for the erection of a bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a bungalow on land to the rear of 16 Town Farm, North Curry TA3 6NP in accordance with the terms of the application, Ref 24/19/0021, dated 5 June 2019, subject to the conditions in the attached schedule.

Preliminary Matters

2. The only reason for refusal relates to the inadequacy of the preliminary ecological report. I note that further survey work has now been undertaken and a supplementary report submitted with this appeal. The Council have confirmed they have considered this additional information and concluded that, subject to conditions, they now have no objections on ecological grounds. I am also satisfied that the ecology report does now adequately deal with ecology matters. On this basis, it is considered that the reason for refusal set out in the decision notice has been overcome.

Main Issue

3. In light of the extent of agreement between the main parties, the main issue is whether there are any other considerations that might indicate that the appeal should be dismissed.

Reasons

4. Notwithstanding the Council's position on the proposed development, concern has been expressed by other interested parties in respect to several other considerations. These included the effect of the proposal upon highway safety, the loss of trees and on the character and appearance of the area.
5. In terms of highway matters, in broad terms, concerns are raised that the development would harm highway safety, and in particular the inadequacy of the access and its junction with Knapp Lane. These matters were largely identified and considered within the Council Officer's report on the appeal development. I note that the Council's Highway Officer did not object to the proposals and the Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with further survey work undertaken on behalf of local residents. This assessment sought to measure the current visibility at the junction. I have reviewed this additional information and assessed the junction during my site visit. Whilst visibility would appear to be slightly constrained, this demands that users pay a greater degree of care and attention whilst positioning vehicles at the junction. I do not consider that the increased use of the junction to serve one additional dwelling would lead to any unacceptable impacts on highway safety. There is no substantiated evidence before which would lead me to disagree with the Council's conclusions on these matters.
6. In respect to character and appearance, these include concerns that the proposal would result in the loss of a green area and the loss of trees from the site. The design of the building would be for a single storey bungalow. Due to the location of the site, to the rear of existing properties, the building would not be readily visible within the street scene, with the exception of views from the entrance to the site. Whilst the removal of existing trees from the site is regrettable, I note that the Council's tree officer was consulted and did not raise any objection to the proposal. Furthermore, the proposed would involve the provision of replacement trees and the requirement for these can be controlled by the imposition of a planning condition. Any ecological impact from the loss of these trees has been addressed through the additional ecological information submitted with this appeal.
7. Concerns have also been raised with regards to the noise impact from construction and the effect of construction vehicles on surrounding roads. I acknowledge that construction would cause some disruption, but this would be temporary and would be mitigated by a Construction Method Statement which could be the subject of a condition.
8. Reference has also been made to the presence of a covenant on the land which would prevent the construction of the dwelling. This however is a legal issue, to be dealt with outside of the planning process. Accordingly, issues relating to the covenant have not had any material bearing on my assessment of the planning issues in this appeal.
9. In conclusion, I do not disagree with the Council's finding that the proposal accords with the development plan for the area when considered as a whole. On this basis, having regard to paragraph 11c of the National Planning Policy Framework 2019, the proposal should be approved without delay and amounts to a sustainable form of development.

Conditions

10. The conditions suggested by the Council have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. Planning permission is granted subject to the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
11. To ensure the safeguarding of the character and appearance of the area, a condition is necessary with regards to the provision of external materials. In the interests of protecting and recording any below ground features, a condition to allowing access for observation by an archaeologist is deemed appropriate.
12. In the interests of the character and appearance of the area, it is necessary to impose a condition to ensure replacement planting is provided. To ensure that the proposal would not have any unacceptable impacts upon highway safety, it is necessary to attach a condition requiring the submission of a Construction Management Plan.
13. The appellant's have suggested a potential condition to secure off-site ecology mitigation. Given the measures proposed in the Ecology Report, I do not consider that such a condition is necessary, but, in the interests of ensuring no harm to matters of bio-diversity, I have attached a condition to ensure that the on-site mitigation measures identified in the report are provided. Conditions relating to the provision of landscaping, erection of new bat boxes and appropriate levels of external lighting, are attached for similar reasons.

Conclusion

14. I conclude, for the reasons outlined above, and having considered all matters, that the appeal should be allowed.

Adrian Hunter

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - DrNo 16.16.101 Site Location Plan
 - DrNo 16.16.002 Existing Site Location Plan
 - DrNo 16.16.103 Block Plan
 - DrNo 16.16.104 Site Plan
 - DrNo 16.16.105 Bungalow Floor Plan
 - DrNo 16.16.106 Bungalow Elevations
 - DrNo 16.16.107 Garage Plans and Elevations
 - DrNo 16.16.110 Location Plan
 - DrNo 1795.102 Rev. B Extended Orchard Proposal
3. Prior to the construction of the building samples of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.
 - (i) A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted. (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development. (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species. Reason: To ensure that the proposed development does not harm the character and appearance of the area.
 - i) Before development commences (including site clearance and any other preparatory works) a scheme for the protection of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2012.
 - ii) Such fencing shall be erected prior to commencement of any other site operations and at least two working days' notice shall be given to the Local Planning Authority that it has been erected.
 - iii) It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the protected areas without the prior written

agreement of the Local Planning Authority.

4. No works shall be undertaken on site until the Local Planning Authority has first approved in writing details of a programme of access which will be afforded to a named archaeologist to observe and record all ground disturbance during construction (such works to include any geological trial pits, foundations and service trenches). The named archaeologist shall thereafter be allowed access in accordance with the details so approved. Reason: To enable the remains of archaeological interest which may exist within the site to be appropriately recorded.
5. All ecological measures and/or works in relation to reptiles shall be carried out in accordance with the details contained in section 4 of the Ecological Appraisal (Blackdown Environmental, dated October 2019) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. A letter confirming the operations will be submitted to the Local Planning Authority on completion of the translocation.
6. Prior to occupation, a "lighting design for bats" shall be submitted to and approved in writing by the Local Planning Authority. The design 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 disturb or prevent bats using their territory or having access to their resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
7. No removal of hedgerows, trees or shrubs or demolition of buildings or structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist.
8.
 - a) A Habitat 001 bat box or similar will be built into the structure at least four metres above ground level and away from windows on the southwest elevation
 - b) A cluster of five Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level on the northeast elevation
 - c) A bee brick built into the wall about 1 metre above ground level on the south or southeast elevation of the dwelling
 - d) Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site. Photographs of the installed features will be submitted to the Local Planning Authority prior to the completion of construction works.
9. No development shall take place unless a site specific Construction Management Plan has been submitted to and been approved in writing by the local planning authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

i) Details on the delivery of all construction materials to the site; details of the contractor parking and material storage area; means to ensure that there shall be no emission of dust or deposit of mud or other debris on the highway;

ii) All works and ancillary operations which are audible at the site boundary, shall be carried out only between the following hours: 08.00 and 18.00 Mondays to Fridays and 08.00 and 13.00 on Saturdays and; at no time on Sundays and Bank Holidays.

iii) Measures for controlling the use of site lighting whether required for safe working or for security purposes;

The Plan shall be implemented in accordance with the approved details.

Site: ORCHARD HILL, KINGSTON ROAD, KINGSTON ST MARY, TAUNTON, TA2 8HW

Proposal: Erection of 1 No. detached dwelling with associated works in the garden to the side of Orchard Hill, Kingston Road, Kingston St Mar

Application number: 20/19/0012

Reason for refusal: Dismissed



The Planning Inspectorate

Appeal Decision

Site visit made on 10 March 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Appeal Ref: APP/W3330/W/19/3242421

Orchard Hill, Kingston Road, Kingston St Mary, Taunton TA2 8HW

- 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 Brading against the decision of Somerset West and Taunton Council.
 - The application Ref 20/19/0012, dated 6 June 2019, was refused by notice dated 11 October 2019.
 - The development proposed is the erection of a dwelling and associated works.
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have amended the description of development to accurately reflect that the proposal is for a single dwelling.

Main issues

3. The main issues with this proposal are:
 - i) The effect on the character and appearance of the area including the Quantock Hills Area of Outstanding Natural Beauty (AONB);
 - ii) The accessibility to services with particular regard to the use of the private motor vehicle; and
 - iii) The principle of development in locational terms having regard to the relevant policies of the development plan and the National Planning Policy Framework (the Framework).

Reasons

Character and appearance of the area including the AONB

4. Orchard Hill is a large detached dwelling located on the peripheries of Kingston St Mary, a village partially within the AONB. It is sited outside of the village settlement limits, but within the AONB. The dwelling is set within a spacious and open context, with a modest detached double garage. Furthermore, the property benefits from extant planning approval for a linked extension. The appellant sets this out as a material planning consideration and states that, if built, the extended dwelling could be subdivided to form a new dwelling akin to that proposed.
5. The proposed dwelling would, like the extant planning approval, have habitable space at the ground floor and first floor accommodation within the roof. However, there are notable differences between the two developments. The proposed dwelling would be physically and visibly detached from Orchard Hill. Furthermore, its elevations would appear as a separate self-contained dwelling, rather than an ancillary garden room to Orchard Hill. It would have a greater mass and scale, most notably with its gabled roof form and four additional dormer windows. The proposal would appear clearly as a separate dwelling given its siting, scale, mass and form. Furthermore, it would also result in associated domestic paraphernalia being a separate dwelling.
6. For matters to form a material fall-back position, it is necessary to consider how likely the proposition would be. No evidence has been provided to indicate that the appellant is likely to build out the extant planning approval. Even if it were, the material differences between the proposal and the extant planning permission are significant. Furthermore, the premise that this extension could be later sub-divided to create a dwelling appears to be far from a certain proposition despite the national policy set out at paragraph 79 d) of the Framework. As such, neither the extant planning approval, nor the subsequent potential subdivision of the extended dwelling, represent a precedent for this development, or a likely comparable fall-back position. Therefore, these considerations have limited weight.
7. As identified within the appellant's Landscape Constraints Plan, the appeal site is

well-screened by boundary planting on the adjoining land that is under the appellant's control. This provides some mitigation of the visual impact of the proposal from public views on Kingston Road and the nearby public right of way. However, views through the wide vehicular access, and up the existing and proposed driveways would be made clearer from the works. Furthermore, whilst landscaping can be conditioned, this cannot control such landscape provision in perpetuity, or even the lifetime of the development. Views are liable to change, and landscaping should not be used to justify otherwise unacceptable development.

8. The proposed dwelling would extend the built form into the open space on the edge of the village and intensify the residential activity at the site. The scale and bulk of the built form would be significant in both this open context and in the context of the existing dwelling. The additional dwelling would be in close proximity to an existing property that is currently set within its own generous grounds. This would be at odds with the spatial characteristics of the area and the rural character of the landscape. As such, the proposal would not conserve or enhance the landscape and scenic beauty of the AONB. The Framework sets out at paragraph 172 that the AONB should be afforded the highest protection and that the scale and extent of development within such designated areas should be limited. To this end, consideration should be had to factors such as the need for the development. There is no evidence that any overriding need for the development is relevant here.
9. Therefore, in conclusion on this main issue the proposal would harm the character and appearance of the area including the AONB. As such, the proposal would be contrary to Policies DM1 and CP8 of the Taunton Deane Borough Council Adopted Core Strategy 2011-2028 (CS) and paragraph 172 of the Framework. These policies seek, amongst other aims to ensure that development outside of settlement boundaries is of appropriate scale, siting and design; and that it protects, conserves and enhances the landscape.

Accessibility to services

10. The appeal site is located within a reasonable walking distance of the services and facilities of the village. However, the initial section of such a journey would be on rural lanes without the benefit of pavements or street lighting. This would be a disincentive for some users, such as those with young children attending the local village school, especially given that the road is well used by vehicular traffic. The appellant has provided a previous Inspector's decision stating that a lack of street lighting would not prevent walking during the day. However, some trips to local services will occur in the dark, especially during the shorter winter months.
11. Furthermore, the services and facilities within the village are limited. Regular travel beyond walking distances would be required to access wider services and facilities, including secondary education and employment. No evidence has been provided that the public transport facilities of the village are sufficient in frequency and destinations in order to provide a realistic alternative to private vehicle use for trips beyond the village. As such, the proposal is likely to be reliant on the private vehicle for a large portion of future occupiers' trips. The environmental impacts of this, with vehicle emissions contributing to climate change impacts, weighs against the scheme. Although, such effects would be modest when associated with one dwelling.
12. Furthermore, similar impacts could occur from housing development within the

settlement. However, such provision has been considered as part of a plan-led approach balancing the multi-faceted dimensions of sustainable development. Additionally, ad-hoc limited scale planning, reduces any opportunities to make the location more sustainable, for example, through enhancing pavements and street lighting. Moreover, a need for the proposal has not been evidenced.

13. Therefore, in conclusion on this main issue the proposal would not have adequate accessibility to services without reliance on the private motor vehicle. As such, the proposal would be contrary to Policy CP1 of the CS. This policy seeks, amongst other aims to ensure that development demonstrably addresses issues of climate change, reducing the need to travel through locational decisions.

The principle of development

14. The proposed dwelling would be located outside of the village's defined settlement limits. Policy SP1 of the CS sets out that whilst no further housing allocations will be made for Kingston St Mary in the plan period, some scope for small scale proposals within the settlement limits remains. However, outside of the settlement, proposals should be treated as being within the open countryside. Furthermore, policy SD1 of the CS sets out a presumption in favour of sustainable development.
15. Policy DM2 sets out a permissive approach to a range of developments in the open countryside, but these are not applicable in this case. Whilst it does not specifically discount the proposal, nor does the proposed dwelling comply with this policy. Moreover, Policy SB1 of the Taunton Deane Adopted Site Allocations and Development Management Plan, December 2016 (SADMP) seeks to maintain the quality of the rural environment, and ensure a sustainable approach to development, by ensuring proposals outside of the settlement boundaries comply with Policies CP1, CP8 and DM2 of the CS. There is no evidence to indicated that the two exceptions within Policy SB1 are applicable here. As set out above, the proposal would be in conflict with Policies CP1 and CP8.
16. In addition, the Framework sets out at paragraph 77 that in rural areas, decisions should respond to local circumstances and support housing developments that meet local needs. There is no evidence to suggest that the proposal meets an identified need. The proposed market dwelling would have some benefit in supporting the vitality of rural communities. But given that the proposal relates to a single dwelling this can be afforded very limited weight.
17. Therefore, in conclusion on the final main issue the principle of the development would not be acceptable in locational terms having regard to the relevant policies of the development plan and the Framework. As such, the proposal would be contrary to Policies SP1, CP1, and SD1 of the CS and Policy SB1 of the SADMP.

Other matters

18. The appellant has highlighted a number of appeal examples in support of their various propositions aimed at justifying the proposal. Furthermore, they have referred to a development of four houses granted by the Council¹. However, from the evidence provided the circumstances in these cases do not appear to be identical to the proposal here. As such, the examples are of limited weight.
19. The appellant has suggested that permitted development rights could be removed in order to assist mitigating the potential impact of the proposal. However, the Planning Practice Guidance is clear that the removal of permitted development

rights by condition is unlikely to meet the tests of reasonableness and necessity. In any event, such measures would provide negligible mitigation to the harm identified above.

20. Finally, the appellant states that the access works could be carried out under permitted development, and that the works would provide an enhancement to highway safety for the benefit of all users. However, the works to the entrance do not form a part of the issues raised by the Council in their Decision Notice. Furthermore, there is little evidence to support the alleged benefits, or that there is an existing highway safety issue. Even if an improvement to highway safety were realised this is likely to be of limited weight in any planning balance.

Conclusion

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

James Taylor
INSPECTOR

¹ LPA ref: 48/18/0055

Site: Winters Farm, Winters Lane, Brompton Ralph, TA4 2SE

Proposal: Change of use of land for siting of shepherds hut on concrete base for holiday let

Application number: 3/02/19/001

Reason for refusal: Dismissed



Appeal Decision

Site visit made on 16 March 2020

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2020

Appeal Ref: APP/W3330/W/19/3242416

Winters Farm, Winters Lane, Brompton Ralph TA4 2SE

- 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 Robert Stephens against the decision of Somerset West and Taunton Council.
 - The application Ref 3/02/19/001, dated 3 June 2019, was refused by notice dated 1 August 2019.
 - The development proposed is change of use of land to provide holiday let. To site a Shepherd's Hut (measuring 5.9m x 2.4m) on a concrete base (measuring approximately 28 square metres). The location is marked in red on the enclosed site map. The intention is to let the Shepherd's Hut as a holiday let.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. West Somerset and Taunton Deane Councils ceased to exist on 1 April 2019, following a merger to form the new Somerset West and Taunton Council. Provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 allow for any "*plan, scheme, statement, or strategy*" prepared by one of the merged authorities to be treated as if "*it had been prepared and, if so required, published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular plan, scheme, statement or strategy relates*". The status of the West Somerset Local Plan to 2032 has not changed following the merger.

Main Issue

3. The main issue is whether the use of land for tourism accommodation purposes accords with local and national policies with regards to the accessibility of local

services and minimising the need to travel by private car.

Reasons

4. The appeal site is in a pleasant rural and peaceful location which is a short driving distance from the small dispersed settlement of Brompton Ralph. The site itself is located at the end of a long, uneven and unlit track. The intended base for the shepherds hut is on an area of agricultural land laid to pasture which is surrounded by woodland with a river and pond nearby.
5. The Development Plan for the area includes the West Somerset Local Plan to 2032 (Local Plan) which was adopted in 2016. The site is outside of the secondary settlement of Brompton Ralph and is therefore located within the countryside for the purposes of planning policy.
6. Policy OC1 of the Local Plan sets out that "*Development in the open countryside ... will only be permitted where [amongst other things] it is provided through the conversion of existing, traditionally constructed buildings in association with employment or tourism purposes as part of a work/live development*". The proposal does not involve the conversion of an existing building and none of the other policy criteria are specifically relevant to the proposal to introduce a new tourism use into the open countryside.
7. Local Plan Policy EC9 indicates that new tourism uses/buildings outside of settlements "*will only be supported where:*
 - *The proposed location is essential to the business and that it could not be located elsewhere;*
 - *it does not adversely affect the vitality and viability of the neighbouring settlements; and*
 - *it complements the existing tourism service and facility provision in neighbouring settlements and surrounding area without generating new unsustainable transport patterns*".
8. Notwithstanding that the site may have previously been used by the Scouts, the proposal is not connected to an existing relevant business and nor is there any evidence that the current site is the only one suitable for the proposal. Given its limited scale, the proposal would be unlikely to have any noticeable effects on the vitality or viability of neighbouring settlements. No specific tourism provision in the surrounding area has been drawn to my attention which the proposal would complement.
9. In terms of the need to locate tourism accommodation where it would minimise the need to travel, the appellant accepts that the proposal is only really accessible by car. Aside the long, uneven and unlit access driveway, the surrounding rural roads are not conducive to walking or cycling due to topography, distance and absence of footways. Furthermore, there are very few local facilities or establishments that guests could use or frequent in the surrounding area in any event.
10. It is also agreed by the appellant that the site is detached from Brompton Ralph, which itself is only considered suitable to accommodate small scale development under Local Plan Policy SC1 where it can be proven to contribute to wider sustainability benefits for the area. Whilst the measurement from the appeal site to Brompton Ralph is stated as being in the region of 400 metres that appears to be to the closest dwelling. A more realistic distance to the only local facility, the Post Office, is approximately double that distance by road.

11. Paragraph 83 of the National Planning Policy Framework (2019) (the Framework) indicates that planning policies and decisions should enable *sustainable* rural tourism and leisure developments which respect the character of the countryside (my emphasis). The revised Framework is also clear that the planning system should be genuinely plan-led and neither Local Plan Policies EC9 or OC1 conflicts with the Framework in this regard.
12. In view of this main issue, the use of land for tourism accommodation purposes does not accord with Local Plan Policies OC1 or EC9 in respect of the accessibility of local services or minimising the need to travel by private car. For similar reasons, it would also conflict with the Framework.

Other Matters

13. The appellant argues that the scale of vehicular movements that would be generated would be minimal given the modest size of the accommodation which would preclude large groups of people staying. By extension, the economic benefits from such a small scale proposal would also be limited. Whilst it is claimed that the socioeconomic benefits would be so great as to override the negative impacts of car dependency by future guests, there is little to quantify the scale of these benefits.
14. I note that the proposal would offer the opportunity for guests to undertake recreational walks in the countryside. It would also suit tourists wishing to take advantage of the tranquillity and natural beauty of such a rural location. Whilst these factors indicate that the rural nature of the proposal is a key factor in its attractiveness to future guests, there are many likely candidate sites of this nature within the plan area and these factors alone do not themselves justify a departure from the local policies that govern development in the countryside.
15. Another appeal decision¹ has been brought to my attention involving a shepherds hut in the countryside. That proposal was in a different local authority area and was therefore considered against a different policy context. Whilst I note that there are some parallels between the proposals, the evidence pertaining to this scheme is not sufficiently compelling to reach the same decision as my colleague and I am not bound by her decision in any event.

Planning balance and conclusion

16. On the evidence before me, the proposal conflicts with the Development Plan and there are no considerations of sufficient materiality to outweigh the identified harm.
17. For the reasons set out above, and having regard to all other matters raised, the appeal is dismissed.

Hollie Nicholls

INSPECTOR

¹ APP/D2510/W/19/3232935

Site: 2 Moorlands, Moor Road, Minehead, TA24 5RT

Proposal: Erection of 1 No. detached dwelling in the garden to the front

Application number: 3/21/19/013

Reason for refusal: Dismissed



Appeal Decision

Site visit made on 16 March 2020

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2020

Appeal Ref: APP/W3330/W/19/3242257

2 Moorlands, Moor Road, Minehead TA24 5RT

- 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 Nick Dunn against the decision of Somerset West and Taunton Council.
 - The application Ref 3/21/19/013, dated 3 February 2019, was refused by notice dated 30 May 2019.
 - The development proposed is construction of new 3 bedroom house in front garden of 2 Moorlands.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. West Somerset and Taunton Deane Councils ceased to exist on 1 April 2019, following a merger to form the new Somerset West and Taunton Council. Provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 allow for any "*plan, scheme, statement, or strategy*" prepared by one of the merged authorities to be treated as if "*it had been prepared and, if so required, published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular plan, scheme, statement or strategy relates*". The status of the West Somerset Local Plan to 2032 has not changed following the merger.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, including on the Higher Town Conservation Area and setting of the Grade II listed building, Edgehill.

Reasons

4. The appeal site forms the front garden of No 2 Moorlands, which, due to the steep topography of the area, is situated at an elevated level along with its attached counterpart, No 1 Moorlands. Below the appeal site is the former vicarage, (listed as No 28 and Edgehill, albeit with 'Edghill' on its name plaque), which are grade II listed buildings listed together along with the front part-rubble, part-render wall. The end of the garden forms an embankment behind Edgehill and the garden level is marginally below its roofline. The garden is also split into two main levels, accessed from the driveway via a set of steps.

5. Adjacent to the site is a recently constructed dwelling which was built within the garden of No 1 Moorlands. Whilst the dwelling appears to be substantially complete, there are elements of external landscaping in its limited garden space which appear, as yet, unfinished.
6. The appeal site lies within the Higher Town Conservation Area (CA). Section 72(1) of the Listed Building and Conservation Areas Act 1990 (as amended) (the Act) requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
7. From the Minehead Conservation Area Review (2003) and from my own observations, the special qualities of the CA include the prominent church building as a focal point, the associated buildings including the former vicarage and stables, and the range and quality of its historic buildings, the majority of which are cottages which line the narrow historic streets. Due to the steep topography of the area, there is a high degree of intervisibility between various parts of the CA. It also possesses a richness due to the variety of traditional materials, including thatch, cob, brick, stone, red clay tiles and the architectural detailing on some buildings, including brick chimneys, canopied porches and bay windows.
8. As the appeal site falls within close proximity of a listed building, I am also required under Section 66(1) of The Act to pay special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest which it possesses. From the evidence and my own observations, I consider that the significance of Edgehill relates primarily to its age, historic association with other prominent historic buildings, built fabric, which comprises a building built in two parts, and its specified features of special interest, including its brick stacks and splayed bay window to the front gable.
9. As a minor element of the Higher Town CA, currently experienced as part of the rising backdrop to Edgehill and seen as a green gap separating Nos 1 and 2 Moorlands from the same, the appeal site makes a minor contribution to the significance of the CA.
10. The appeal site appears to form part of the swathe of tiered and sloping landform that separates Edgehill from the buildings on the tier above. It provides a sense of understanding of the steep topography of the area and allows Edgehill, set above the road as it is, to appear as a dominant building in a streetscape which otherwise comprises largely of cottages of a more modest scale. In this sense, the appeal site is a valuable part of the setting of Edgehill and makes a moderate contribution to its significance.
11. The appeal proposal would introduce a large, contemporary dwelling on the garden to the rear of Edgehill. Whilst there would be a degree of separation therefrom, this would be relatively modest and the building would appear to overcrowd the available space and introduce a prominent and uncharacteristic element in the streetscene behind Edgehill. Whilst the height of the proposed dwelling has been minimised as far as possible, its siting and scale would still detract from the prominence of Edgehill in the streetscene.
12. In views from the south-east, the appeal proposal would appear an incongruous and dominant addition, despite the separation and intervening landscape between it and the road at a lower level. In views from outside the

church, the appeal proposal would also combine with the recently constructed dwelling next door to largely fill the remaining gap on the tier behind Edgehill, undermining the value provided by the relief in the built form. That the openness that once existed has already been eroded to a large extent by the construction of a new dwelling further raises the importance of retaining some spaciousness to avoid the urban form taking on a cramped appearance.

13. In terms of the contemporary design of the proposed dwelling, I note that the Council's non-binding pre-application advice leaned towards a solution that would harmonise with the permitted dwelling next door, although that had not been constructed at that time. Whatever the rationale for the design of the adjacent dwelling which has now been constructed, it does not assimilate with the form or appearance of buildings found within the wider surroundings. As a sleek, flat roof, timber-clad structure, it is devoid of vertical emphasis, gable features or the varied palette of materials found elsewhere within the CA. Whilst the proposal would include more glazing and a more varied depth to its principle east-facing elevation, the overall result would be to add a further degree of incongruity within the CA and streetscene. This would not be sufficiently mitigated by the evergreen hedge which has already been planted on the eastern boundary of the site but that has established only modestly in the intervening period.
14. In terms of the appellant's query concerning the rationale for granting permission for the adjacent dwelling and refusing the appeal application, it is well-established that each application is decided on its own merits. There is also limited information as to what particular policy circumstances or other considerations were before the Council at that time. Secondly, that very proposal has also diminished the area's capacity to accept further change. In my view, the cumulative effects of the proposal considered with the adjoining building would result in greater harm to the significance of the CA and listed building than might have been the case if either one of the proposals were considered individually, or perhaps as a single holistic proposal.
15. In view of this main issue, the proposal would harm the character and appearance of the area and would fail to preserve the character and appearance of the Higher Town Conservation Area. It would also harm the setting of the Grade II listed building, Edgehill. For these reasons, the proposal conflicts with Policy NH1 of the West Somerset Local Plan to 2032 (adopted 2016) which seeks to sustain and/or enhance the historic rural urban and coastal heritage of the district.
16. The National Planning Policy Framework (2019) ('the Framework') states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It also states that where a development proposal would lead to less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal. Under the terms of the Framework, the harm I have identified to the respective heritage assets would amount to less than substantial harm.

Other Matters

17. I am mindful that the living conditions of future occupiers and existing occupiers could be compromised if the dwellings were too close and had overlooking windows. That they would be adequately separated by topography

and distance so as to avoid any harm in this regard is not sufficient in itself to suggest that the proposal is acceptable.

Planning balance and conclusion

18. The proposal would deliver an additional open market dwelling in a sustainable location and would generate both short-term economic benefits throughout the construction period and longer-term economic benefits through its future occupation by incoming residents. However, the limited scale of the proposal would restrain the magnitude of these benefits and I therefore afford them limited weight.
19. The proposal would result in less than substantial harm to the significance of the identified heritage assets. Whilst I consider that the magnitude of harm would be moderate in both identified instances, more weight can reasonably be attached in the overall balance to more than one instance of less than substantial harm.
20. Accordingly, the totality of the identified harm would not be outweighed by the public benefits of the proposal in this case. The proposal therefore conflicts with the development plan, read as a whole, and with the provisions of the Framework.
21. For the reasons set out above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR

Site: Land to the rear of 16 Town Farm, North Curry, Taunton

Proposal: Erection of bungalow on land to rear of 16 Town Farm, North Curry (resubmission of application 24/18/0012)

Application number: 24/19/0021

Reason for refusal: Costs Appeal – Dismissed



Costs Decision

Site visit made on 27 January 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th April 2020

Costs application in relation to Appeal Ref: APP/W3330/19/3240938 Land to the rear of 16 Town Farm, North Curry TA3 6NP

- 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 West of England Developments Ltd for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal of planning permission for the erection of a bungalow.
-

Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG makes it clear 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.
4. The application for costs relates to the fact that the Council Officer's recommended that planning permission be granted for the proposal, but that Council Members took a different course of action without adequate reason to do so. In particular, it is claimed that the ecology information submitted with the

application provided sufficient information to fully assess the impact of the proposal.

5. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In refusing the application, Council Members considered that there was insufficient evidence upon which to assess the ecological impacts of the development. They therefore appear to have taken a pre-cautionary approach and refused the application for this single reason. I note that the Officer's report highlighted the ecological issues. A planning condition was recommended, specifically in relation to reptiles, to ensure appropriate ecological mitigation measures would be delivered.
6. I note the July 2019 ecology report in relation to reptiles, where it concluded that the site had the potential to support slow worm and potentially common lizard and, that works to facilitate construction had the potential to kill/injure reptiles. Therefore, at the time the appeal application was considered by Planning Committee, there still appeared to be ecology information that was outstanding.
7. On this basis, the Planning Committee were entitled to take the view that, at the point they were assessing the application, there was insufficient evidence to fully understand the full ecological impact from the proposed development. Whilst Officers considered that the matter could be adequately addressed by condition, this was not binding on Members, who were entitled to take a different approach. I also note the claimant's reference to the fact that Members could have deferred the application to allow time for the additional information to be submitted. Again, whilst this was an option available to them, there was no requirement for them to follow this route.
8. Subsequently, additional survey information (dated October 2019) was completed and submitted alongside the appeal by the appellant. As a result of these additional survey results, the Council felt unable to defend the appeal. The fact that the Council were unable to substantiate their reason for refusal, relates to the fact that the information to address Member's concerns was submitted after the decision, and not that the decision taken by the Planning Committee was unreasonable.
9. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Adrian Hunter

INSPECTOR