
Appeal Decision

Site visit made on 13 September 2016

by H Porter BA(Hons) MSc IHBC

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

Decision date: 27 September 2016

Appeal Ref: APP/F0114/W/16/3153868

Church Road, Peasedown St. John, Bath BA2 8LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs D. and A. Ehlenbach & Hitchens against the decision of Bath & North East Somerset Council.
 - The application Ref 15/02120/FUL, dated 15 May 2015, was refused by notice dated 26 February 2016.
 - The development proposed is a new single-storey eco-dwelling and associated landscape works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area and surrounding countryside, including its effect on trees; and the effect on the ecological value of the site.

Reasons

Character and appearance

3. The appeal site is situated in a semi-rural location, on the edge of the settlement of Peasedown St John. Located behind the rear garden plots associated with residential dwellings that front Church Road, the site comprises a sloping field of rough grassland and is accessed via a single-track lane, which is also a public footpath. As the local topography falls steeply away from Church Road, the views to the verdant countryside beyond are revealed. There is a clear shift in character as the route descends, with the rear boundary hedge and fences of the Church Road gardens marking a change from a residential built environment to a more rural context.
 4. Collectively, the steep-banked sides of the appeal site, the perimeter shrubs and growth, and the mature trees which over-sail the upper end of the footpath, connect the site and its setting with the wider countryside. At the time of my visit, the heavy growth of the boundary hedge and wooded area beyond obscured views to New Buildings, demonstrating how the site also contributes to a visual separation between the settlements of New Buildings and Peasedown St John.
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5. The proposed dwelling would be constructed into the slope of the site, towards the Church Road gardens. The detailed design and form of the proposal would be sensitive to the landscape setting and retain the appearance of the lower portion of the site. However, the proposed access would cut across a high bank and open up views onto the hard-surfaced driveway, revealing the western elevation of the proposed dwelling. In spite of the positive aspects of the scheme, the proposal would domesticize the site and contribute to an erosion of the rural character and appearance of the countryside, as experienced from the public footpath.
6. The Housing Development Boundary (HDB) is intended to protect and enhance the distinctive character of the area, including the surrounding countryside. While there are aspects of the scheme that recommend it, including the design and proposed wildlife buffer, and low-carbon credentials, the proposal would result in a gradual encroachment of development towards New Buildings. As a result, the proposal would fail to protect the distinctive settlement edge that the HDB currently defines and consequently diminish the positive contribution the site makes in introducing the countryside setting beyond.
7. The trees in the grounds of 47 Church Road are substantial in size and over-sail the upper portion of the public footpath. They are attractive specimens and, although having no statutory protection, make a positive contribution to the visual amenity of the area. While I note that the appellant is sensitive to the need to protect trees, there remains insufficient information to ensure that the proposal would not lead to their loss or unavoidable harm. I accept that a full survey and adequate provision for the protection of trees can often be dealt with by condition. In this instance, however, the lack of clarification raises doubts whether the development can take place without harm to trees, which would have a negative impact on the character and appearance of the surrounding countryside.
8. I conclude therefore that the proposal would adversely affect the character and appearance of the area and surrounding countryside. The development therefore conflicts with is contrary to Saved Policy HG.4 and NE.4 of the Bath & North East Somerset Local Plan including minerals and waste policies, Adopted October 2007 (the Local Plan), which seeks to permit residential development in urban areas and R.1 settlements if it is within the defined HDB and where it does not have an adverse impact on trees; as well as Policy SV1 Somer Valley Spatial Strategy and Policy CP6 of the Bath and North East Somerset Core Strategy Part 1 of the Local Plan, Adopted July 2014 (the Core Strategy) and emerging Policy SV1and NE6 of the Bath and North East Somerset Placemaking Plan pre-Submission Draft, December 2015 (the Placemaking Plan), insofar as they aim to protect or enhance the distinctive character of the area and enable new homes to be built within the housing development boundary, or if identified in an adopted Neighbourhood Plan, and avoid adverse impact on trees of value.

Ecology

9. There is limited information before me on the ecological value of the site; however, the Ecologist's comment raises the possibility that protected species, specifically badgers and reptiles, inhabit the area. While in 2015 it was not considered likely that the field supported any special ecological interest, I note

from the Proposals Map¹ that the site is close to a Site of Nature Conservation Interest. Without the benefit of a recent ecology survey, it is not possible to ascertain the current ecological value of the site or the potential impact on protected species or their habitats.

10. The proposal indicates that a portion of the site would be retained as an area for wildlife and the appellant considers that an ecological assessment could be controlled via condition. However, as established in paragraph 99 of Circular 6/2005², it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before planning permission is granted. In this regard, therefore, I do not consider a condition can be satisfactorily secured or implemented. Moreover, it is unclear how the proposed wildlife area would be maintained and managed. If protected species or their habitats were present on site, the proposed development would lead to unacceptable harm to them.
11. The appeal proposal would therefore fail to ensure that the ecological value of the site is adequately protected and is contrary to Policies NE.10 and NE.11 of the Local Plan, Policy CP6 of the Core Strategy as well as Emerging Policy NE3 and NE4 of the Placemaking Plan insofar as they seek to ensure that development does not affect species that are internationally or nationally protected, or of importance to Bath & North East Somerset, or their habitat.

Other matters

12. Irrespective of past land uses of the site, and rear garden boundaries of other properties along Church Road, I consider that development beyond the HDB would, in this instance, lead to a harmful erosion of the character of the surrounding countryside. While the site may have been assessed relatively recently by the LPA for its development potential, this was for a larger scheme that was ultimately not pursued. I am not aware of the specific planning considerations that led to the developments beyond the HDB referred to by the appellant. I note, however, that in one case the site was partially inside the HDB and had an established principle for development. Additionally, the Council have since been able to demonstrate a five year housing land supply and so a different planning policy context now prevails. I therefore do not consider these examples provide any compelling justification for the harm that would arise from the appeal proposal; nor does the lack of an objection from the Parish Council.

Conclusion

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

H Porter

INSPECTOR

¹ Local Plan Proposals Map, Inset 26. Peasedown St John

² ODPM Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System 16 August 2005