
Appeal Decision

Site visit made on 1 December 2016

by David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC

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

Decision date: 16 December 2016

Appeal Ref: APP/D0121/W/16/3155096

**145/147 Oldmixon Road, Hutton, Weston-super-Mare, North Somerset
BS24 9QA**

- 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 Derek Patch against the decision of North Somerset Council.
 - The application Ref 15/P/2865/F, dated 12 November 2015, was refused by notice dated 15 April 2016.
 - The development proposed is Residential Development of two dwellings and detached garages on land between 145 & 147 Oldmixon Road BS24 9QA.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are a) whether the proposals may be considered compatible with a sustainable pattern of development with specific regard to access to local services and facilities and b) whether or not the proposals would cause harm to the identity, landscape character and setting of the separate settlements of Hutton and Weston-super-Mare (WsM) and, by reason of their layout within the development site, whether they would also harm the character and appearance of the area.

Policy consideration

3. The Inspector for the Public Examination of the North Somerset Core Strategy (NSCS) wrote to the Council on the 8 November with his final decision on the remitted Core Strategy planning policies and the related legal challenge to them. Consequently it is now the intention of the Council to proceed with the formal adoption of the Core Strategy in early/mid-January 2017. I have taken this consideration into account in my reasoning below.
4. The Council also indicate that subsequent to the refusal of the proposals the saved policies of the North Somerset Local Plan (except for five policies not relevant to this proposal) have been superseded by those of the North Somerset Sites and Policies Plan – Part 1: Development Management Policies (NSSPP Pt 1). I have also taken this fact into account in the reasoning below.

Reasons

5. The appeal site comprises a plot of land on the north side of Oldmixon Road. It is located between Nos 145 and 147 Oldmixon Road and between the greater settlement of WsM and the village of Hutton. Although a simple metal sheet clad building occupies an element of the site, the larger plot remains open pasture. The northern side of the road here is characterised by a sporadic pattern of ribbon development comprising both residential and light industrial uses, and vestigial gaps in the frontage formed of open pasture partly screened by hedge boundaries. The south side of the road in the environs of the appeal site is characterised by open countryside, again formed of open pasture and field boundaries lying within the boundary of the Mendip Hills Area of Outstanding Beauty (AONB).
6. Whilst the sporadic development along this section of the road can in places appear consolidated, the remaining fields adjacent to the road, especially on the approach to Hutton, and when experience in the context of the open land to the south, make a significant contribution to the sense of rurality along this approach to the village, reinforcing its identity as a distinct and separate rural settlement.

Sustainable pattern of development

7. Although there are other dwellings nearby, the appeal site is located outside of the two defined settlement boundaries of WsM and Hutton. It is therefore in the countryside where, in the general expectation, development should be strictly controlled in order to minimise the dispersal of residential development so that the necessity of travel is reduced, and the rural character of the landscape is safeguarded. In this context the proposals would be contrary to the remitted SNCS policy CS14. Again, the general expectation is, as defined in paragraph 55 of the National Planning Policy Framework, (henceforth referred to as the Framework) that here, new dwellings should be restricted, and only allowed under certain specified circumstances such as through replacement dwellings or conversions.
8. Nevertheless, although located in open countryside it is not right to conclude the proposals would be locationally remote from the adjacent settlements. However, sustainable patterns of development, and indeed whether or not it should be considered as isolated, must reasonably take account of more than just some linear measure of proximity.
9. It is the case that there are sections of pedestrian footpath along this part of Oldmixon Road, and indeed that there are also aprons of hard-standing fronting some of the commercial units that conjoin with these. Moreover, the proposals themselves would provide a new section of such path along the site frontage. However, this would not achieve by any means a continuous run of path that would link the appeal property with either settlement. Sections of road would remain for any prospective walker to negotiate in order to reach the refuge of the path. Under other circumstances this may not prove a significant factor. However, in the case of this part of Oldmixon Road in my view this would represent a very significant barrier to pedestrians. The level and nature of the traffic along the road, a busy mix of cars, buses and heavy goods vehicles (even in the mid-week/mid-morning time of my site visit) would form an intimidating hazard to any foot-borne user.

10. In poor weather conditions, or in the dark, this would be considerably more the case. Indeed, such would be the degree of apprehension here that I conclude travellers would even be deterred from making the walk to the nearest available bus stop. For the same reasons I consider cycle users would be similarly dissuaded from negotiating this section of road to access services or employment. In such circumstances it seems highly likely to me that most travel would be undertaken by private car. This would be contrary to a core land use planning principle of the Framework, which seeks to actively manage patterns of growth to optimise the fullest possible use of public transport, walking and cycling to meet the environmental role of achieving sustainable development to mitigate the negative impacts of climate change by moving to a low carbon economy.
11. As such I conclude these factors would render the proposal incompatible with a sustainable pattern of development, and so rightly be considered isolated from local services and employment opportunities. It is therefore contrary, in addition to the core planning principal identified above, to paragraph 55 of the Framework, which seeks to restrict such development in the countryside except in special circumstances.

Effect on Landscape character and appearance of the area

12. It is the case that the northern side of Oldmixon Road has a mix of development along it. On the land here to the west of the appeal site this can, at least with regard to the residential elements of it, be regarded as ribbon development in the classic sense. However, this cannot be said to be the case in relation to the land to the east of No 145. Here the appeal site and the open land between Nos 147 and 149 and No153 (effectively defining the built limits of the village) form two key remaining areas of open pasture in the road frontage, albeit screened in part by hedge and tree growth. Despite this natural boundary, the essentially character of the rolling valley farmland is perceptible behind, giving a clear sense of depth and continuity of the open landscape beyond.
13. Neither is it right to say that development here (on the north side of the road) would not affect the character of the land to the south. The two pastoral enclaves on the north are vital visual links to the open countryside to the south, giving critical definition to Hutton as a traditional and distinct rural settlement. This strong sense of rurality is perceived both as one approaches the settlement from the west, and when one leaves from the east.
14. The two proposed dwellings, their associated garages and the central access road would constitute a consolidated form of development that would substantively infill the land between Nos 145 and 147, very significantly diminishing the sense of open rurality that at present exists. This would cause a very significant degree of harm to the open pastoral landscape character of the area. Moreover, it would very significantly diminish the visual linkage with the open rolling landscape to the south, so diminishing the setting of this designated landscape.
15. Furthermore, the configuration of the development proposed, with garages adjacent to the road frontage and houses beyond would lend a sense of depth to the development itself that would compound the loss of openness and at the same time produce a perception of development in depth that is a conspicuous and discordant contrast to the established pattern of residential development

that at present exists on the north side of the road. This too in my view would of itself cause material and significant harm to the character and appearance of the area.

16. For these reasons I conclude the proposed development would be contrary to policy CS5 of the NSCS, which amongst other things, seeks to safeguard the character, distinctiveness, diversity and quality of North Somerset's landscape. For the same reasons they would be contrary to policy DM10 of the NSSPP Pt 1, which seek, amongst other matters, to safeguard the landscape of these same qualities from development of adverse impact. Moreover, because of the harm they would cause to the setting of the adjacent landscape, lying within the AONB, they would also be contrary to policy DM11 of the NSSPP Pt 1, which directs that any development which would have an adverse impact on the landscape, setting and scenic beauty of the AONB, including views into and out of the AONB, will not be permitted unless in exceptional circumstance and where it can be demonstrated that it is in the public interest.
17. For the same reasons I also conclude the proposals would conflict with the fifth bullet point of paragraph 17 of the Framework (Core Planning Principles) that anticipates decision makers taking account of the different roles and character of different areas and recognising the intrinsic character and beauty of the countryside.
18. Insofar as the detailed form of the development with the tandem arrangement of garages to fore and houses to the rear, would also cause harm, the proposals also conflict with policy DM32 of the NSSPP Pt 1, which anticipates development should be of a high quality, distinctive and sustainable. As such it fails to avoid conflict with paragraph 64 of the Framework, which anticipates permission being refused for development of poor design.
19. I have noted the Council's reliance on policy CS19 of the NSCS with relates to Strategic Gaps, and the observations of the Inspector in his comments on the remitted policies presently to be considered by the Council in the New Year. However, as the appellant rightly points out, the Inspector makes clear that policy CS19 does not set the boundaries of strategic gaps and that this task will be for the subsequent 'Sites and Policies DPD'. This is indeed the task of policy SA9 of the North Somerset Sites and Policies plan Part 2. However, this document, as I understand it, is currently being consulted upon, and will not be adopted before the summer of 2017. As such, and in accordance with paragraph 216 of the Framework, I am only able to afford it limited weight for the purposes of this appeal. Having said that, given the very specific circumstances of this case, and the significant harm I have identified in respect of landscape character, such a conclusion has no material bearing on the outcome of my decision.

Other considerations

20. The appellant contends, and the Council accepts, that at present they are unable to demonstrate a five year supply of housing land. As such, and as anticipated by paragraph 49 of the Framework, the Council's policies relevant to the supply of housing cannot be considered up-to-date. Such circumstances in turn dictate that paragraph 14 of the Framework is invoked. Here it is made clear that in such circumstances (the out-of-datedness of relevant housing policies) the decision maker should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the

benefits, when assessed against the policies of the Framework when taken as a whole. In these terms, whether formally adopted or having been reconsidered following remission and presently to be considered for formal adoption, those policies of the NSCS relevant to the supply of housing, in this case most specifically policy CS14, should be afforded a diminished degree of weight.

Planning balance and conclusion

21. Even two houses, in the context of the expectation set out in paragraph 47 of the Framework to significantly boost the supply of housing, must be considered a public benefit. This is especially so in an area with an agreed undersupply of such housing land. Rightly therefore, such provision may be afforded weight in favour of the scheme. However, given that in the wider scheme of things the provision of two houses will not do a great deal to address the current shortfall, I conclude it is appropriate to characterise that weight as modest. Nevertheless, accounting for that benefit, and the diminished weight afforded to relevant housing policies, the harms I have identified in respect of locational unsustainability, to the character and appearance of the area (including to the setting of the AONB) and the conflict with up-to-date development plan policy that ensues, all significantly and demonstrably outweigh the benefits the development would bring.
22. For these reasons I conclude the proposal cannot be considered a form of sustainable development for which the Framework presumes in favour. Accordingly, having considered all matters raised, I conclude that the appeal should be dismissed.

David Morgan

Inspector