
Appeal Decision

Site visit made on 26 January 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 20 February 2017

Appeal Ref: APP/F0114/W/16/3158108

Milford Head, Stitchings Shord Lane, Bishop Sutton, Bristol BS39 5UB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Keyensham Property Developments Ltd against Bath & North East Somerset Council.
 - The application Ref 16/00752/OUT, is dated 17 February 2016.
 - The development proposed is outline application for the demolition of the existing buildings and redevelopment of the site to provide 2 no. single storey dwelling houses (Use Class C3) with associated garages and parking areas.
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Decision

1. The appeal is dismissed and outline planning permission for the demolition of the existing buildings and redevelopment of the site to provide 2 no. single storey dwelling houses (Use Class C3) with associated garages and parking areas is refused.

Procedural Matters

2. As this appeal relates to a failure of the Council to give notice within the prescribed period of a decision on an application for planning permission, I have treated the Council's appeal statement as being what its reasons for refusal would have been. Had it been in a position to determine the application, the Council states that it would have refused planning permission on the following grounds:
 - i) *The proposal is located outside of a Housing Development Boundary where residential development is strictly controlled. In addition, the site is not identified within the adopted Stowey Sutton Neighbourhood Plan and the type of development proposed is contrary to the aims of the adopted Neighbourhood Plan. As such the proposal is contrary to Core Strategy Policy RA1, Saved Policy HG.6 of the Bath and North East Somerset Local Plan (including minerals & waste policies) adopted 2007 and policies SSHP02 and SSHP03 of the Stowey Sutton Neighbourhood Plan 2015.*
 - ii) *The proposed development is not infill development which supports the building of small low cost open market homes and therefore the proposal is contrary to policy SSHP04 of the Stowey Sutton Neighbourhood Plan 2015.*
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- iii) *The development of the site and the proposed dwellings by reason of their position and prominence will have an adverse impact upon the natural beauty of the landscape of this part of the designated AONB and as such is contrary to Saved Policy NE.2 of the Bath and North East Somerset Local Plan (including minerals & waste policies) adopted 2007 and Paragraph 115 of the National Planning Policy Framework 2012.*
 - iv) *The layout of the proposed properties being positioned away from the existing line of development is out of character with the existing pattern of development within the locality and as such is contrary to Saved Policy D.4 of the Bath and North East Somerset Local Plan (including minerals & waste policies) adopted 2007.*
 - v) *Insufficient information has been provided to demonstrate that the development will have no adverse impact upon nationally or locally protected species and as such the development is contrary to Saved Policies NE.10 and NE.11 of the Bath and North East Somerset Local Plan (including minerals & waste policies) adopted 2007.*
3. The application was submitted in outline, with the matters of access, layout and scale for consideration. The matters of appearance and landscaping are reserved for future consideration.
4. Whilst I have considered this appeal on its own merits based on all of the evidence before me, I have had regard to a previous appeal decision, Ref APP/F0114/A/14/2218780, for nine dwellings on the site that was dismissed. Although a different scheme, that decision is nevertheless a material consideration.

Main Issues

5. The main issues are:
- i) the effect of the proposed development on the character and appearance of the site and surrounding area including the Area of Outstanding Natural Beauty (AONB);
 - ii) whether the site is an appropriate location for housing, having regard to the objectives of housing in the area;
 - iii) the effect of the proposed development on nationally or locally protected species.

Reasons

Character and appearance

6. A large part of the site, including the area containing the proposed dwellings is within the AONB. Paragraph 115 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving landscape and scenic beauty in AONBs.
7. The site is not integrated into the main body of the built area of the village in the sense that it has a significantly open nature with only sporadic and fairly modest sized buildings associated with a former frozen food wholesaler

business. Although there is a dwelling immediately adjacent to the site, that is seen in the context of the substantial amount of space around it and the more sporadic nature of development on that side of the lane leading to the open countryside beyond to the north-west. The adjacent caravan site is also of a more open nature and generally well screened by vegetation. It is the sense of openness and spaciousness of the existing site that provides an important link to the open countryside beyond to the north-west.

8. Although the proposed development would only comprise two single storey dwellings, as opposed to the previous nine relating to the last appeal, it would still noticeably add to the built form on the site, even taking account of the removal of the existing buildings. Furthermore, although there are no details at this stage of the appearance of the proposed dwellings, their scale, even being single storey, would still give them a significantly greater prominence than those existing buildings on the site. As such they would materially intrude into and erode that current sense of openness and spaciousness on that side of the lane, albeit not to the same extent as that previous scheme.
9. That effect would be likely to be clearly visible, albeit to varying degrees, from the footpath that runs north-westwards past the site and beyond into the open countryside. Viewed from north of the site on that footpath, the dwellings would be seen to some extent against the backdrop of other houses in the village south of the site and over boundary vegetation. However, they would be very much to the fore and dominant features. Existing and proposed vegetation would be likely to soften or screen them to varying degrees but that could not be relied upon or controlled in the longer term in terms of its maintenance or survival.
10. The erosion of that open and spacious character would also be evident to some degree from the road in terms of glimpses along the access drive or through roadside vegetation, again more so if that were not to be maintained in the longer term.
11. The site is currently not in use as a commercial operation. However, I saw that it was not in a poor condition overall and have no basis to consider that it would become so in the future, to an extent that it would materially detract from the existing open and spacious character. I acknowledge that the former commercial use could be reinstated. However, together with the modest sized existing buildings, I have no substantive basis for considering that any external activity associated with them would have the same degree of prominence as the built form and massing of the proposed dwellings.
12. The appellant refers to the potential for the existing buildings on the site to be converted to dwellings under Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, that would entail use of only the existing modest sized buildings and their curtilages and so would not have the same coverage effect as the proposed dwellings. In any case, any such proposals would be subject to the various criteria of Class P, not least that such development would not be permitted if the building is within an AONB.
13. For the above reasons, the proposal would materially erode the existing landscape and scenic beauty of the AONB. As such, I conclude on this issue that the proposed development would cause unacceptable harm to the character and appearance of the site and surrounding area including the AONB.

That would be contrary to saved policies NE.2 and D.4 of the Bath & North East Somerset Local Plan (including minerals & waste policies) (the Local Plan), which together require development not to adversely affect the natural beauty of the landscape of the AONB and to respond to the local context. It would also be contrary to paragraph 115 of the Framework.

Whether the site is an appropriate location for housing

14. The Framework highlights that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
15. Policy RA1 of the Bath and North East Somerset Core Strategy (the Core Strategy), saved policy HG.6 of the Local Plan, and policies SSHP02 and SSHP03 of the Stowey Sutton Neighbourhood Plan 2015 (the Neighbourhood Plan) together set out that subject to certain criteria, residential development will be acceptable within the HDB or on sites outside it if identified in an adopted Neighbourhood Plan.
16. The appeal site lies outside of the HDB, albeit adjacent to it, and is not identified for new residential development within the Neighbourhood Plan. Furthermore, in terms of other development plan considerations, I have found in respect of the first main issue that the proposal would cause unacceptable harm to the character and appearance of the site and surrounding area including the AONB.
17. I acknowledge that it would be fairly well located in terms of pedestrian access into the village and to the bus stop, albeit via the lane which has no footway. It would therefore be a fairly sustainable location in respect of accessibility to local and more distant services and facilities to serve day to day needs of prospective residents such as shops, schools, leisure and health facilities, without necessitating heavy reliance on private car use. However, in having regard to paragraph 55 of the Framework, I have received no substantive evidence that the dwellings would be necessary in order to enhance or maintain the vitality of any rural communities, especially in light of the significant amount of fairly new existing housing in the village.
18. I have also had regard to the Council's reference to policy SSHP04 of the Stowey Sutton Neighbourhood Plan relating to support for infill development which proposes to build small (1 and 2 bedroom) low cost houses. The proposal would not comply with that policy in terms of the dwellings having at least 4-bedrooms each, and so would fail to relate appropriately to the needs of the village in this respect. Notwithstanding that, it would not in any case be a clear case of infill development given the existing sporadic nature of development in the immediate vicinity.
19. My attention is drawn by the appellant to another appeal decision, Ref APP/H1840/W/15/3005494, relating to a proposal for 32 dwellings at Walcot Meadow in Drakes Broughton. That was allowed despite being outside of the defined settlement boundary and where the Council could demonstrate a five year supply of deliverable housing sites. Whilst I have determined this appeal on its own merits, I note that there are materially different circumstances between that case and this. In this respect, the Walcot Meadow case included the benefits associated with delivering a range of house types and tenures, with 12 affordable housing units in the context of an identified

need for such. Only limited visual and landscape impacts were identified also with that other scheme.

20. For the above reasons, I conclude on this issue that the proposed development would not be in an appropriate location for housing, having regard to the objectives of housing in the area. As such it would be contrary to Policy RA1 of the Core Strategy, saved policy HG.6 of the Local Plan, and policies SSHP02, SSHP03 and SSHP04 of the Neighbourhood Plan.

Protected species

21. The appellant has submitted during the appeal process an Ecology Assessment Update dated November 2016. That report concludes that the proposed development would not have any potential to negatively impact on protected species as long as existing hedgerows are retained. I note that some existing hedgerow might need to be removed in order to provide an acceptable visibility splay at the access to the site. However, I am satisfied that the translocation and/or reinstatement of the removed section behind that visibility splay could be secured and controlled by condition.
22. It is claimed that the site's ecological value would be increased by the replacement of existing hardstanding with garden area relating to unit 1. However, that would be balanced out to some extent by the proposed unit 2 being built on existing grass area. Nevertheless the proposal would be unlikely to lessen the ecological value of the site in this respect. I also note that were variegated yellow archangel found on the site this would be carefully disposed of. This again could be secured by condition.
23. For the above reasons, I conclude on this issue that the proposed development would not have an adverse impact on internationally, nationally or locally protected species. As such, it would accord with saved policies NE.10 and NE.11 of the Local Plan which together require development not to adversely affect such species or their habitat.

Conclusion

24. The Framework sets out that there should be a presumption in favour of sustainable development and indicates that to achieve that, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
25. The proposal would have the benefit of providing two additional dwellings to the supply of housing in the area, the jobs associated with their construction, and the support that prospective residents would provide to the facilities in the village. However, those benefits would be small due to only relating to two new dwellings. I also acknowledge the intention for the dwellings to be of a sustainable design and incorporate renewable energy features. Furthermore, I have found that it would not have an adverse impact on internationally, nationally or locally protected species.
26. However, those factors are insufficient to outweigh the unacceptable harm that the proposed development would cause in respect of not being in an appropriate location for housing, having regard to the objectives of housing in the area, and the character and appearance of the site and surrounding area including the AONB. As such, it would not be a sustainable form of development.

27. Therefore, for the above reasons, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR