

Appeal Decision

Site visit made on 15 May 2017

by K Taylor BSc (Hons) PGDip MRTPI

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

Decision date: 13 June 2017

Appeal Ref: APP/D0121/W/16/3161702

The White House, Bristol Road, Congresbury BS49 5AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Bennett against the decision of North Somerset Council.
 - The application Ref 16/P/1518/O, dated 3 June 2016, was refused by notice dated 5 August 2016.
 - The development proposed is erection of a 4 bedroom detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision letter included a reason for refusal relating to the location of the site. However, following the refusal of the application the North Somerset Council Core Strategy (the Core Strategy) has been adopted including a revision to Policy CS32. During the appeal process the Council has confirmed that this materially changes the situation and the development, in terms of its location, now complies with the Local Plan policy. In light of this the Council no longer wish to pursue this first reason for refusal. I have no grounds to arrive at an alternative view and I will not therefore refer to this issue further.
3. The application is in outline with all matters reserved for future consideration. Drawings showing a site layout and vehicular access were submitted with the application. I have treated these as indicative and had regard to them in determining this appeal.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the area and the potential effect of the development upon protected species.

Reasons

Character and appearance

5. The appeal site forms part of the rear garden to The White House. This property sits in a triangular plot surrounded by roads on each side. There are trees and hedgerows along almost the entirety of the perimeter of the garden. Towards the rear of the garden, where the appeal site is located, the tree and shrub coverage is more extensive. Tree planting is also a significant feature on
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the opposite side of Wood Hill and Bristol Road. This has created a verdant feel which positively contributes to the character of the area.

6. The indicative drawing suggests vehicular access could be accommodated where there is an existing, albeit currently disused, pedestrian access point onto Wood Hill. The appeal site generally sits at a higher level than the roads including at the indicative access point where the appeal site is around 1m above the road level. Tree coverage at this point is significant and some tree loss would be inevitable. Excavation would also be necessary to provide the access into the site. I have no information as to the extent of excavation that would be necessary or the implications for the trees on this part of the site.
7. Modest loss of trees from the site may not unduly diminish the verdant character of the area. However more significant loss would have a detrimental effect and this would be apparent when the site is viewed from the nearby roads. It is necessary to be satisfied that the development can be acceptably accommodated on the site in order to grant outline planning permission. This matter cannot be left for consideration at the reserved matters stage. There is no obvious alternative access point, within the appeal site, that would not similarly result in potential harm to the character of the area through tree loss.
8. The submitted evidence is insufficient for me to conclude that access to the site could be accommodated without harm to the character and appearance of the area through the removal of trees. As such I conclude that it would conflict with Policies CS5, CS9 and CS12 of the Core Strategy and Policies DM9, DM32 and DM37 of the Sites and Policies Plan. These policies seek to ensure the character and distinctiveness of the landscape is protected, that proposals demonstrate that the retention, protection and enhancement of tree canopy cover has been considered in the design, and prevent the loss of visually important trees.

Protected species

9. The Council has stated that the site falls within a buffer area associated with Greater Horseshoe Bats and close to a major roosting site. I have no evidence to contradict this. I note that a Special Area of Conservation and Site of Special Scientific Interest is also located relatively close to the site. The Council's guidance document Ecological, Surveys for Minor and Householder Applications advises that bat surveys maybe required for applications that involve felling of mature trees.
10. Although the application is in outline form, it is likely that the removal of mature trees and hedging would be required and the indicative drawing suggests this will be the case. Given the mature trees on site there is a reasonable likelihood of protected species being present on or near the site and there is a risk that they may be adversely affected by the proposal.
11. In the absence of the necessary surveys I am unable to make an informed decision as to the impact of the development on local biodiversity (including appropriate mitigation measures if protected species are identified as being present). Although a survey may not have been required in order for the planning application to have been valid, this does not necessarily mean that planning permission can always be granted in the absence of a survey.

12. Circular 06/2005¹ makes it clear that surveys should be carried out before planning permission is granted where there is a reasonable likelihood of a protected species being present on site or affected by the proposed development. Although this is an outline application, planning permission is granted by the outline permission and not through the approval of reserved matters. It is therefore not appropriate that survey work is left for that stage. Circular 06/2005 further advises that surveys should only be required by planning condition in exceptional circumstances. No exceptional circumstances apply here.
13. For these reasons I am unable to conclude that the development would not be harmful to protected species. As such, I must find it would conflict with Policies CS4 and CS9 of the Core Strategy and DM8 of the Sites and Policies Plan. These policies seek to avoid harm to legally protected species and maintain and enhance biodiversity.

Other matters

14. It appears that the trees on site are not protected by a tree preservation order; with the appellant suggesting they could be felled at any time. However I have no evidence to suggest that significant tree removal, or other clearance works, is likely to occur if planning permission were not granted. I therefore give this factor limited weight.
15. Due to the distances involved, the site could accommodate a single dwelling without harm to the living conditions of the occupiers of The White House. This is a neutral factor and does not, in itself, weigh in favour of the development. The contribution that one house would make towards local housing supply would only have minimal benefit from a social and economic point of view.
16. On their own or in combination these matters do not outweigh the harm I have found.

Conclusion

17. The potential adverse effects of the development are sufficient to mean that the development would conflict with the development plan when taken as a whole. This harm outweighs the benefits that would arise from the provision of an additional dwelling. For the reasons given above I conclude that the appeal should be dismissed.

K Taylor

INSPECTOR

¹ Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System