
Appeal Decision

Site visit made on 11 July 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 22nd August 2017

Appeal Ref: APP/R3325/W/17/3171946

Land on Hill View, Westport TA10 0BH

- 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 & Mrs Duarte against the decision of South Somerset District Council.
 - The application Ref 16/02975/FUL, dated 6 July 2016, was refused by notice dated 29 September 2016.
 - The development proposed is the erection of a two bedroom, single storey dwelling with associated parking and landscaping.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - (i) biodiversity; and
 - (ii) the character and appearance of the surrounding area and its impact on nearby heritage assets.

Reasons

Biodiversity

3. The appeal site is located adjacent to the Westport Canal County Wildlife Site ("the Wildlife Site") and consists of a parcel of land located on one side of the Westport Canal. It is surrounded in dense vegetation, has a number of tall trees located along its south eastern boundary and is well screened from both the canal and the adjacent B3168.
4. Policy EQ4 of the South Somerset Local Plan (2006-2028) (LP) aims to protect the biodiversity value of land and minimise the fragmentation of habitats. Where there is a reasonable likelihood of the presence of protected and priority species it requires applicants to provide information assessing the impact of the development on their presence.
5. Furthermore, development is restricted unless it can be demonstrated that it will not result in any adverse impact on the integrity of national and international wildlife and landscape designations including features outside site boundaries that ecologically support the conservation of the designated site. Similarly, Policy EQ2 seeks to ensure, amongst other things, that development

does not risk the integrity of internationally, nationally or locally designated wildlife sites.

6. The Council has raised concerns regarding the impact of the proposal on the integrity and ecological functioning of the Wildlife Site and, in particular, its impact on local bat populations and other protected species.
7. DCLG Circular 6/2005¹ ("the Circular") provides guidance on biodiversity and the impact of statutory obligations within the planning system. It advises that 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 the grant of planning permission. This is in order to ensure that all relevant material considerations have been addressed in the decision making process.
8. The appellant has submitted a number of surveys which have which identified no bat roosts, or potential roost sites, on the site. It does, however, identify that protected species of bats are active in close proximity to the appeal site and, as such, might be affected by the development proposed. While I note that the survey data indicates that these numbers are small and any disturbance could be effectively managed, in the absence of any detailed assessment as to how these species will be affected or the effectiveness of the mitigation measures proposed, I cannot be satisfied that any disturbance would remain within acceptable levels.
9. Consequently, I find that there is insufficient information available to establish with any certainty whether the proposal would result in unacceptable levels of disturbance to sensitive wildlife species and habitats. As such, I find the proposal contrary to Policies EQ2, EQ4 and EQ5 and the guidance set out in the Circular.

Character and appearance

10. The site is located on the south east side of the B3168 on a stretch of road characterised by a linear stretch of detached dwellings along its northern side and a general absence of development along the southern side. However, the section of road in which the appeal site is situated includes a number of large, detached houses fronting the street with limited screening along their boundaries and whose residential character is clearly evident.
11. LP Policy EQ2 seeks to ensure that new development achieves high quality design which promotes South Somerset's distinctiveness and preserves or enhances the character and appearance of area. It sets out a number of criteria against which proposals will be assessed including whether they reinforce local distinctiveness, respect local context and conserve the landscape character of the area.
12. Furthermore, Policy EQ3 aims to preserve, and where appropriate, enhance the contribution made by heritage assets to local distinctiveness, character and sense of place. It requires all new development proposals to safeguard, or where appropriate, enhance the significance, character, setting and local distinctiveness of heritage assets.

¹ Circular 6/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system; DCLG (ISBN: 9780117539518).

13. The proposal would involve the erection of a single detached dwelling of contemporary design constructed from a mixture of stone, render and larch with willow hurdles attached to the roof side parapet. It would be positioned centrally within the plot with a detached garage positioned towards the north eastern end of the site. The Council is concerned that the erection of a dwelling in this location would appear at odds with the existing pattern of development, would fail to respect the local character and would lead to an uncharacteristic erosion of the open rural character of the area.
14. I do not agree with this assessment. When travelling in a south westerly direction along the B3168, the southern end of the road is more open. However, this openness ends just north of the appeal site as the road enters a ribbon of residential development located just opposite the development site. At this point the land on the southern side is well screened by mature vegetation and, although it provides a positive contribution to the verdant surroundings, makes little contribution to the open and undeveloped nature of the land on the approach. Likewise, there is no intervisibility between the road and the canal along this section.
15. Properties in this location are highly visible and their residential nature is clearly evident. The introduction of the proposed dwelling on the southern side of this section of road would have only a limited impact on the character of this part of the B3168. While I acknowledge the upper levels of the proposed dwelling would be visible above the hedge, it would be seen in the context of the neighbouring residential dwellings and would not, in my view, appear incongruous or out of keeping in its surroundings. The distinctive open nature of the land to the north would be preserved as would the character of the immediate area.
16. Similarly, while I note the Council's concerns regarding the impact of the proposal on the nearby Grade II listed bridge, in view of the dense mature vegetation along the north and eastern site boundaries, there is limited intervisibility between the bridge and the appeal site. Its impact would be neutral and there would be no harm to the significance of that designated heritage asset in its wider setting.
17. While I accept that the proposed dwelling would be partially visible through the tree line when walking along the footpath on the other side of the canal, it would be shrouded by the large trees located along the south eastern boundary which would act as an effective barrier between the canal and the site itself. While I note the Council's concerns regarding the undeveloped nature of the Canal's margin, the site is well contained and the proposed dwelling would have no perceivable impact on its surroundings. Both the setting and significance of the canal and its contribution to local distinctiveness, character and sense of place would be preserved. Accordingly, I find no harm in this respect.
18. Consequently, I find that the proposal would not fail to safeguard the significance, character, setting or local distinctiveness of identified heritage assets or be harmful to the character and appearance of the surrounding area. Accordingly, I find no conflict with Policy EQ2 or EQ3.

Other Matters

19. The appellant has drawn my attention to a number of other nearby developments which, it is suggested, provide support in favour of the proposal. However, although I do not have full details of those developments, the impacts on local wildlife populations will vary between sites and such impacts should be assessed on a site specific basis. Accordingly, I do not consider they provide any meaningful support in favour of the proposal.

Planning Balance

20. The Council accepts that it does not have a deliverable 5 year supply of housing land. Government policy as set out in paragraph 49 of the Framework advises that where the Council cannot demonstrate a five year supply of deliverable housing sites, policies for the supply of housing should not be considered up-to-date and there is a presumption in favour of sustainable development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
21. The proposal, while modest, would deliver a number of benefits including its contribution to the overall housing supply and its modest contribution to the local economy as well as providing some small support for local services. Although individually these are small, cumulatively they provide some support in favour of the proposal and I afford them a moderate amount of weight.
22. However, although I have found above that the proposal would not have a detrimental impact on the character and appearance of the surrounding area or nearby heritage assets, I have nevertheless found that there is insufficient evidence available to ascertain with any certainty its impact on protected bat populations. I afford this significant weight. When assessed against the policies in the Framework taken as a whole, I find that the resultant harm would significantly and demonstrably outweigh the benefits identified above.

Conclusion

23. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR