



Appeal Decision

Site visit made on 5 December 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 29 December 2017

Appeal Ref: APP/Q3305/W/17/3179952

Land at Wells Road, Henton, Wells, Somerset BA5 1PD

- 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 John Moss against the decision of Mendip District Council.
 - The application Ref 2017/0338/FUL, dated 8 February 2017, was refused by notice dated 10 April 2017.
 - The development proposed is described as a “change of use from existing redundant land to provide two unique hidden dwellings”.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) whether the site offers an acceptable location for the proposed development having particular regard to its accessibility to services;
 - (ii) the effect of the proposed development on the character and appearance of the surrounding area; and
 - (iii) the effect of the proposal on ecology.

Reasons

Location

3. Core Policies 1 & 2 of the Mendip District Local Plan Part 1¹ (LP) set out the spatial strategy for Mendip and direct new development towards the area’s main settlements. Furthermore they restrict development in the open countryside other than in a limited number of exceptional circumstances as set out in Core Policy 4 of the LP. This accords generally with paragraph 55 of the National Planning Policy Framework (“the Framework”) which advises that housing should be located where it will enhance or maintain the vitality of rural communities and that isolated homes in the countryside should be avoided other than in a limited number of special circumstances.
4. The appeal site is situated outside a recognised development boundary. There is nothing to indicate that the exceptional circumstances set out in Core Policy 4 are present. Accordingly, I find the proposal would be in conflict with Core Policies 1 & 2 of the LP.

¹ Mendip District Local Plan Part 1: Strategy and Policies 2006 -2029 (adopted 2014)

5. I note the appellant has sought to rely on the exemption provided for under paragraph 55 of the Framework for isolated homes in the countryside which are of exceptional quality and innovative nature. However, notwithstanding the fact that I do not consider the site to be isolated within the meaning of paragraph 55, I am not persuaded that the development would be truly outstanding or innovative or would help raise standards of design more generally. As such, I do not consider paragraph 55 provides any particular support in favour of the proposal.
6. The Council has also raised concerns regarding the ability of future occupiers to access more sustainable modes of transport. I agree with those concerns. The appeal site is accessed off a narrow poorly lit access track with no footway. Although would only be a short distance between the proposed access and the nearby B3139, that road is also poorly lit with only limited sections of footway. With only limited services available in the immediate locality, future occupiers would be positively discouraged from making longer journeys by more sustainable modes of transport and the development would result in a heavy reliance by future occupiers on the use of the private car. As such, I also consider the proposal would be in conflict with Policy DP9 which, amongst other things, seeks to maximise the use of sustainable modes of transport.
7. Consequently, I find the proposal would be in conflict with Policies CP1 & CP2 as well as with LP Policy DP9 which, taken together, restrict development outside the recognised settlements and seek to maximise the use of sustainable modes of transport.

Character and appearance

8. The appeal site consists of an area of land situated on the southern side of the B3139 which slopes gently from south to north. It is surrounded by large mature hedging which considerably screens the site from the surrounding area.
9. The Council is concerned that the proposed dwellings would erode the sporadic and rural character of this part of the B3139 creating a more urbanised setting which would be detrimental to the character of the surrounding area. I agree with those concerns. The modern, contemporary appearance and design would appear in stark contrast to the more traditional facades of the surrounding properties whose rural origins positively contribute to the character of the surrounding area. This juxtaposition would negatively impact on the character of the surrounding area and erode its rural countryside character. While I note that a suitable scheme of landscaping would go some way to mitigate the overall impact, without full details I cannot be certain that the resultant harm could be sufficiently mitigated.
10. Consequently, I consider the proposal would negatively impact on the character and appearance of the surrounding area. This would be contrary to LP Policies DP1 & DP7 which, amongst other things, seek to ensure that new development is of a high quality design which contributes positively to local distinctiveness.

Ecology

11. Policy DP5 aims to protect, enhance and restore the area's ecological network. It restricts development which, amongst other things, has the potential to cause adverse impacts on protected sites, species or habitats².

² Other than in a limited number of exceptional circumstances.

12. The site is bounded by hedgerow and is quite overgrown. The Council's ecologist has identified it as having the potential to be used by various species including some protected species of bats. However, no habitat survey or bat roost assessment has been undertaken to assess the impact on ecology. As a result, there is little robust evidence to establish whether or not protected species are present on the site.
13. DCLG Circular 6/2005³ ("the Circular") 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. In the absence of any surveys which would indicate that protected species are not present on the site or would not be affected, I am not persuaded that the proposal would meet the requirements of either Policy DP5 or the Circular.
14. Consequently, I find that there is insufficient information available to establish the presence or otherwise of protected species and, as such, consider the proposal would be contrary to Policy DP5 of the LP as well as the advice set out in Circular 6/2005.

Other Matters

15. The appellant has raised a number of concerns regarding the manner in which the Council has determined the application. While I acknowledge the Council is under a duty to cooperate, I have seen nothing in the evidence before me which would indicate that they have acted unreasonably in their approach to this matter.
16. The Council has also referred to LP Policy DP4 in its reasons for refusal. That policy is concerned with protecting the area's heritage assets. There is nothing which would indicate that any heritage assets would be affected by the proposed development and, as such, I have not considered this matter further.

Conclusion

17. 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

³ Circular 6/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system; DCLG (ISBN: 9780117539518).