

Appeal Decision

Hearing Held on 12 February 2019

Site visits made on 12 & 15 February 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 1 March 2019

Appeal Ref: APP/F0114/W/18/3208289

Land to south of Widcombe Lodge, South Widcombe, Hinton Blewett, Bristol.

- 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 Cotterell against the decision of Bath & North East Somerset Council.
 - The application Ref 18/00505/FUL, dated 5 February 2018, was refused by notice dated 10 May 2018.
 - The development proposed is new house of exceptional quality & innovative nature of design.
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Decision

1. I dismiss the appeal.

Application for Costs

2. At the Hearing an application for costs was made by Mr & Mrs Cotterell against Bath & North East Somerset Council. This application is the subject of a separate Decision.

Procedural Matter

3. The National Planning Policy Framework current at the time of the application and the Council's Decision was that of 2012. By the time of the Hearing this had been revised as the 2018 publication. A further revision was published on 19 February 2019, but this did not alter any matters or references related to this Decision.

Preliminary Findings

4. The proposal is for a dwelling outside of a Housing Development Boundary, and within the Mendip Hills Area of Outstanding Natural Beauty. It was promoted specifically as meeting the requirements of the fourth bullet point to paragraph 55 of the 2012 National Planning Policy Framework. That is now paragraph 79e) of the 2019 revision, being one of the circumstances that could allow an exception to the statement in the main body of the paragraph that planning policies and decisions should avoid the development of isolated homes in the countryside.

5. The meaning of the word 'isolated' was the subject of the 'Braintree' judgments¹ and should be given its ordinary objective meaning of '*far away from other places, buildings or people; remote*'. The Appeal Court Judge stated that whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand.
6. This matter was raised with the parties at the Hearing and whilst the appellants remained of the view that the proposed house should be regarded as being isolated, at least spatially, due to the nature of the site and the vegetation, the Council did acknowledge that consideration had been given to the 'Braintree' Judgments but that the criteria in paragraph 79e) were tested and had been found not to be met.
7. The settlement pattern is shown on a map in the Landscape and Visual Impact Assessment. The site is located on the spring line, a location described as being a strong characteristic of settlements in the area, and South Widcombe is described as a characteristic hamlet. There is a cluster of dwellings and built form following the road such that South Widcombe is recognisable as a hamlet to the turn in the road at Tudor Farm. Whilst the appellants assert in the Assessment that the site integrates well into the topography and the hamlet, and that will be tested later in this Decision, the conclusion is that the site should not be considered isolated, and the proposed house would not appear isolated in the terms of the 'Braintree' judgment. The fact that there is a perception of a threat to privacy at Widcombe Lodge, and that too will be tested later, reinforces that view.

Main Issue

8. Having regard to the Preliminary Findings above, the main issues are;
 - The effect of the proposal on the character and appearance of South Widcombe and the Mendip Hills Area of Outstanding Natural Beauty.
 - The effect of the proposals on the living conditions of nearby residential occupiers with particular regard to privacy.
 - The effect of the proposals on highway safety and the free flow of traffic.
 - The weight to be attached to other considerations in favour of the proposals.

Reasons

Policy

9. Policy D1 of the Bath and North East Somerset Placemaking Plan 2017 concerns general urban design principles, and Policies D2 and D3 set out requirements regarding local character and distinctiveness, and how development should contribute positively to the urban fabric. Policy NE2 states that development will be permitted where it conserves and enhances local landscape character, incorporates green space that positively contributes to creating a high quality environment, contributes positively to the local area and conserves and enhances important views. Development should seek to avoid

¹ Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) of 15 November 2017, and subsequently in the Court of Appeal judgment of 28 March 2018

or adequately mitigate any adverse impact on landscape. The provision of essential dwellings for rural workers in the subject of Policy RE4 which states that new dwellings will not be permitted outside a Housing Development Boundary in the open countryside unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside, and then subject to criteria.

10. The Chew Valley Neighbourhood Plan was 'made' on 12 April 2017 and Policy HDE1 seeks the conservation of the characteristic rural features of the area and under Policy HDE2 development must demonstrate how the locally distinctive design attributes including scale, materials and density, are reflected, conserved and enhanced. Policy HDE3 sets out requirements regarding the effect on important views, those being identified in numbered illustrations.
11. The Council have also referred to the Mendip Hills Area of Outstanding Natural Beauty Management Plan and the Supplementary Planning Guidance '*Agricultural Building Design Guideline for the Mendip Hills AONB*'.
12. As a result of the Preliminary Findings, the exception and criteria in paragraph 79e) of the Framework do not apply, although paragraph 131 on achieving well-designed places contains elements of those criteria, stating that when determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
13. Paragraph 172 refers to Areas of Outstanding Natural Beauty and states that great weight should be given to conserving and enhancing landscape and scenic beauty, the designated areas having the highest status of protection in relation to these issues.
14. More generally, paragraph 124 states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and recognising the intrinsic character and beauty of the countryside.

Character and Appearance

15. The facts with regard to the nature of the landscape are set out in the appellants' submissions as well as in the Officer's Report and do not need restating. Viewpoints VR3, Prospect Stile and VR14, Western Lane give a good overview of the area from opposing high-level locations and show a pastoral landscape of mainly small fields interspersed with groups of buildings and roads with the large Chew Valley Lake more distant.
16. Whilst within the Area of Outstanding Natural Beauty, the landscape shows signs of significant human intervention, in the field pattern, buildings and in particular the Lake, which the informative panel at VR3 describes as having been artificially formed. However, that intervention has for the most part worked with the natural features; topography, vegetation, stone and watercourses. There are detractors and where pertinent to the consideration of

the proposal, these have been identified in the submissions, but for the most part the area displays the high level of natural beauty that the designation denotes.

17. The proposals would place a large dwelling in a currently vacant field, and towards the upper boundary away from the road that passes through the hamlet. It is acknowledged that the chosen walling materials and aspects of the massing, and distribution of that massing, have been designed with an agricultural aesthetic, and it is of interest that within a short distance of the site there are two differing presentations of agricultural groups. That to the north at Widcombe Farm is an attractive group with a stone boundary and appears well-detailed as seen from the road, whereas Tudor Farm to the south appears more utilitarian in form and materials. The Council accept that whilst the Design Guidelines seek to influence the form of agricultural development, much could be permitted development.
18. However the roof form and plan form in particular are an interpretation of that aesthetic that introduce a strident arrangement of planes and angles that is not found in agricultural buildings. Also the proposed distribution of built form across the site and the relationship to adjacent ground levels is uncharacteristic of a truly agricultural grouping. It is accepted that the allusions to agricultural forms can and should only go so far, and that the proposal would appear as a residential building, with the use of land likely to be evident as domestic.
19. There are important difference between the considerations relevant to an isolated home in the countryside under paragraph 79e) and those relevant to this location under paragraph 131. In that there are a lesser number of explicit criteria in in the former, the bar may be considered lower, but the addition of the word '*truly*' in the latter need not, in plain English, mean an enhanced level of requirement. It is noted that the circumstances in paragraph 79 are no longer described as '*special*' and that the need to significantly enhance the immediate setting and be sensitive to the defining characteristics of the local area is covered by the more explicit requirement in paragraph 131 to *fit in* with the overall form and layout of the surroundings.
20. Following the 'Braintree' judgments it is clear that there would not be other buildings let alone dwellings to be sensitive to in an isolated location, whereas in the present case and in this location, the overall form and layout of the surroundings must include the buildings and dwellings in the hamlet.
21. The overall form and layout of the surroundings is smaller in scale than is proposed so far as the domestic buildings are concerned, and whilst the agricultural buildings are larger, the allusions to their form rightly stops short of attempting to mislead as to the use, and they are not so closely associated with the appeal site. Those domestic buildings make use of a limited palette of materials and detailing, and their shapes are decidedly traditional. Their location along the road in a close and pleasing relationship would not be followed in the location of the proposed dwelling, and the proposed size, form, use of materials and location on the site would be at odds with that of the hamlet.
22. The degree to which the building would be seen or experienced in association with those of the hamlet would depend on the boundary and other vegetation, and the Council are of the view that what is proposed is in the way of mitigation rather than enhancement. Be that as it may, there would be a

tension between the building being considered worthy of being seen for its qualities, and being screened to avoid the risk of not fitting in with the surroundings. That is a tension that would be far less of a concern in a truly isolated, paragraph 79e) proposal where being visible is often one of the proposed benefits in order to display the architectural quality.

23. No matter the intrinsic quality of the design in this case, and that will be explored further in the planning balance, due to the size and nature of that design, the proposal would fail to fit in sufficiently, and hence would cause visual harm to the appearance of the area, while any successful filtering or screening of views would itself introduce uncharacteristic planting forms that would also cause visual harm.
24. To conclude, the nature of the proposal and its size and design relative to that of the nearby buildings and spaces would not accord with the requirement in paragraph 131 to fit in with the overall form and layout of the surroundings, and would be contrary to Development Plan policies and national guidance which seek to protect the character and appearance of the countryside and recognise its intrinsic character and beauty, and to protect Areas of Outstanding Natural Beauty in particular. Whether this failing is outweighed by other considerations will be considered in the planning balance which follows the next 2 main issues.

Living Conditions

25. This is not an issue supported by the Council, the Officer's Report referring to the distances concerned between the proposed house and Widcombe Lodge, and the significant reinforcement of the boundary planting. That nearby residence has three wall planes that are predominantly glazed with sliding/folding doors which give onto the patio area and lawns. It is clear that this is a part of the dwelling that would be used for recreation. The lower part of the appeal site was apparently once part of the garden to Widcombe Lodge, and displays a different character and appearance when compared with the land higher on the hill. The occupier of the Lodge enjoys the view over than land, which would be lost if boundary treatment were to be enhanced.
26. However, that view cannot be protected in planning considerations and any enhancement would not be so close as to cause visual harm to the outlook. Although the proposed house would be a significant height at a higher ground level than the patio, the distances concerned, the use of the nearest proposed internal spaces and the ability to filter any view with planting within the site all lead to the conclusion that no real harm would occur in planning terms.

Highways

27. The access would be where there is already a field access at the top of the site, and the '*Technical Note on Access*' sets out the considerations. Part of the access passes over common land and Certificate B was served on an owner and a tenant. The Note concludes that appropriate visibility splays can be achieved in both directions. However, local residents asserted at the site inspection that this relied on cutting back vegetation that was not in the appellants' control and that a stone wall impeded the view in any event. The Council did not support that assertion, appearing neutral on that matter.

28. The visibility to the right is acceptable, due to the bend in the road and its narrow width meaning that oncoming vehicles would be seen well in advance. To the left, the presence of the wall and vegetation would reduce the 2.4m dimension, but the raised level of the access, since no reduction in the gradient is proposed or required, would allow an adequate view and again, the narrow width of the road would ensure that vehicles are seen approaching at an adequate distance.
29. Concern was also expressed over the process for site deliveries and site operative's parking, and the location of a place for lorries to pull in and offload over the boundary near the junction was pointed out. There may be a need to break some consignments into smaller loads or some other special arrangements as entry onto, or near, the site for large vehicles would not be feasible. A Construction Management Plan would allow control of this aspect of the construction in order to minimise disruption to road users and residents.

Other Considerations

30. The proposal has been promoted to be in line with the requirements of paragraph 79e) and as previously stated, paragraphs 124 and 131 seek high quality buildings and outstanding and innovative designs. In order to fully weigh the proposal in the balance it is appropriate to consider the submissions on all of the criteria for isolated homes. In this analysis the findings of the Design Review Panel will be considered and the weight to be afforded those findings will be determined.

Truly outstanding;

31. The design process has been fully described in the submissions from the initial contact with the clients and learning about their lifestyle, expectations and requirements; translating that into a series of interconnected spaces, to the point where the finished proposals are presented. The process has obviously been rigorous, borne out of considerable experience and success at promoting this type of proposal. The appellants' comments are acknowledged, that whilst style may be considered a subjective matter, the quality of design stems from an objective and thorough process. Nevertheless there should be a 'creative leap' which differentiates the human and personal involvement above a merely mechanical and dispassionate process. From all that has been submitted and explained, it is concluded that the design should be regarded as being, in isolation, of a truly outstanding quality.

Innovative;

32. This is an alternative to the previous consideration and in a paragraph 79e) case need not necessarily be pursued further. However this is being looked at as part of a general planning balance and it is right that weight is apportioned as appropriate. There is innovation in the use of materials and massing, but it is the technical response to the brief that will be considered now. The appellants clearly have an expertise and interest in the energy equations, and there are aspects of the longer-term storage of generated energy that would be innovative, in fact it is their untried and untested nature that is objected-to in representation. Whilst there is room for laboratory testing as suggested, real-time and real-life usage is still necessary even with the attendant risk of under-performance or failure and the conclusion is that the proposal reaches the standard required.

Reflecting the Highest Standards in Architecture;

33. The considerable experience and success at promoting this type of proposal referred to in the first criterion gives a body of work from this architect to test against. Although context should be a consideration, and this proposal has been found wanting in that respect, it is concluded that, again in isolation, the proposal does meet this requirement.

Helping to Raise Standards of Design More Generally in Rural Areas;

34. A well-designed house that is perceived as being attractive and being sited in the right place could be an inspiration to achieving high standards in other rural developments, and there are aspects of this design that could do that, but the failure to respond appropriately to the overall form and layout of the surroundings limits the weight that can be attributed to this point.

Significantly Enhance its Immediate Setting;

35. For the reasons set out in the first main issue, this criterion would not be met since the immediate setting includes at the least Widcombe Lodge and should reasonably be taken to include the buildings along both limbs of the road at the foot of the lane leading to the site.

Be Sensitive to the Defining Characteristics of the Local Area;

36. Similarly, the local area has been studied and its defining characteristics are the road-side development of limited size of buildings within small to medium sized plots, utilising a limited palette of materials and design details, set within the landscape of fields, trees and a topography influenced by the watercourses. The proposed large dwelling placed across the site divorced from the roadside would not be sensitive to this defining characteristic.
37. To conclude on this test against the paragraph 79e) criteria, the failings with regard to its effect on the immediate setting and the defining characteristics of the local area stem from the fact of the site not being isolated. The site is not one that requires enhancement, and neither the historical use of the land as the site for a one-time dwelling, nor the domestic nature of the lower area with its tennis court add to their being an overriding benefit in developing the land.

Planning Balance and Conclusions

38. The site is not isolated as determined in the 'Braintree' judgments and the appeal falls to be decided on the provisions of the Development Plan and national guidance on the quality of design, as well as the protection of the countryside and the Area of Outstanding Natural Beauty, rather than the exception allowed for in paragraph 79e). This finding limits the weight to be afforded the conclusions of the Design Review Panel.
39. There would be no planning harm to the privacy of adjoining occupiers, and road safety both during the construction and occupation of the proposed dwelling could be assured.
40. In addition it is acknowledged that the proposal should be regarded as being an outstanding design and on the right site, possibly as a stand-alone sculptural form in an isolated landscape, would be of the standard allowed for in parts of the paragraph 79e) exception. Innovation could be assured through conditions, as demonstrated by work carried out by the main parties following

the close of the Hearing, it being essential to be able to conclude on that in the planning balance.

41. However, the nature of this site and its location militate against all of the paragraph 79e) criteria being met as a way of testing the credentials of the design, but in any event the requirements of paragraph 131 on achieving well-designed places should take precedence. The failure of the proposal to acceptably fit in with the overall form and layout of its surroundings is an overriding consideration as visual harm would be caused through the building's size and form.
42. The proposal does not accord with Policies D2, D3, NE2 or RE4 of the Bath and North East Somerset Placemaking Plan, or Policies HDE1 and HDE2 of the Chew Valley Neighbourhood Plan. There are no other considerations such as the quality of the design or the proposed level of innovation that outweigh the harm identified and the policies of restraint outside of a Housing Development Boundary should not be set aside in this case. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

M Almond	Planning and Enforcement Officer Bath & North East Somerset Council
C O'Kelly	Landscape Officer Bath & North East Somerset Council
R Stott	Planning and Enforcement Officer Bath & North East Somerset Council

FOR THE APPELLANTS:

R Hughes	Principal Partner Hughes Planning
R Hawkes	Director Hawkes Architecture
M Young	Partner Squires Young
A Cotterell	Appellant

INTERESTED PERSONS:

Cllr T Warren	Ward Councillor
S Keith	Local Resident
T Merrett	Merrett & Co, advisor to S Keith
A & P Peters	Local Resident
A & H Sandon	Local Resident
C Pritchard	Local Resident
M Shaw	Local Resident

DOCUMENTS

Document	1	Full A3 version of ' <i>Architectural and Landscape Design Proposals</i> ' submitted by appellants
Document	2	Map showing route and viewpoints taken by Design Review Panel 13 September 2017 submitted by appellants
Document	3	' <i>Agricultural Building Design Guideline for the Mendip Hills AONB</i> ' Supplementary Planning Guidance revised 2013 submitted by Council
Document	4	Agreed conditions and e-mail from appellants formally agreeing to those to be 'pre-commencement'.