
Appeal Decision

Site visit made on 24 June 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/R3325/W/19/3226245

Land Adj Garden House, Back Street, Winsham, Chard, Somerset TA20 4EB

- 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 Mrs B Jeffery against the decision of South Somerset District Council.
 - The application Ref 18/02078/OUT, dated 2 July 2018, was refused by notice dated 12 October 2018.
 - The development proposed is the erection of a detached dwelling and associated parking.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached dwelling and associated parking at Land Adj Garden House, Back Street, Winsham, Chard, Somerset TA20 4EB in accordance with the terms of the application, Ref 18/02078/OUT, dated 2 July 2018, subject to the conditions in the attached schedule.

Procedural Matter

2. The application to which the appeal relates was made in outline form, with all matters reserved, save for the access to the site. A drawing was submitted with the appeal with a layout that was marked as being 'indicative'. The case put forward by the appellant reiterates this, and I have used the plan in this respect. A further drawing was submitted with the appeal, showing a visibility splay. As interested parties had the opportunity to comment on this, and it does not involve third party land, no-one would be prejudiced by my using it in my deliberations.

Main Issues

3. The main issues are the effects of the proposed development on:
 - (i) the character and appearance of the area;
 - (ii) the living conditions of the occupants of Woodcott, having particular regard to privacy, and those of future residents of the proposed dwelling having particular regard to outlook; and
 - (iii) highway safety.

Reasons

Character and appearance

4. Back Street is one of a number of roads radiating away from the centre of the village. Garden House is a detached house, with a fairly long rear garden that lies on the northwest side of Back Street, towards its upper end. Residential development is continuous along both sides of the length of Back Street, save for a gap immediately to the southwest of the appeal site where a field entrance separates Garden House from its neighbour in this direction, Lower Stadway. Further dwellings lie to its northeast, the nearest of which is Woodcott.
5. Residential development on the northwest side of Back Street appeared to be uniformly one dwelling deep. However, these buildings vary in terms of their degree of set-back from the road, ages, scales, designs and materials. Fore Street lies close-by, to the southeast of Back Street, and runs parallel to it. Given the proximity of the two roads, development along the two is often close together and quite dense.
6. Two footpaths run from Back Street into the adjacent field. One of these footpaths runs adjacent to the appeal site boundary, within a few metres of the site of the proposed dwelling. From them, the tandem relationship between the proposed dwelling and Garden House would appear at odds with the form of development on this side of Back Street. It would be harmful to the character and appearance of the area. This would be the case, even were the proposed dwelling to be of a single-storey.
7. My attention was drawn to the nature of development at Lower Stadway. However, whilst set back from the road to a considerable degree, it did not represent the form of tandem development that is proposed here.
8. Although I consider that a dwelling could be erected on the site that would not appear cramped, neither this, nor that it would be little seen from Back Street, outweighs the harm that I have identified.
9. For the above reasons, I find that the proposed development would result in a form of tandem development that would cause harm to the character and appearance of the area. It would, therefore, be contrary to the terms of Policy EQ2 of the South Somerset Local Plan 2006-2028, March 2015 ('Local Plan') that, amongst other things, requires development to respect its local context.

Living Conditions

10. A thick and high hedge separates the appeal site from the rear of Woodcott. This screens the majority of that dwelling from the appeal site, but a first-floor bedroom window there looks over the site. However, it is not inconceivable that a dwelling could be designed in such a way that any openings on its south elevation would cause no loss of privacy to Woodcott's occupants.
11. I do not agree that such a solution would appear contrived. It would, rather, simply be a case of designing a dwelling to address the challenges of the site. In terms of the living conditions of future occupants of a dwelling here, there is no reason to preclude the provision of ground floor windows in the east elevation, or any windows looking north or west. The proposed dwelling could,

therefore, provide its occupants with a good outlook without adversely affecting the privacy of the occupants of Woodcott.

12. For the above reasons, the proposed development would not have an adverse effect on the living conditions of existing and future residents. It would, therefore, accord with those terms of Local Plan Policy EQ2 that require development proposals to create quality places and respect their local context.

Highway safety

13. Back Lane is subject to a 30mph speed limit. I saw that a combination of its narrow nature and the site's proximity to a sharp bend, where it meets High Street, traffic speeds passing the site were considerably lower than this. I could also see that traffic flow along this part of Back Lane is light.
14. Whilst I have not been provided with a copy of the Somerset County Council Standing Advice document on highways, its contents are stated in the Council's statement. As the appellant has not countered this, I take it to accurately reflect the Standing Advice. Of the matters referred to therein, the Council's statement sets out that it takes issue on just one point, the degree of visibility available at the junction between the site and Back Lane.
15. Drawing number JGHASUBSP2 was submitted with the appeal and showed visibility splays that could be provided at the junction between Garden House and Back Lane. To achieve these works within the property's boundaries on both sides of the access would need to be undertaken.
16. This would provide adequate visibility to the right, when exiting. However, that to the left, would be sub-standard. Drawing number JGHASUBSP2 sets out that a sightline of 31m could be achieved here. However, Manual for Streets (MfS), which is referred to in the Standing Advice, sets out that this splay should be measured to the nearside of the carriageway. The Council estimates that using this approach, visibility would be in the region of 11m.
17. Given the local conditions, I do not find that this would result in an unacceptable impact on highway safety, as set out in paragraph 109 of the National Planning Policy Framework ('the Framework'). Furthermore, MfS states that in circumstances vehicles approaching from the left would not cross the centre line, the splay in this direction might be measured to the centre line. Although there is no physical barrier to stop vehicles crossing the centre line, due to the width of Back Lane vehicles would not be able to entirely cross its 'centre line'. Thus, using this for the purposes of a splay here would be acceptable.
18. For the above reasons, and dependent on the provision of the splays shown in Drawing number JGHASUBSP2, I feel that the proposal would not be prejudicial to highway safety. It would, therefore, be in accordance with Local Plan Policy TA5 that requires, amongst other things, the provision of a safe access.

Other Matters

19. I have been provided with a plan that shows that part of the Winsham Conservation Area ('CA') lies fairly close to the site, running along Fore Street. The impact of the development on the setting of the CA is not a matter that the Council considered to be an issue. From what I saw at my visit, I have no

reason to disagree with it on this point. There would be no adverse effect on the significance of CA, the setting of which would be preserved.

20. The Council did not refer to the outlook from Woodcott in its reason for refusal. I agree that it would be possible to site a dwelling on the site that would not have a significantly adverse effect in this regard. Similarly, noise and parking during the build was not referred to by the Council. From what I saw at my visit, these are matters that should not not necessarily cause harm. They can also be controlled under other legislation.

Planning Balance

21. Planning law¹ sets out that "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".
22. In this case, I have found that the proposed dwelling would cause harm to the character and appearance of the area, and that this would be contrary to the terms of Local Plan Policy EQ2.
23. The terms of the Government's National Planning Policy Framework are an important material consideration. Its paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision-taking, paragraph 11(d) states that this includes approving development proposals where the policies which are most important for determining the application are out-of-date. Footnote 7 to the Framework states that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council agrees that this is the case, here.
24. Paragraph 11(d)(ii) goes onto say that this presumption should not be applied where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
25. This is an important material consideration, given the Government's objective of "significantly boosting the supply of homes"². The provision of a single dwelling would have a small beneficial effect on the Council's overall supply of homes. Furthermore, at the local level, its future occupiers would provide support for local village services, in accordance with the terms of paragraph 78 of the Framework.
26. Taking all of these factors into account, I consider that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. As a result, the presumption in favour of sustainable development set out in paragraph 11 of the Framework should be triggered.

Conditions

27. The Council has proposed a list of conditions in the event of the appeal being allowed. I have considered these against the terms of the guidance in the Framework³. That relating to reserved matters is necessary, but I have divided

¹ Planning and Compulsory Purchase Act 2004, Section 38(6)

² National Planning Policy Framework, paragraph 59

³ Paragraph 55

this for purposes of clarity. Given that access is a matter for assessment at this time, it is necessary to condition the provision and retention of the visibility splays shown in the drawing submitted with the appeal. I find that those proposed with regards to width of access, parking and turning areas, and any gates to be provided are necessary in the interests of highway safety.

Conclusion

28. In the circumstances of this appeal, the material considerations considered above justify making a decision other than in accordance with the development plan. For these reasons, the appeal should be allowed.

Roy Curnow

INSPECTOR

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. Prior to any other development hereby permitted occurring, the visibility splays shown on approved Drawing JGHASUBSP2 shall be provided. All land and vegetation within these splays shall be permanently reduced to a height of no more than 600mm and the splays shall subsequently be kept free from obstruction.
5. The proposed access shall have a minimum width of 5 metres and shall be retained as such in perpetuity.
6. The development hereby permitted shall not be occupied until a turning area, and parking spaces for Garden House and the dwelling hereby permitted have been provided and constructed within the site in accordance with details, which shall have been submitted to and approved in writing by the Local Planning Authority. Such parking and turning spaces, shall be kept clear of obstruction at all times and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.
7. Any entrance gates erected shall be hung to open inwards, shall be set back a minimum distance of 5 metres from the carriageway edge and shall thereafter be maintained in that condition at all times.

END OF SCHEDULE