
Appeal Decision

Site visit made on 27 June 2019

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 06 September 2019

Appeal Ref: APP/Q3305/W/19/3225340

Land at Garston Farm Cottage, Garston, Frome (Easting 378240 Northing 148035)

- 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 and Mrs Gilburt against the decision of Mendip District Council.
 - The application Ref 2018/1357/FUL, dated 24 May 2018, was refused by notice dated 5 March 2019.
 - The development proposed is described as erection of 3 self-build dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In addition to the plans submitted with the application, further plans were submitted by the appellant prior to the determination of the application. These plans reduce the red line plan significantly and also reduce the proposed quantum of development to a single dwelling. I have studied the correspondence between the Council and appellants and consider that these revised plans were not subject any consideration by the Council during the determination of the original application. The fact that the Council chose not to determine the application on the basis of the revised plans is entirely a matter for them. However, I note that as a result there was no third party notification. Contrary to the appellant's case, I do not agree that it can be 'reasonably presumed' that third parties would not be prejudiced and would not need to be reconsulted. Therefore, having regard to the Wheatcroft Principle¹ and the relevant parts of the Planning appeals: procedural guide (2015) (as amended)² I consider the interested parties would not have been aware of the amended proposals, and determining this appeal on the basis of a revised scheme would have resulted in prejudice to those interested parties. Consequently, I have not accepted the revised plans and have determined the appeal having regard to the plans originally submitted with the application.

Main Issues

3. The main issues are the effect on the character and appearance of the area, where they relate to:

¹ Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

² Procedural Guide: Planning appeals – England: Annexe M - Can a proposed scheme be amended?

- The Frome Conservation Area (CA) and the setting of nearby listed buildings
- The Open Area of Local Significance (OALS)

Reasons

Character and Appearance: Frome Conservation Area and listed buildings

4. The appeal site is an open agricultural field bordered by a railway line to the south and the River Frome to the north. It is accessed via Garston Lane, which is a private access road serving a small collection of dwellings and farm buildings associated with Garston Farm, which is Grade II Listed. To the south of the railway line is a contemporary housing estate.
5. The Frome Conservation Area (CA) extends from the historic central areas of the town into the wider undeveloped area of land between the railway line and river, this includes the appeal site. The CA here has a rural and open character in contrast to the immediate surroundings. The appeal site is framed by significant mature trees and hedgerows.
6. The appeal site and wider area clearly positively contribute to this part of the CA, which forms part of the rural setting of Garston Farm.
7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The Framework, at Section 16 sets out the national policy context on heritage assets, including conservation areas and listed buildings.
8. There is also a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also placed upon me, given that the appeal proposals would affect the setting of a listed building. I am required to have special regard to the desirability of preserving the setting of such a building in this case.
9. The proposed development would significantly change the character of the appeal site, through the creation of built form on an area of open land, in turn affecting the rural setting of Garston Farm and the CA. I consider this to constitute less than substantial harm.
10. I have considered whether there are any public benefits that might outweigh the harm to the heritage assets I have identified. There would be economic benefits associated with the construction of the dwellings; together with future occupation and there would be a benefit associated with additional housing. However, given the scale of the scheme, I consider these benefits to be limited.
11. I therefore find the proposals contrary to Policy DP3 (Heritage Conservation) of the Mendip Local Plan (2015) (LP) which seeks to support development affecting heritage assets, where there are overriding public benefits, and I find the proposals contrary to paragraph 196 of the National Planning Policy Framework (2019) (the Framework).

Character and Appearance: The Open Area of Local Significance

12. The appeal site is situated within a pleasant open area of land that is referred to as Rodden Meadows, which is afforded protection in the made Frome

Neighbourhood Plan (2016) (FNP) as Local Green Space (LGS) and an Open Area of Local Significance (OALS), together with policy DP2 (Open Areas of Local Significance) which seeks to resist development which would harm the contribution to distinctive local character made by OALS.

13. The undeveloped nature of the appeal site contrasts with the neighbouring housing estate to the south as well as the development to the north. Following the meander of the River Frome corridor, the site makes a significant and positive contribution to the OALS. I do not consider there are any overriding material considerations that would suggest that a departure from the OALS designation would be justified in this case.
14. The appellants state that the site forms part of a much larger area with the same landscape character³, which at one time incorporated the land to the south of the railway line, which has subsequently been developed. I am not aware of the circumstances which led the Council to conclude that the development to the south of the railway line would be acceptable. In any case, I am not persuaded that the development of the appeal site is justified by the previous loss of other land to the south that had been categorised in a similar way.
15. I therefore find the proposals to be in conflict with LP policies Policy DP1 (Local Identity and Distinctiveness) which seeks to maintain and enhance local character; DP2 (Open Areas of Local Significance); DP3; DP4 (Mendip's Landscapes) which seeks to resist development that would individually or cumulatively, significantly degrade the quality of the local landscape, and finally policy DP7 (Design and Amenity of New Development) which seeks to secure high quality development appropriate to its context as well as the relevant parts of the FNP.

Other Matters

16. The appellants have included within the description of development that the appeal scheme would be for self-builders and this carries some weight, albeit limited, in favour of the proposals. Again, such weight does not overcome the harm I have identified.
17. I note that the proposals have attracted some support locally, setting out that not all of the OALS would be lost and that there will be a buffer between the proposed development and the river. However, I do not consider that these arguments outweigh my concerns.

Conclusions

18. Having considered all matters raised, I conclude the appeal is dismissed.

Sian Griffiths

INSPECTOR

³ Fig 2, P10 of the Appellants' statement of case