



Appeal Decision

Site visit made on 20 August 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2019

Appeal Ref: APP/Q3305/W/19/3228590

10 Beech Way, Evercreech, BA4 6NZ

- 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 David Galpin against the decision of Mendip District Council.
 - The application Ref 2018/2141/FUL, dated 3 January 2018, was refused by notice dated 20 November 2018.
 - The development proposed is described as Erection of 2 storey 3 bedroom house and detached garage and New entrance via shared drive to 10 Beech Way.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was revised in February 2019. However, as the Framework's policies that are most relevant to this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issues

3. The main issues are:
 - The effect of the development on the character and appearance of the surrounding area;
 - The effect of the development on wildlife; and
 - Whether the development would provide adequate living conditions for occupiers of the dwelling, with particular regard to overshadowing.

Reasons

Character and appearance

4. The appeal site forms part of the rear garden of 10 Beech Way and includes, amongst other aspects, a single-storey workshop/garage, numerous trees and soft landscaping. Surrounding built form involves largely traditional and simple designs, and includes bungalows to the south and two-storey houses in various positions to the east and north-east. However, given its open and verdant appearance and the limited scale of the workshop/garage, the main part of the site where the dwelling would be located relates more closely to the undeveloped land to the west and north-west. In recognition of this, the western part of the site is identified as an Open Area of Local Significance

(OALS) within the Mendip District Local Plan 2006-2029 Part 1: Strategy & Policies (MDLP). The trees on the site are preserved under a group Tree Preservation Order (TPO). Given their extent and significant presence, the trees are visible in the locality and contribute positively to the character and appearance of the site and the surrounding area. A public footpath runs along the site's northern boundary and into the field to the west. I observed on my site visit that the site is therefore visible from the public realm as well as from surrounding properties.

5. With a contemporary appearance, the proposed dwelling would involve part single-storey and part-two storey elements with mono-pitched roofs. There would be a variety of window sizes and types, and there would be limited horizontal or vertical consistency between them. Elevations would involve a combination of render, masonry block and cedar cladding. Although these materials are found in the surrounding area, all elevations on the proposed building would include at least two different materials. The roof would be constructed of zinc, include solar panels and the roof line of the two-storey element would fluctuate.
6. The number and the variety of features, elements and materials would give the building a complex, cluttered and awkward appearance. It would therefore be experienced as an incongruous feature that would be out of character with built form in the surrounding area.
7. I note the picture of a similar house in the locality. However, the evidence before me indicates that the picture has been visually altered and I have limited details regarding how that house came about or where it is located. Consequently, I am unable to draw a comparison between it and the appeal proposal and therefore place limited weight on it.
8. Although the site's location means that the appeal proposal could not reasonably be described as in-fill development, the building's position and size would not appear particularly inconsistent with the varied locations of nearby properties and the surrounding development pattern. I recognise that the existing bank and hedge would remain and provide some screening. The dwelling would have a shallow pitched roof and would be on lower ground than the footpath and bank. It would also be located in a similar position to the workshop/garage and would not extend further into the OALS. However, it would have a significantly greater mass and presence than the building it would replace. Given its size and proximity to the footpath and surrounding plots, it would also be visible in the locality. Consequently, it would be experienced as eroding the open nature of the site and the surrounding area and the OALS.
9. The appellant indicates that Tree 10, a mature Horse Chestnut, would be removed. Although the Council's Tree Officer identifies that Tree 6 would also be removed, the evidence before me, including the submitted Tree Planting Site Plan, indicates that Trees 10 and 12 would be removed and a mixture of eight trees and shrubs would be provided.
10. I recognise that the submitted BS5873 Tree Survey recommends removing Tree 10 and that doing so would benefit Tree 9. However, the Tree Survey identifies Tree 10 as having a life expectancy of 10-20 years and being in fair condition, meaning that while it has some minor faults/disease indicators, it is otherwise of good vigour as might be expected of the age and species. With

Tree 9 being classed as in good condition, it seems to me that removal of Tree 10 is therefore not necessary irrespective of the development.

11. I note that the Council's Tree Officer considers that Tree 10 is integral to the nearby trees with which it forms a distinct group. My observations on my site visit confirm this, with Tree 10 clearly being a mature and relatively tall specimen that positively contributes to the verdant character and appearance of the site, forms an important part of the group of preserved trees and is visible in the locality. Its loss would therefore be significant and would be detrimental to the character and appearance of the surrounding area.
12. I recognise that replacement trees and shrubs would be provided. The proposed 5-10 metre size of replacement Tree 2 would offset the loss of existing Tree 12 given its current height and age. However, the loss of existing Tree 10, given its size, presence and visual contribution, would not be offset by the replacement planting.
13. I note the references to potential future pressures on the trees, arising from matters such as Ash dieback and safety felling. However, this does not lead me to a different conclusion.
14. For the above reasons, I conclude that the development would harm the character and appearance of the surrounding area. I therefore find that it conflicts with MDLP Policies DP1, DP2, DP4 and DP7. Amongst other aspects, these seek development of high quality design which contribute positively to local identity and do not harm the contribution to distinctive local character made by an OALS or degrade the local landscape quality. The proposal would also be inconsistent with the provisions in the Framework regarding achieving well-designed places and conserving and enhancing the natural environment.

Wildlife

15. MDLP Policy DP5 sets out that, amongst other aspects, proposals with the potential to cause adverse impacts on protected and/or priority species or habitats will be resisted. The Planning Practice Guidance indicates that an ecological survey may be appropriate where, for example, protected species may be present. Government Circular 06/2005 (Biodiversity and Geological Conservation), referenced within the provision in the Framework relating to habitats and biodiversity, sets out that, amongst other aspects, 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 planning permission is granted. I am also mindful that the Natural Environment and Rural Communities Act 2006 requires that public authorities must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.
16. There is little substantive evidence before me to confirm the presence or otherwise of protected species, other wildlife and habitats on the site. It has been put to me that the impact of the development on wildlife would be minimal because the bank and hedge would remain, and the proposed planting scheme would increase general biodiversity. However, the County Ecologist has indicated that the site has the potential to provide habitat for various protected species and advised that, amongst other aspects, a preliminary bat roost survey is needed.

17. From my observations on site, it seems to me that the existing workshop/garage, given its open nature, could provide wildlife habitat, including for bats and birds. The numerous trees and the relatively extensive vegetation on some parts of the site could also provide wildlife habitat for various species, and the Tree Survey states that the trees on the site offer high to reasonable habitat value. Accordingly, and with little substantive evidence to indicate otherwise, there is a reasonable likelihood that the development could harm wildlife, including protected species.
18. I acknowledge that a biodiversity report was not requested by the Council when validating or determining the application. I also recognise the appellant's frustration that the Council did not allow time for such a report to be provided despite the decision deadline period having already passed. However, these matters are not determinative as to the acceptability of the appeal proposal and its potential impacts on wildlife and protected species. I have therefore considered the proposal on its merits, based on the evidence before me.
19. For the above reasons, I conclude that the proposed development has the potential to harm wildlife. I therefore find that it conflicts with MDLP Policy DP5. This policy appears to be broadly consistent with the provisions in the Framework relating to conserving and enhancing the natural environment.

Living conditions

20. The proposed dwelling would be located in relatively close proximity to a number of trees, including some large, mature specimens. These trees are located to the south of the proposed dwelling and could therefore result in some overshadowing.
21. However, there are some gaps between them and the southern and western aspects of the dwelling would not be entirely surrounded by trees. Although trees would overshadow the dwelling and garden area at times, the development would receive some direct sunlight at various points during the day. I therefore find that it would not be significantly overshadowed by trees to the point that its occupiers would have an unacceptable living environment.
22. I recognise that there would be some leaf fall and associated debris from the trees. However, the new dwelling and much of its garden and parking area would not be located under significant tree canopy. Consequently, and for the above reasons, the development would not result in future pressure for further trees to be felled or significantly pruned, which could have caused further harm to the character and appearance of the surrounding area.
23. For the above reasons, I conclude that the proposed development would provide adequate living conditions for occupiers of the dwelling, with particular regard to overshadowing. I therefore find that it accords with MDLP Policy DP7. Amongst other aspects, this sets out that development should provide a satisfactory environment for current and future occupants. The proposal would also be consistent with the provisions in the Framework in relation to providing a high standard of amenity for future users.

Other matters

24. I note the appellant's frustration that some issues identified in the Council's refusal of the appeal proposal were not raised during their earlier meetings.

However, this is not determinative as to the acceptability of the development. I have therefore considered it on its merits, based on the evidence before me.

Planning Balance

25. The appeal proposal would provide an accessible, low maintenance home for the appellant's future retirement within the village where he and his family have lived for 35 years. The Design and Access Statement sets out how the development has been designed to minimise its effect on neighbours, and the submitted plans detail surrounding buildings and site levels. It has been put to me that the incorporation of low carbon and sustainable technologies and materials would accord with MDLP Policy 7 and that the Framework indicates that great weight should be given to developments that promote high levels of sustainability. The appellant highlights that the appeal proposal has been repositioned from the previously withdrawn application in order to avoid impacting the railway bank and hedge on the western boundary. I recognise that the site is also within Evercreech, with its amenities and transport links, and that the development plan supports new development within existing settlement limits. Be that as it may, these matters do not outweigh the harm I have identified nor provide justification for development that conflicts with the development plan.
26. A number of neighbours have raised other concerns regarding the development, such as in relation to its effect on the living conditions of adjoining occupiers. However, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail.

Conclusion

27. For the above reasons, the appeal is dismissed.

Tobias Gethin

INSPECTOR