
Appeal Decision

Site visit made on 9 September 2019

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/D0121/W/19/3225475

Land to the rear of the Ship Inn, 1 West Street, Banwell, North Somerset BS29 6DA

- 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 Andrew Wilson Partnership & Apex One Ltd against the decision of North Somerset Council.
 - The application Ref 18/P/3681/FUL, dated 10 July 2018, was refused by notice dated 7 February 2019.
 - The development proposed is the erection of 2 dwellings, access and parking.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The National Planning Policy Framework (the Framework) was amended after the Council refused the appeal application. I have taken the amended Framework into account as a material planning consideration.

Main issue

3. The main issue is the effect of the proposal on living conditions at neighbouring properties.

Reasons

Neighbours' living conditions

4. The appeal site is a piece of steeply sloping scrub land, situated well above and to the rear of houses fronting onto West Street, most of which have an almost 2 storey height retaining wall at the back of their gardens. The proposal is to build 2 detached 4 bedroom houses with access from the High Street through the car park of Ship House (the conversion of the Grade II listed Ship Inn to dwellings). Parking would be provided partly on plot and partly in the shared car park of Ship House. Some land around the fringes of the site would be retained as a wildlife area, under a management plan.

5. The Council's Supplementary Planning Document *Residential Design Guide – Section 1* (RDG1) advises that the privacy of neighbouring properties will normally be preserved by maintaining a distance of at least 21 metres between a proposed upper floor window and neighbours' habitable room windows. This distance would be achieved or nearly achieved in relation to the rear upper floor windows and rooflights of the dwellings at 3 to 11 (odds) West Street.
6. The RDG1 further advises, however, that these distances may have to be increased where there are significant differences in levels. In this case, the ground floor levels of the proposed houses would be well above the eaves of the existing dwellings on West Street, so that the levels differences would be much greater than would be expected in any normal situation. Such substantial height differences would reasonably require commensurate increases in separation distances, which would not be provided here. These views would be angled, but still sufficiently direct to intrude on neighbours' privacy. Intervening features such as a fence, a wall and a hedge would not adequately screen views from the upper floor bedroom windows towards the West Street houses' upper floor rear windows and rooflights.
7. In dismissing a previous appeal for 4 live/work units in 2008¹, the Inspector found that the new buildings would be far enough away from the West Street properties to avoid unacceptable overlooking. That decision, however, pre-dates RDG1, which sets an appropriate guideline for assessing this matter. I have considered this proposal on its own merits, in light of that guidance.
8. The boundary fence or wall at the edge of the site could not be raised further to block these views because it would become an overbearing feature, sitting on top of the already very tall retaining wall at the back of the West Street properties' gardens. Two of the proposed houses' facing first floor windows would serve bedrooms that would have other windows to provide alternative outlook, so that a condition could reasonably be imposed requiring these windows to be obscured. This would, however, leave 2 other bedroom windows that would give rise to undue overlooking.
9. Other views from lower vantage points could be adequately screened. One of the proposed houses would have 3 first floor bedroom windows facing the back of 17 West Street, but the levels difference here would not be so severe and the separation distance would be in line with RDG1 recommendations for privacy. Only small bathroom windows would face the houses at 10 and 11 School Close. The proposed houses would also accord with the advice in RDG1 concerning effects on outlook, avoiding any unacceptable overbearing effect. I am furthermore satisfied that overshadowing of neighbouring properties would not be excessive, noting that the Council has not raised this as an issue and no specific evidence has been submitted on this point.
10. Finally, the parking and manoeuvring areas for the proposed houses would be to the rear of neighbouring properties, but would be set away from their gardens with a stone wall between. Vehicles using these areas should not cause significant disturbance to neighbours.
11. Although the proposal would be acceptable in some respects in regard to this issue, I conclude that it would unacceptably harm living conditions at the

¹ APP/D0121/A/08/2073810

neighbouring properties 3 to 11 (odds) West Street due to loss of privacy. It therefore conflicts with the aims of the Policy CS3 of the Council's Core Strategy, Policies DM32 and DM37 of the Development Management Policies - Sites and Policies Plan Part 1 and RDG1, to ensure that developments do not harm amenity, including prejudice to the living conditions of adjoining occupiers. These aims align with the Framework's emphasis on creating places with a high standard of amenity.

Other matters

12. The site lies within the Banwell Conservation Area and in the setting of the Grade II listed Ship House, where special attention must be paid to the desirability of preserving or enhancing the character or appearance of the area and preserving the setting of the listed building. Banwell is a hillside village where buildings are often set close together in an irregular layout, climbing up the slopes. The proposed houses complement this aspect and their design would fit in with the relatively simple architectural character of the traditional buildings in the central part of the village. They would be set away from Ship House on a piece of unused land which is not important to the setting of the building. I find that the proposal would preserve the character and appearance of the conservation area and the setting of the listed building.
13. I have also considered the other objections raised by third parties, but find nothing that significantly affects my decision. I note that the Council's Highways advisor raises no objection to the proposal. The minor amount of traffic which would be generated could be accommodated by the High Street, despite that street being steep and narrow. Local wildlife would be provided for with the retention of the managed ecological area, with new tree planting. I see no reason why excessive pollution should be caused here by the addition of 2 new houses, though I do accept that the heavy traffic on West Street must cause some problems in this regard. The appeal proposal has been designed in conjunction with a structural engineer and the Council is now satisfied that the houses could be built without prejudicing the stability of the site, following on from concerns raised in the previous appeal decision and applications.
14. Significantly, the Council concedes that it does not have the required 5 year supply of deliverable housing sites at present, in line with Framework paragraph 74. This shortage of supply is further confirmed by the 2018 Housing Delivery Test measurements published by the Government in February 2019, which show that the Council was just below the 75% delivery threshold for the last 3 years, as set out in Footnote 7 of the Framework.
15. In accordance, therefore, with Framework paragraph 11(d) and Footnote 7, the policies most relevant to determining the application are considered to be out-of-date. In this situation, the 'tilted balance' is engaged and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Planning balance and conclusion

16. The proposal would make good use of an unused site to provide new homes within the village centre, near to services and facilities. It would therefore bring minor economic and social benefits. As it would not harm the character or

appearance of the area or the local ecology, its general environmental impact would be neutral. I have concluded, however, that it would unacceptably harm living conditions at some neighbouring properties, in conflict with the Framework as well as with development plan policies. This is a social and environmental concern which is sufficiently compelling for me to conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR