
Appeal Decision

Site visit made on 9 September 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2019

Appeal Ref: APP/Q3305/W/19/3230478

Central Stores, Stoke Hill, Stoke St Michael, Shepton Mallet BA3 5JJ

- 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 the Estate of Michael J Wright against the decision of Mendip District Council.
 - The application Ref 2018/1913/OTA, dated 27 July 2018, was refused by notice dated 12 December 2018.
 - The development proposed is outline planning for a single dwelling (resubmission).
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Decision

1. The appeal is allowed and outline planning permission is granted for a single dwelling (resubmission) at Central Stores, Stoke Hill, Stoke St Michael, Shepton Mallet, BA3 5JJ, in accordance with the terms of the application, Ref 2018/1913/OTA, dated 27 July 2018, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal application was made in outline form with matters of access, scale, layout, appearance and landscaping to be considered at a future reserved matters stage. An indicative layout plan (Drawing No L5649/150 E) accompanies the outline application and I have taken it into account only in so far as establishing whether it would be possible, in principle, to erect a dwelling on the site.

Application for costs

3. An application for costs was made by the Estate of Michael J Wright against Mendip District Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are the effect of the proposal on highway safety and the character and appearance of the area.

Reasons

Highway safety

5. Notwithstanding that matters of access are reserved to future consideration, there appears to be an obvious route into the site from the public highway. This route involves accessing the appeal site via a short section of unmade private driveway which has a junction with The Bridge. The same driveway

- serves approximately three other existing residential dwellings and is also intended to serve an extant permission for another dwelling.
6. The junction of the driveway with The Bridge is on a section of road which is generally level. A short distance to the north-west is the mini roundabout where The Bridge meets with two other roads, Stoke Hill and Church Street. The visibility in this direction is adequate and the proximity of the junction of the driveway to this roundabout means that approaching traffic speeds are slow with cars exiting the roundabout.
 7. Visibility to the south-east of the site is constrained by the curvature of the road and the existence of a boundary wall which is in separate ownership. On the opposite side of the road, slightly staggered with the driveway access, is the junction of The Bridge and Mendip Road. The existence of this junction and the houses which are in close proximity to the carriageway edge, have the effect of reducing traffic speeds on approach to the centre of the village. The appellant's speed survey findings recorded 85th percentile speeds of 20 mph passing the driveway junction. Whilst the speed survey may have been undertaken for a short duration at a quieter period of the day, I also noted at the time of my site visit that cars passing the driveway junction appeared to be driven at speeds which were cognisant of the nature of the junction layout and proximity of houses in the area.
 8. The recorded speeds of traffic passing the driveway junction necessitates a visibility splay to the south-east of approximately 25 metres which the appellant's Transport Consultant indicates is achievable. Owing to the width of the junction, a distance of approximately 25 metres is achievable to the centre line of the carriageway set approximately 2 metres back. Whilst the slightly constrained visibility demands that users pay a greater degree of care and attention whilst positioning vehicles at the junction, I do not consider that the increased use of the junction to serve one additional dwelling would lead to prejudicial impacts on highway safety.
 9. I acknowledge that existing residents have had more experience of navigating the junction and local road network more generally, but there does not appear to be any recorded accidents in the vicinity of the appeal site in relation thereto. I also note that the Council's Highways Development Officer did not raise any concerns in relation to this aspect of the proposal.
 10. In view of this main issue, the proposal would not lead to prejudicial effects on highway safety and therefore complies with Policy DP9 of the Mendip District Local Plan 2006 – 2029 (Local Plan), which, amongst other things, seeks to ensure that proposals make safe and satisfactory provision for access by all means of travel.

Character and appearance

11. The area surrounding the appeal site has a varied character with a range of traditional dwellings, mostly in terraced forms, there are also some detached more modern dwellings nearby. Irrespective of age, the surrounding dwellings are predominantly two storey and are constructed from a range of traditional materials, including stone.
12. I am mindful of the existence of the nearby heritage assets, Ark House and Bourne House. Both of these dwellings are Grade II listed and front onto

The Bridge with the shared driveway to the rear separating them from the appeal site. Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to have special regard to the desirability of preserving the listed buildings and their settings. These requirements are echoed in the National Planning Policy Framework (the Framework) which requires that harm to the significance of a designated heritage asset of a less than substantial magnitude should be weighed against the public benefits of the proposal.

13. From the listing descriptions of both Bourne House and Ark House, and other evidence before me, I consider that their significance relates primarily to their age, form and historic fabric, particularly the original parts and principal elevations. The appeal site makes a negligible contribution to the setting of the heritage assets as an open site to the rear of the buildings which is particularly well enclosed by boundaries topped with vegetation.
14. The appeal site is an undeveloped grassed area which is relatively flat and is enclosed on all sides by walls and vegetation, including a conifer hedgerow on one side. The plot is elevated slightly above the level of the adjoining driveway and is set back a good distance in views from The Bridge.
15. The proposal seeks permission for a single dwelling. The indicative plan shows that the proposed dwelling and adjoining garage would be positioned to the front and centre of the site with space for parking and a garden to the rear. There is also an indication of works taking place to buildings adjoining the boundary but these are not part of the current proposal. From the indicative plan, it is clear that the site could easily accommodate a single dwelling with off-street parking and a generous garden without resulting in a cramped or contrived form of development. Furthermore, the existing boundary vegetation and trees around the site would be retained which would help to maintain the established landscaped quality of the site and soften the impact of any proposed future development.
16. Having regard to the location of the site and its degree of detachment from existing heritage assets, its size and the existing pattern of development in the area, it appears that an acceptable solution could be designed to assimilate well with the area without harm to its character or appearance. As the appeal site makes a limited contribution to the significance of the nearby heritage assets, subject to layout, scale, appearance and landscaping being agreed at reserved matters stage, an appropriate solution could be devised to at least preserve their respective settings.
17. As such, notwithstanding that the appeal scheme is in outline, I have found that the appeal development would respect its surroundings. I therefore conclude that the proposed development would not result in harm to the character and appearance of the area or the setting of designated heritage assets, and therefore complies with Local Plan Policies DP1 and DP7 which require that proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness.

Other Matters

18. I note the comments in respect of the potential for the proposal to result in loss of light for occupants of Ark House and Bourne House given the elevated position of the appeal site relative to the access driveway. As scale, layout and

appearance are matters reserved for future consideration, I am unable to fully conclude on this aspect. Nevertheless, given the spacing between the appeal site and both dwellings, it would seem unlikely that a single dwelling would result in any undue loss of light for existing neighbouring occupiers.

19. I note that there are concerns in respect of the location of an existing spring and the potential that the proposal would generate issues in respect of surface water and foul water drainage. There is limited evidence of any drainage impediments in the area but matters relating to surface and foul drainage can be comprehensively addressed by way of planning conditions prior to commencement.
20. The concerns regarding the maintenance of the private lane are not material to my consideration of the planning merits as this is a civil matter.

Conditions

21. As the application is in outline form, it is necessary to impose the standard conditions requiring approval of reserved matters and the relevant timescale for the submissions and commencement of development.
22. A condition confirming the plan to which the decision relates is necessary in the interests of certainty.
23. In the interests of the character and appearance of the area and in the interests of highway safety, it is necessary to seek details to be included within the future reserved matters application to provide for landscaping, visibility splays, parking and turning areas.
24. In the interests of the health of future occupiers, relevant conditions seeking a contamination assessment and, if necessary, remediation measures and verification of implementation are required.
25. It is necessary to impose pre-commencement conditions in respect of surface and foul water drainage. The agreement of the appellant has been sought in respect of these conditions.

Conclusions

26. For the reasons set out above, the appeal is allowed subject to the conditions in the schedule set out below.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Approval of the details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be obtained from 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 or three years from the date of this permission, whichever is the latest.
- 4) This decision relates to the following plan: L5649/150 E.
- 5) Plans and particulars of the reserved matters referred to in condition 1) above shall include details of:
 - the provision to be made for the parking of vehicles within the site;
 - the space to be provided for the loading, unloading and turning of vehicles within the site;
 - visibility splays;
 - hard and soft landscaping;
 - ecological mitigation and/or enhancement measures; and
 - details of existing and proposed levels including finished floor, eaves and ridge levels.

The approved parking and manoeuvring area shall be properly consolidated prior to occupation of the dwelling hereby permitted and shall not be used other than for the parking of vehicles in connection therewith.

- 6) No development shall commence unless an investigation and risk assessment of the nature and extent of contamination on site and its findings have been submitted to and approved in writing by the Local Planning Authority. This assessment shall be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall consider all previous uses and shall be conducted in accordance with the DEFRA and the Environment Agency's 'Model Procedures for the management of Land Contamination, CLR 11'. The assessment and written submission shall include:
 - A survey of the nature, extent and significance of any contamination;
 - An assessment of the potential risks to:
 - i. human health;
 - ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - iii. adjoining land;
 - iv. groundwaters and surface waters;

- v. ecological systems; and
 - vi. archaeological sites and ancient monuments.
- 7) No development shall commence unless a detailed remediation scheme to bring the site back to a condition suitable for the intended use by removing unacceptable risks to human health, controlled waters, ecological systems, buildings and other property and sites of historical interest, has been submitted to and approved in writing by the Local Planning Authority unless the findings of the approved investigation and risk assessment concludes that a remediation scheme is not required. The scheme shall include:
- i. all works to be undertaken;
 - ii. proposed remediation objectives and remediation criteria;
 - iii. timetable of works and site management procedures and where the site is to be developed in phases, a phasing plan identifying any specific protection measures;
 - iv. where required, a monitoring and maintenance programme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out; and
 - v. where required, additional contingency measures designed to safeguard future users and receptors.

The remediation scheme shall be designed to ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The development shall not commence until the approved remediation scheme has been carried out, excepting those works required to carry out remediation, or in accordance with the approved timetable of works.

- 8) The dwelling hereby permitted shall not be first occupied until a verification report has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required. The verification report shall confirm that the approved remediation scheme has been completed and demonstrate the effectiveness of the remediation carried out.
- 9) In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority and further development works shall cease unless alternative arrangements have been first agreed in writing by the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary, a revised remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The revised scheme shall thereafter be implemented as approved. The requirements of this condition shall also apply if other circumstances arise during the development, which require a reconsideration of the approved remediation scheme.

- 10) No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion.
- 11) No development shall commence until a detailed scheme for the disposal of foul drainage from the development has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and completed prior to the occupation of the dwelling.