

Appeal Decision

Site visit made on 8 January 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2020

Appeal Ref: APP/R3325/W/19/3235472

Land off Orchardleigh, East Chinnock, Yeovil BA22 9DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr T Clare against South Somerset District Council.
 - The application Ref 18/04034/FUL, is dated 19 December 2018.
 - The development proposed is for the erection of a 2-storey detached house with three on site car parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of a 2-storey detached house with three on site car parking spaces at Land off Orchardleigh, East Chinnock, Yeovil BA22 9DZ in accordance with the terms of the application, Ref 18/04034/FUL, dated 19 December 2018, and subject to the conditions set out in the schedule to this decision.

Application for costs

2. An application for costs was made by Mr T Clare against South Somerset District Council. This application is the subject of a separate Decision.

Background and Main Issue

3. The appeal is against a failure of the Council to give notice of its decision on the planning application Ref 18/04034/FUL within the prescribed period. As such, there is no decision notice. However, the Council's appeal statement sets out its concerns with the proposed development. On this basis, I consider the main issue to be the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. Consisting of rough grassland, the broadly triangular appeal site is bounded by a hedge to the rear and a hedge and trees to the side. It faces towards and slopes upwards and away from a narrow road which changes near the site from the highway, Orchardleigh, to an unclassified lane known as Back Lane. Given its location on the edge of the settlement of East Chinnock, the site is in close proximity to undeveloped land and the open countryside. However, there are various properties in the area surrounding the site, including to the north-west/west and south-west, and a dwelling known as The Rookery is situated to the east. The site is positioned in between those residential properties and is therefore not isolated.

5. There are no buildings on the site and it seems to me that it cannot reasonably be described as previously developed land. However, given its adjacency to the highway, the proximity of existing built form and the presence of the strong hedge line along its rear boundary and the track behind, the site is experienced as falling on but within the edge of the settlement rather than beyond it and in the open countryside. The proposed development would therefore not read as extending the built environment beyond the edge of the settlement and into the countryside. Accordingly, it would not appear as an incongruous feature that would be out of character with its immediate edge-of-settlement surroundings nor would it erode the rural character of the countryside beyond.
6. The proposed dwelling would be set towards the front of the site, which is elevated above the lane and the nearby terraced houses on Orchardleigh. However, it would be set down into the site and its first floor would be situated partly within the roof, which would have a relatively shallow pitch. Accordingly, it would not appear as an unacceptably dominant, prominent or intrusive feature. It would also not be particularly noticeable in the wider area.
7. Surrounding built form generally consists of two-storey pitched-roof dwellings. The scale, form and design of the proposed development would sufficiently reflect the surrounding built environment, while its roof would not be noticeably shallower and the plot would be of an acceptable size. The site is also not on land designated as Green Belt or Local Green Space.
8. For the above reasons, I conclude that the proposed development would not harm the character and appearance of the surrounding area. I therefore find that it accords with Policy EQ2 of the South Somerset Local Plan 2006-2028 (2015) (SSLP). Amongst other aspects, this requires development to reinforce local distinctiveness and respect local context. The proposal would also be consistent with the provisions in the Framework in relation to achieving well-designed places.

Other matters

9. The proposed development would be accessed via Orchardleigh and Back Lane. They are relatively narrow and there is a sharp bend on Orchardleigh which has limited visibility. However, the highway currently provides access for several properties and one additional dwelling would not result in a significant increase in traffic movements. Adequate visibility splays would be provided either side of the proposed parking area and there would be sufficient space for vehicles to safely enter and exit the site. The proposed development would therefore not pose a risk to vehicles or other users of Orchardleigh and Back Lane, nor would it affect access, including for agricultural, refuse, emergency and utility vehicles.
10. The proposed dwelling would not be directly opposite the terraced houses located on the other side of Orchardleigh. The outlook of the occupiers of those properties would therefore not be unacceptably diminished. Any views from the new dwelling towards those houses would also be limited to oblique angles, while its first-floor front-facing windows would serve non-habitable rooms and the ground floor would be partially set down into the site and behind soft landscaping. The occupiers of the property to the north-west of the site would also not be harmed by the development given the degree of separation between that property and the proposed dwelling and the significant screening provided by the existing hedge and trees on the shared boundary.

11. My attention has been drawn to some other appeal decisions. However, from the evidence before me, they are for schemes in different locations and involve different issues. Consequently, I find that the Inspectors' findings in those cases are not determinative to the acceptability of the appeal proposal. It is also a well-accepted principle that each proposal is considered on the basis of its particular circumstances. I have therefore dealt with this case on its individual merits.
12. A number of other matters have been raised by interested parties and I have taken them all into account. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters, including with regard to footpaths, land clearance and subsidence, wildlife and biodiversity, springs, drainage and water supply. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed, and with each proposal determined on its own merits, allowing it would not set a precedent. The appeal was also submitted within the necessary timescale and is therefore valid.
13. My attention has been drawn to SSLP Policy SS2. In summary, that sets out that development in rural settlements – which the SSLP considers as part of the countryside – will be strictly controlled and limited to, amongst other exceptions, that which meets an identified housing need, particularly affordable housing. It indicates that development will be permitted where it is commensurate with the scale and character of the settlement, meets one of the listed exceptions and increases the sustainability of the settlement in general. It also sets out that proposals for housing development should only be permitted in rural settlements that have access to two or more key services listed in the SSLP.
14. The appeal proposal would provide a new dwelling within East Chinnock. While it would not be built on previously developed land, the new dwelling would be commensurate with the scale and character of East Chinnock and its immediate edge-of-settlement surroundings. Although it would have three bedrooms and would provide open market rather than affordable housing, Policy SS2 does not restrict residential development to affordable housing of one to two bedrooms only. The evidence before me indicates that residents' comments on housing issues in relation to the Parish Plan for East Chinnock revealed that it was considered that existing housing, even though it may be meeting current needs, would not necessarily meet future needs. The Council has also indicated that it cannot demonstrate a sufficient supply of deliverable housing sites in the district. Accordingly, it seems to me that the development, providing a dwelling within the settlement, would therefore meet an identified housing need.
15. Setting out that East Chinnock has a public house, church and village hall, the Council considers that the settlement is a reasonably sustainable location for residential development and that the principle of development is acceptable. Although neighbours have raised concerns about the recent closure of facilities and services in the village, I have little substantive evidence which indicates that the settlement does not have two or more of the key services listed in the SSLP. I therefore find that the proposal would increase the sustainability of the settlement in general and maintain or enhance the vitality of the community.

16. Some neighbours have raised concerns about the proposed development and that it would be on an undeveloped plot. However, the Parish Council have not objected, there is little substantive evidence that the proposal would be in direct conflict with relevant community led plans, and I have found that it would not result in any material harm including in relation to, amongst other aspects, the surrounding area, highway safety and the living conditions of adjoining occupiers. Despite the concern raised by some residents, I therefore find that, for the above reasons, the proposed development would not conflict with SSLP Policy SS2.
17. My attention has not been drawn to any other SSLP policies which the appeal proposal is alleged to conflict with. On the available evidence and for the above reasons, I therefore find that the proposed development accords with the development plan. The development would also provide some benefits in the form of, amongst other aspects, construction work and adding to the supply and mix of housing.
18. The main parties agree that the Council cannot demonstrate an adequate supply of housing. However, as I have found that the appeal proposal would accord with the development plan, it is not necessary to assess it against paragraph 11d) of the Framework. In any event, the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed and, for the above reasons, any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Conditions

19. I have had regard to the various planning conditions that have been suggested by the Council. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and to ensure that details are submitted to and considered by the Council where relevant.
20. I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. A condition requiring the parking area to be provided and retained is necessary in the interests of highway safety. However, because the submitted plans provide sufficient detail, the requirement for the Council to provide their written approval is not necessary. A condition requiring the submission of details of external materials for the walls and roof of the proposed dwelling is necessary to ensure that the development would be appropriate in relation to its surroundings. Details of proposed drainage on the site are required prior to the commencement of development in order to ensure that foul and surface water drainage would be sufficient.
21. The recommendations in the appellant's ecology reports cover five of the six ecology-related conditions suggested by the Council. I have therefore imposed a condition requiring compliance with the appellant's ecology reports and the other condition suggested by the Council. These conditions are reasonable and necessary to ensure that biodiversity is preserved and enhanced.

Conclusion

22. For the above reasons, the appeal is allowed.

Tobias Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OEC/PP/01, OEC/PP/02, 3875-01 and PGLJ010\01.
- 3) Prior to occupation of the development hereby permitted, the parking area shown on the submitted plans must have been constructed and made available for the purposes specified. Thereafter, the area must be permanently maintained, kept free from obstruction and available for the purposes specified.
- 4) Prior to work above damp proof course level, full details (including the provision of samples where appropriate) of proposed external materials of the walls and roof of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be carried out in accordance with the approved details.
- 5) Prior to the commencement of the development hereby permitted, details of the foul and surface water drainage to serve the development shall be submitted to and approved in writing by the local planning authority and such approved drainage details shall be completed and become fully operational prior to first occupation of the development hereby permitted. Following its installation, the approved drainage scheme shall be permanently retained and maintained thereafter.
- 6) The development hereby permitted shall be constructed and carried out in strict accordance with the mitigation and enhancement recommendations in the submitted Phase One Habitat Survey (Version 1.0, by Abricon Ltd, dated 07th April 2017) and Update Inspection (by Abricon Ltd, dated 07th March 2019).
- 7) Any trenches left exposed overnight during the construction phase should have a means of escape for badger and other mammals comprising a shallow sloped edge or board (of at least 30cm wide) set at an angle of no more than 30°.

END OF SCHEDULE