
Appeal Decision

Site visit made on 18 February 2020

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2020

Appeal Ref: APP/D0121/W/19/3242059

58 Long Ashton Road, Long Ashton, North Somerset, BS41 9LE

- 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 Ironamber Ltd. against the decision of North Somerset Council.
 - The application Ref: 19/P/0204/FUL dated 24 January 2019, was refused by notice dated 28 May 2019.
 - The development proposed is the erection of 4 no. semi-detached, 4-bedroom houses.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 no. semi-detached, 4-bedroom houses at 58 Long Ashton Road, Long Ashton, North Somerset, BS41 9LE in accordance with the terms of the application, Ref: 19/P0204/FUL dated 24 January 2019, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Ironamber Ltd. against North Somerset Council. This application is the subject of a separate Decision.

Procedural Matters

3. Subsequent to the lodging of this appeal, the Council granted permission for four semi-detached houses on the appeal site under Ref: 19/P/2315/FUL in January 2020. From the evidence before me, the approved development differs from the proposed development the subject of this appeal in the design and height of the dwellings on plots 3 and 4 and enhanced landscaping.
4. The Council has advised that, based on the information put forward with that subsequent application, it no longer wishes to defend that part of the reason for refusal of the proposed development before me relating to the loss of an undesignated green space, nor the principle of developing plots 3 and 4. I do not disagree with the view of the Council on this matter and hence neither it nor the consequent contended conflict with Policy SA6 of the Sites and Policies Plan, Part 2 Site Allocations Plan 2006-2026 (2018) fall to be considered as a main issue in this appeal.
5. The appellant has submitted a number of revised drawings with the appeal, including revised landscaping proposals showing, amongst other things, a hedge behind and above the front boundary wall and the planting of semi-mature tree specimens within the frontage. The appellant has also submitted a visualisation of the proposed development and a plan showing details of the

proposed widening of the public footpath that runs along the western boundary of the site.

6. From the evidence before me, the revised landscaping proposals reflect those submitted with the subsequent revised application and no objection was raised to these landscaping proposals in respect of that application. In any event, the details of landscaping could be the subject of a condition were permission to be granted for the scheme before me. The details of the widening of the footpath are not a departure from the plans which were open to public consultation and on which the Council determined the application. The other revised drawings do not represent any material changes to the number, form, layout or scale of the buildings proposed.
7. Therefore, having regard to the 'Wheatcroft Principles'¹ I do not believe that to accept and consider the revised drawings and further details would disadvantage the Council or third parties. I have thus accepted and had regard to the revised drawings and further details in my determination of this appeal.
8. The 2019 Housing Delivery Test (HDT) results were published on 13 February 2020. These show a change in the measurement for North Somerset Council from 73% in the 2018 HDT to 78%. However, as the 2019 measurement is still below 85%, there is no change to the buffer required and it has not been necessary to consult the parties on this matter.

Main Issue

9. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the location of the appeal site within the Long Ashton, Yearnley, West Leaze and Wyke Conservation Area and within the setting of the Grade II listed Ivy Cottage.

Reasons

Background

10. From the evidence before me, the appeal proposals were submitted following the refusal of planning permission for a previous scheme under Ref: 18/P/2798/FUL, originally for five 4-bedroom houses but subsequently amended to four 4-bedroom houses with integral garages. The appellant had subsequent discussions with the Council and has sought to address the previous reasons for refusal through revisions to the proposals, resulting in the scheme before me.

Character and appearance

11. The appeal site is located on the south side of the main street through Long Ashton and within the Long Ashton, Yearnley, West Leaze and Wyke Conservation Area (the Conservation Area). Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Moreover, paragraph 193 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

12. The Council has not provided a copy of any appraisal or management plan for the Conservation Area, nor any other evidence as to its special architectural or historic interest. However, during my site visit, I observed that the western part of the Conservation Area along Long Ashton Road includes a variety of properties appearing to date predominantly from the 18th, 19th and 20th centuries and that its character and appearance largely derives from this assemblage of properties of differing ages and designs.
13. I also noted that, although there are occasional glimpses between dwellings on the south side of Long Ashton Road of the valley to the south and with the exception of the open areas to either side of the entrance to Theynes Croft, the road is continuously built-up with stone walls to the frontages a strong characteristic of the street scene. Vegetation, particularly hedges behind and over walls and trees, also contributes significantly to the character and appearance of this part of the Conservation Area.
14. From the evidence before me, the appeal site was formerly occupied by a large 4-storey detached house of classical design with a shop and various outbuildings and associated grounds, and historically by a row of agricultural workers' cottages. The cottages were largely demolished in the 1960's whilst the large dwelling was considered to have deteriorated beyond repair and demolished more recently. Although there are currently no substantial buildings on the appeal site, historically its contribution to the character and appearance of the Conservation Area would have resulted principally from the built form upon it. Its current condition and the fencing to the front of the site and western boundary detract from the character and appearance of the Conservation Area.
15. The proposed dwellings are of classical design. Although significantly higher than the properties to either side, particularly that to the west; 52 Long Ashton Road (No. 52), they would be lower than the previous large dwelling on the site. I also observed during my site visit that the heights of properties along Long Ashton Road vary, with examples of taller buildings, predominantly of classical design, amongst lower buildings. Whilst there is a general variety in the form and design of dwellings along Long Ashton Road, there are also examples of dwellings of similar design and appearance adjacent to each other.
16. Consequently, neither the juxtaposition of the proposed buildings next to smaller buildings nor their being of the same height and design next to each other would be significantly or harmfully at odds with the prevailing character or appearance of this part of the Conservation Area. The classical design of the proposed dwellings reflects that of a number of the other dwellings to be found along Long Ashton Road. Although dormer windows are not a characteristic of properties along the road, they are to be found on some of those properties and so the proposed dormers would not be harmfully incongruous.
17. Notwithstanding that the proposed dwellings would present a substantial bulk across the site, their being set back on the site and the proposed hedge and tree-planting on the frontage would reduce their overall bulk and massing as perceived from the road. I do not consider therefore that the proposed dwellings would be of an overly imposing scale or design in the street scene. Although the hard-surfaced parking area to the front of the properties would be visible through the access it would otherwise be screened by the proposed reinstated stone wall and hedge behind.

18. The current openness of the site allows views from Long Ashton Road across the site to the valley beyond. However, from the evidence before me, these views have only become available relatively recently due to the clearance of the site and are not historically important. The proposed development would allow glimpsed views between the proposed buildings, which would be consistent with the predominant character along Long Ashton Road.
19. The building on plots 3 and 4 would present a substantial blank gable end to the public footpath to the west of the site, and its full height to the rear would be more apparent from the public footpath to the west. However, the bulk would be softened by the proposed wall and hedge as shown on the revised landscaping drawing and as could be secured by a condition were planning permission to be granted. Whilst it would be significantly taller than No. 52, it would be separated from that dwelling by the footpath. Accordingly, I do not consider that the relationship between the proposed development and No. 52 would be harmful to the character and appearance of the Conservation Area.
20. The redevelopment of the site with dwellings of an appropriate design and appearance and the proposed landscaping, including the planting of trees, would be an enhancement to the current character and appearance of the site and area. Therefore, having regard to my duty under Section 72(1), the proposed development would enhance the character and appearance of the Conservation Area. In addition, the widening of the public footpath would allow for easier use and consequent greater ability to appreciate the character and appearance of Long Ashton Road. I acknowledge that these enhancements would also accrue from the approved revised scheme if implemented, but they are benefits of the scheme before me and it is appropriate that I have regard to them in the determination of this appeal.
21. In addition to the site being within the Conservation Area, one of the neighbouring properties to the appeal site is Ivy Cottage, which is listed as Grade II on the National Heritage List for England (NHLE). There is no dispute amongst the parties that the proposed development is within the setting of this listed building. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of a listed building. Paragraphs 190 and 194 of the Framework recognise that the significance of a heritage asset can be affected by development within its setting, which is defined in the Glossary to the Framework.
22. From the NHLE, Ivy Cottage dates from the late 18th - early 19th century. No evidence has been provided to me of any special historic or architectural interest beyond its age. As noted above, the appeal site was formerly occupied by a large dwelling which, from the evidence before me, was built after Ivy Cottage but which nevertheless formed the setting of Ivy Cottage to the west for a large proportion of the latter's existence. Although the removal of this large dwelling has allowed a greater appreciation of the form of Ivy Cottage, this has only recently been the case and the proposed dwellings 1 and 2 would reinstate its historic setting. I therefore conclude that the proposed development would preserve the setting of this listed building.
23. Accordingly, I conclude that the proposed development would accord with Policies CS5, CS12 and CS32 of the North Somerset Council Core Strategy (2017), Policies DM3, DM4, DM32 and DM37 of the Development Management

Policies Sites and Policies Plan Part 1 (2016) (the SPPP1) and Policy LHN2 of the Long Ashton Neighbourhood Plan 2013-2033 (2015). In combination and amongst other things, these policies seek high quality design that protects local character and distinctiveness and the historic environment, including listed buildings and conservation areas. In addition, I find no conflict with the policies of the Framework relating to designated heritage assets in this respect.

Other Matters

24. It is common ground between the parties that the Council is not able to demonstrate a 5-year supply of deliverable housing sites. The appellant draws my attention to the conclusion of an Inspector that considered an appeal elsewhere in the Council's area in 2018 that the supply was 4.4 years². However, the appellant also refers to the Council's Housing Test Action Plan published in August 2019 and suggests a supply of 3.65 years. Even if I accept the higher figure of 4.4 years, there is still an acknowledged shortfall.
25. Accordingly, paragraph 11 d) of the Framework is engaged through footnote 7 such that the policies of the development plan most important for determining the application are out-of-date. In accordance with paragraph 11 d), permission should be granted unless i) the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As I have concluded above that the proposed development would preserve or enhance the character and appearance of the Conservation Area and the setting of Ivy Cottage, the policies relating to designated heritage assets do not provide a clear reason for refusing the proposed development.
26. The contribution of the proposed dwellings to the housing supply in an area with an acknowledged shortfall would be consistent with the policies of the Framework relating to the supply of housing and a social benefit. The improvements to the public footpath proposed by the appellant would provide easier access to public transport services which would also be a social benefit. The development would also have economic benefits from the construction of the properties, the contribution of the future occupiers of the dwellings to the local economy and the New Homes Bonus. The redevelopment of the site and the landscaping would be environmental benefits.
27. I have concluded above that the proposed development would enhance the Conservation Area. Accordingly, there are no adverse impacts of granting permission that would significantly and demonstrably outweigh the benefits of the development as set out above. The 'tilted balance' therefore applies in this instance and, accordingly, permission should be granted.
28. I note that Long Ashton Parish Council raised no objection to the proposed development and that it was supported by the occupiers of the neighbouring properties to the site and another local resident. However, I am also aware that objections were made to the proposed development by a number of local residents. The main concern has been in regard of the scale and design of the proposed dwellings, which I have considered above.

² APP/D0121/W/17/3184845

29. As regards the other concerns expressed, the proposed development would not have an adverse effect on the living conditions of the occupiers of neighbouring properties through overlooking or overshadowing, given the distance to the properties to the south and the lack of windows in the side elevations of the proposed dwellings. I note this conclusion is shared by the Council. The proposals make adequate provision for parking and I have no evidence to suggest that there would be an adverse effect on highway safety. I note that no objection was raised on these grounds by the Council's Highways Development Management Team.
30. Although raised by a local resident, the Council has confirmed that it does not wish to defend the loss of undesignated green space as a reason for refusal and I am satisfied that the site should not be considered as such. I do not consider that the proposed location of the cycle stores at the bottom of the steps to the sides of the dwellings would be a significant disincentive to their use by future occupiers wishing to cycle. Drainage and landscaping can be the subject of conditions were permission to be granted.

Conditions

31. The Council has not provided a list of the conditions it would wish to see imposed were planning permission to be granted. However, in advising me of the granting of permission for the revised scheme the Council has suggested that the conditions attached to that permission would be relevant to the appeal proposal³. The appellant has also suggested possible conditions. I have used these suggestions as the basis for the conditions set out in the attached schedule, with some reordering and rewording for logicity and consistency.
32. I have imposed the standard time limit for commencement. Condition 2 is necessary in the interests of certainty. Condition 3 is necessary to ensure that archaeological interests are properly provided for. This needs to be a pre-commencement condition to ensure appropriate mitigation and contingency strategies are provided should significant archaeological remains be encountered during the preparatory works. A construction management plan is necessary in the interests of highway safety and the living conditions of the occupiers of nearby dwellings. This also needs to be a pre-commencement condition to ensure that all works, including any preparatory works and deliveries, are managed satisfactorily.
33. A condition regarding surface water drainage details is necessary to reduce the risk of flooding. Conditions 6, 7 and 8 are necessary to ensure these details are satisfactory in the interests of the character and appearance of the Conservation Area. Condition 9, condition 14 in part and condition 19 are necessary to ensure compliance with the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended). Conditions 10 and 11 are necessary to ensure satisfactory landscaping in the interests of the character and appearance of the area. I have added a provision for aftercare to condition 11 to ensure the maintenance of the landscaping. Conditions 12 and 20 removing specified permitted development rights are necessary, exceptionally, to maintain the integrity and appearance of the development in a conservation area and adjacent to a listed building.

³ Email dated 28 January 2020

34. A condition requiring the provision of the access and parking area is necessary in the interests of highway safety. Conditions 14, in part, and 15 are necessary to ensure the satisfactory provision of the additional footpath width and future maintenance. Condition 16 is necessary to secure energy saving by reducing carbon emissions generated by the use of the dwellings hereby permitted. The provision of cycle storage facilities is necessary to encourage the use of alternative means of transport to the private car. Condition 18 is necessary in the interests of the character and appearance of the area and the living conditions of the occupiers of neighbouring properties.

Conclusion

35. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed and planning permission granted subject to conditions.

Martin Small

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 and documents:
 - Drawing Number 618/PL/01 Rev R Proposed Site Layout
 - Drawing Number 618/PL/03 Rev D House Design Details
 - Drawing Number 618/PL/04 Rev N Site Sections A & D
 - Drawing Number 618/PL/05 Rev L Site Sections B & C. Proposed Long Ashton Road Street Scene Elevation
 - Drawing Number 618/PL/07 Rev D Proposed Front and Side Boundary Stone Walling and Rear Gardens Close Boarded Fencing Details
 - Drawing Number 618/PL/08 Location Plan
 - Drawing Number 618/PL/09 Proposed Refuse and Recycling Bin Store Details
 - Drawing Number 618/PL/11 Rev A Proposed Permanent Bat House
 - Drawing Number 618/PL/13 Rev B Public Footpath Plan
 - Drawing Number 2049/01 Rev J Landscape Proposals
 - Design and Access Statement
 - Planning Statement
 - Energy Statement
 - Arboricultural Assessment
 - Heritage Statement
 - Archaeological Desk-Based Assessment
 - Bat Surveys Report
 - Outline Bat Mitigation Plan
- 3) No development shall take place within the site until the implementation of a programme of archaeological work has been secured, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during groundworks on the site, with provision for excavation of any significant deposits or features encountered, and shall be carried out by a competent person or persons and completed in accordance with the approved written scheme of investigation.
- 4) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide for:

- vehicle routing;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling / disposing of waste resulting from construction works;
- delivery and construction working hours.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 5) No above ground works shall take place until surface water drainage details, together with a programme of implementation, have been submitted to and approved in writing by the Local Planning Authority. Such works shall be carried out in accordance with the approved details and programme and thereafter maintained as such.
- 6) No development above slab level shall take place until details and samples of all the materials to be used in the development have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in the approved materials unless otherwise agreed in writing with the Authority.
- 7) No windows or doors shall be installed until detailed working drawings at a scale of not less than 1:20 have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall not be carried out except in accordance with the approved details.
- 8) No boundary walls shall be constructed until a sample panel of the stonework demonstrating the type of stone to be used and the coursing and pointing of the stonework has been erected on site and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved sample panel, which shall be retained on site for reference until the development is completed. The dwellings shall not be occupied until all the boundary walls have been completed in accordance with the approved plans.
- 9) The development hereby permitted shall not take place except in strict accordance with the measures outlined in the Outline Bat Mitigation Plan, including the timings set out in the report and the provision of the permanent Bat House, and the recommendations set out in sections 5.4 and 5.5 of the updated Phase 1 Habitat Survey dated 5 December 2019. If amendments to the methodology are required, details of the changes must be submitted in writing and agreed by the Local Planning Authority before relevant works proceed. The development shall then be implemented in accordance with the agreed changes.

- 10) The development hereby permitted shall not be carried out except in accordance with the approved Arboricultural Method Statement Report and Tree Protection Plan.
- 11) Notwithstanding the landscaping details shown on the approved drawings, no dwelling hereby permitted shall be occupied until a soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority. In addition to the information already provided it needs to stipulate the amount of water to be used in each tree planting pit and to provide details of the planting pits including drawings and dimensions. The landscaping scheme shall be carried out in accordance with the approved details, specifications and programme of implementation. Trees, hedges and plants shown in the landscaping scheme to be retained or planted which, during the development works or a period of ten years following full implementation of the landscaping scheme, are removed without prior written consent from the Local Planning Authority or die, become seriously diseased or are damaged, shall be replaced in the first available planting season with others of such species and size as the Authority may specify.
- 12) No dwelling hereby permitted shall be occupied until all means of enclosure have been completed in strict accordance with the approved details and, notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order, with or without modification), no additional gates, fences, walls or other means of enclosure shall be erected or constructed on any part of the site.
- 13) No dwelling hereby permitted shall be occupied until the access and parking areas have been constructed in accordance with the approved plans and these parking spaces shall thereafter be permanently retained and shall not be used except for the parking of vehicles in connection with the development hereby permitted.
- 14) No dwelling hereby permitted shall be occupied until a management plan setting out details of the future ownership and management of the path surface adjacent to the public right of way, ownership and management of the bat house and ownership and management of the hedgerows and trees has been submitted to and approved by the Local Planning Authority. A named person must be specified as having responsibility for these aspects. The provisions of the plan as approved shall be fully implemented prior to the occupation of any dwelling. Any changes to the management plan or the responsible person must be submitted to the Local Planning Authority and approved prior to the implementation of any change, which must only be in accordance with the approved amendment.
- 15) No dwelling hereby permitted shall be occupied until the additional footpath width adjacent to the public right of way LA12/10/10 has been provided and surfaced to match the existing public right of way.
- 16) No dwelling hereby permitted shall be occupied until measures to generate 10% (less if agreed with the Local Planning Authority) of the energy required by the use of the development (measured in carbon) through the use of micro renewable or low carbon technologies have been installed on site and are fully operational in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved

technologies shall be permanently retained unless otherwise first agreed in writing by the Local Planning Authority.

- 17) No dwelling hereby permitted shall be occupied until secure parking facilities for bicycles have been provided on site in accordance with detailed plans including siting, plans and specifications of a "rail" for cycle wheels for each dwelling that have first been submitted to and approved, in writing, by the Local Planning Authority. The approved facilities shall thereafter be permanently retained and kept available for the parking of bicycles at all times.
- 18) No dwelling hereby permitted shall be occupied until space and facilities for the separate storage and collection of waste and recycling materials have been provided for it in accordance with the approved plans and specifications. The said space and facilities shall thereafter be made permanently available for the storage and collection of waste and recycling materials only for the occupiers of the dwelling.
- 19) No external lighting shall be installed unless details, including: (i) details of the type and location of the proposed lighting; (ii) existing lux levels affecting the site (iii) the proposed lux levels (including light spillage from windows); and (iv) lighting contour plans (including light spillage from windows), have been submitted to and approved in writing by the Local Planning Authority. Any external lighting shall be installed and operated in accordance with the approved details.
- 20) Notwithstanding the provisions of Schedule 2, Part 1, Classes A and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order, with or without modification), no extensions or external alterations to the dwellings shall be carried out and no garage, shed or other structure shall be erected within the curtilage of the dwellings hereby permitted (other than any expressly authorised by this permission).

End of Schedule