



Appeal Decision

Site visit made on 27 January 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2020

Appeal Ref: APP/W3330/19/3240938

Land to the rear of 16 Town Farm, North Curry TA3 6NP

- 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 West of England Developments Ltd against the decision of Somerset West and Taunton Council.
 - The application Ref 24/19/0021, dated 5 June 2019, was refused by notice dated 6 September 2019.
 - The development proposed is for the erection of a bungalow.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a bungalow on land to the rear of 16 Town Farm, North Curry TA3 6NP in accordance with the terms of the application, Ref 24/19/0021, dated 5 June 2019, subject to the conditions in the attached schedule.

Preliminary Matters

2. The only reason for refusal relates to the inadequacy of the preliminary ecological report. I note that further survey work has now been undertaken and a supplementary report submitted with this appeal. The Council have confirmed they have considered this additional information and concluded that, subject to conditions, they now have no objections on ecological grounds. I am also satisfied that the ecology report does now adequately deal with ecology matters. On this basis, it is considered that the reason for refusal set out in the decision notice has been overcome.

Main Issue

3. In light of the extent of agreement between the main parties, the main issue is whether there are any other considerations that might indicate that the appeal should be dismissed.

Reasons

4. Notwithstanding the Council's position on the proposed development, concern has been expressed by other interested parties in respect to several other considerations. These included the effect of the proposal upon highway safety, the loss of trees and on the character and appearance of the area.
5. In terms of highway matters, in broad terms, concerns are raised that the development would harm highway safety, and in particular the inadequacy of the access and its junction with Knapp Lane. These matters were largely

identified and considered within the Council Officer's report on the appeal development. I note that the Council's Highway Officer did not object to the proposals and the Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with further survey work undertaken on behalf of local residents. This assessment sought to measure the current visibility at the junction. I have reviewed this additional information and assessed the junction during my site visit. Whilst visibility would appear to be slightly constrained, this 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 any unacceptable impacts on highway safety. There is no substantiated evidence before which would lead me to disagree with the Council's conclusions on these matters.

6. In respect to character and appearance, these include concerns that the proposal would result in the loss of a green area and the loss of trees from the site. The design of the building would be for a single storey bungalow. Due to the location of the site, to the rear of existing properties, the building would not be readily visible within the street scene, with the exception of views from the entrance to the site. Whilst the removal of existing trees from the site is regrettable, I note that the Council's tree officer was consulted and did not raise any objection to the proposal. Furthermore, the proposed would involve the provision of replacement trees and the requirement for these can be controlled by the imposition of a planning condition. Any ecological impact from the loss of these trees has been addressed through the additional ecological information submitted with this appeal.
7. Concerns have also been raised with regards to the noise impact from construction and the effect of construction vehicles on surrounding roads. I acknowledge that construction would cause some disruption, but this would be temporary and would be mitigated by a Construction Method Statement which could be the subject of a condition.
8. Reference has also been made to the presence of a covenant on the land which would prevent the construction of the dwelling. This however is a legal issue, to be dealt with outside of the planning process. Accordingly, issues relating to the covenant have not had any material bearing on my assessment of the planning issues in this appeal.
9. In conclusion, I do not disagree with the Council's finding that the proposal accords with the development plan for the area when considered as a whole. On this basis, having regard to paragraph 11c of the National Planning Policy Framework 2019, the proposal should be approved without delay and amounts to a sustainable form of development.

Conditions

10. The conditions suggested by the Council have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. Planning permission is granted subject to the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.

11. To ensure the safeguarding of the character and appearance of the area, a condition is necessary with regards to the provision of external materials. In the interests of protecting and recording any below ground features, a condition to allowing access for observation by an archaeologist is deemed appropriate.
12. In the interests of the character and appearance of the area, it is necessary to impose a condition to ensure replacement planting is provided. To ensure that the proposal would not have any unacceptable impacts upon highway safety, it is necessary to attach a condition requiring the submission of a Construction Management Plan.
13. The appellant's have suggested a potential condition to secure off-site ecology mitigation. Given the measures proposed in the Ecology Report, I do not consider that such a condition is necessary, but, in the interests of ensuring no harm to matters of bio-diversity, I have attached a condition to ensure that the on-site mitigation measures identified in the report are provided. Conditions relating to the provision of landscaping, erection of new bat boxes and appropriate levels of external lighting, are attached for similar reasons.

Conclusion

14. I conclude, for the reasons outlined above, and having considered all matters, that the appeal should be allowed.

Adrian Hunter

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - DrNo 16.16.101 Site Location Plan
 - DrNo 16.16.002 Existing Site Location Plan
 - DrNo 16.16.103 Block Plan
 - DrNo 16.16.104 Site Plan
 - DrNo 16.16.105 Bungalow Floor Plan
 - DrNo 16.16.106 Bungalow Elevations
 - DrNo 16.16.107 Garage Plans and Elevations
 - DrNo 16.16.110 Location Plan
 - DrNo 1795.102 Rev. B Extended Orchard Proposal
3. Prior to the construction of the building samples of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.
 - (i) A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted. (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development. (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species. Reason: To ensure that the proposed development does not harm the character and appearance of the area.
 - i) Before development commences (including site clearance and any other preparatory works) a scheme for the protection of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2012.
 - ii) Such fencing shall be erected prior to commencement of any other site operations and at least two working days' notice shall be given to the Local Planning Authority that it has been erected.
 - iii) It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

4. No works shall be undertaken on site until the Local Planning Authority has first approved in writing details of a programme of access which will be afforded to a named archaeologist to observe and record all ground disturbance during construction (such works to include any geological trial pits, foundations and service trenches). The named archaeologist shall thereafter be allowed access in accordance with the details so approved. Reason: To enable the remains of archaeological interest which may exist within the site to be appropriately recorded.
5. All ecological measures and/or works in relation to reptiles shall be carried out in accordance with the details contained in section 4 of the Ecological Appraisal (Blackdown Environmental, dated October 2019) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. A letter confirming the operations will be submitted to the Local Planning Authority on completion of the translocation.
6. Prior to occupation, a "lighting design for bats" shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
7. No removal of hedgerows, trees or shrubs or demolition of buildings or structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist.
8.
 - a) A Habibat 001 bat box or similar will be built into the structure at least four metres above ground level and away from windows on the southwest elevation
 - b) A cluster of five Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level on the northeast elevation
 - c) A bee brick built into the wall about 1 metre above ground level on the south or southeast elevation of the dwelling
 - d) Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site. Photographs of the installed features will be submitted to the Local Planning Authority prior to the completion of construction works.
9. No development shall take place unless a site specific Construction Management Plan has been submitted to and been approved in writing by the local planning authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- i) Details on the delivery of all construction materials to the site; details of the contractor parking and material storage area; means to ensure that there shall be no emission of dust or deposit of mud or other debris on the highway;
- ii) All works and ancillary operations which are audible at the site boundary, shall be carried out only between the following hours: 08.00 and 18.00 Mondays to Fridays and 08.00 and 13.00 on Saturdays and; at no time on Sundays and Bank Holidays.
- iii) Measures for controlling the use of site lighting whether required for safe working or for security purposes;

The Plan shall be implemented in accordance with the approved details.