
Appeal Decision

Site visit made on 17 August 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th September 2020

Appeal Ref: APP/W3330/W/20/3251234

The Old Waterworks, Chipstable Road, Chipstable, Taunton TA4 2PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs Trevor & Lisa Morrow against the decision of Somerset West and Taunton Council.
 - The application Ref 09/19/0012, dated 11 November 2019, was approved on 25 March 2020 and planning permission was granted subject to conditions.
 - The development permitted is a change of use of land from agricultural to domestic.
 - The condition in dispute is No 2 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting the 2015 Order with or without modification, no outbuildings, enclosures, swimming pools or other structures as described in Part 1, Class E, shall be erected on the site other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.
 - The reason given for the condition is: To ensure that the proposed development does not harm the character and appearance of the area.
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Decision

1. The appeal is allowed and the planning permission Ref 09/19/0012 for a change of use of land from agricultural to domestic at The Old Waterworks, Chipstable Road, Chipstable, Taunton TA4 2PZ granted on 25 March 2020 by Somerset West and Taunton Council, is varied by deleting condition No 2.

Background and Main Issue

2. It is clear from the plans and accompanying details that the development comprises a change of use of land to residential and the erection of stock-proof fencing. The Council dealt with the proposal on this basis and so shall I. Planning permission has been granted for the development subject to a condition to restrict the carrying out of permitted development rights as set out within Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015.
3. Therefore, the main issue is whether the condition is necessary in the interests of the character and appearance of the area.

Reasons

4. The appeal site is located on the edge of Chipstable, a small settlement set in an undulating rural landscape. The Council highlights that although not subject

to any special designations the landscape has an intrinsic pastoral beauty. I agree with this assessment. As such, I find additional care in considering the potential implications of allowing the change of use, such as from implementing permitted development rights, to be prudent.

5. The Council state that they are not seeking to prevent development but retain control, citing allowance for up to half of the site to be developed under permitted development rights. However, given the topography of the site I find such levels of development to be unrealistic, with little more than a theoretical possibility. Furthermore, the Council have expressed concern in relation to domestic paraphernalia, but this is largely beyond the condition's scope.
6. The site is occupied by a converted water authority building, although it is now clearly of a residential character. The building is modest in scale, occupying the site frontage with the garden located to the rear. The area subject of this appeal is generally raised above the dwelling and has a verdant character. Views of the site are restricted by the dwelling and landscape features, including, high hedges along the narrow rural lanes which provide a strong screen from the highway. Additionally, I note that the land continues to rise beyond the appeal site. This also mitigates visual impacts.
7. The site is comparable in size to a number of other gardens within the loose-knit built-form of the village. I am unaware of these having restrictions on permitted development rights. From my site observations I have noted a number of examples of domestic structures within these gardens, some in locations set behind the houses on raised ground. These gardens and domestic structures form part of the character and appearance of the area.
8. Having careful regard to this site context I am also mindful that the National Planning Policy Framework sets out at paragraph 55 that the number of planning conditions should be kept to a minimum. Furthermore, national guidance states that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application are unlikely to meet the tests of reasonableness and necessity¹.
9. Therefore, in conclusion on the main issue I find that the condition is not necessary in the interests of the character and appearance of the area.
10. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

James Taylor

INSPECTOR

¹ Planning Practice Guidance: Paragraph: 017 Reference ID: 21a-017-20190723