
Appeal Decision

Site visit made on 13 October 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Appeal Ref: APP/F0114/W/20/3256026

Land between Somer Ridge and Monger Cottages, Monger Lane, Welton, Midsomer Norton BA3 2FB

- 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 Mr and Mrs M Edwards against the decision of Bath and North East Somerset Council.
 - The application Ref 20/00856/OUT, dated 2 March 2020, was refused by notice dated 24 April 2020.
 - The development proposed is the erection of a detached dwelling and garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application has been made in outline with all matters reserved, and as such the layout and access shown on Site Location Plan/Proposed Plans, drawing number 20008_P1 B is illustrative. Therefore, I have considered that there may be alternative ways of developing the proposal as part of my determination.
3. In my heading above, I have taken the description of development from the planning application form but have omitted the reference to the application being made in outline and its location, as this is made clear elsewhere in the heading.

Main Issue

4. The main issue is whether the site would be a suitable location for housing having regard to local and national planning policies.

Reasons

Location of development

5. Policy DW1 of the Bath and North East Somerset Core Strategy, July 2014 (CS) sets out a district wide spatial strategy which, amongst other things, seeks to focus new housing in Bath, Keynsham, and the Somer Valley. Policy SV1 of the CS sets out the Somer Valley Spatial Strategy which in relation to new housing indicates that around 2,470 new homes will be built at Midsomer Norton, Radstock, Westfield, Paulton and Peasedown St John within the amended housing development boundary.

6. As such, the district wide spatial strategy seeks to restrain new residential development in rural areas and uses a housing development boundary in order to direct where development should be focussed. This is reinforced by policy RE4 of the Bath and North East Somerset Placemaking Plan, July 2017 (PP) which states, amongst other things, that new dwellings will not be permitted outside a housing development boundary in the open countryside unless there is an essential need for a rural worker to live permanently at or near their place of work.
7. Insofar as is relevant to the appeal proposal, these policies broadly align with the policies for delivering a sufficient supply of homes in the National Planning Policy Framework, including those on rural housing.
8. There is no dispute between the parties that the appeal site lies outside of the housing development boundary for Midsomer Norton as defined in the CS and PP¹. Neither do the appellants suggest that the dwelling would constitute an essential dwelling for a rural worker. Accordingly, the provision of a house at the appeal site outside the housing development boundary for Midsomer Norton would run counter to the district wide spatial strategy in the CS.
9. The appellants assert that the site is not in the open countryside or isolated given its proximity to other dwellings. Moreover, it is approximately 120m from the housing development boundary for Midsomer Norton, a settlement identified as having services and facilities capable of supporting additional residential development in the development plan. Nevertheless, the proposal would increase housing outside of the defined housing development boundary and as such, represents a more dispersed approach than that envisaged by the spatial strategy in the development plan.
10. It is put to me that the proposal would constitute infill or backland development and would therefore be supported by policy D7 of the PP. However, policy D7 is contained within a group of policies in the PP in a section entitled High Quality Design and described as urban design policies². In relation to infill and backland development it emphasises the importance of an approach based on a sound understanding of character and context³. This is reinforced by the design criteria listed in the policy. Therefore, it is not shown that the policy seeks to override the district wide spatial strategy in relation to the location of new residential development, rather it should be read as a whole with other development plan policies.
11. In any event, infilling is defined in policy D7 as *'the filling of a small gap in an otherwise built-up frontage, usually consisting of frontage plots only'*. My observations of the appeal site were that it adjoins land on three sides where there is no, or only limited, built form. The main buildings of Monger cottages and Monger Farm to the north are some considerable distance away. Therefore, even taking into account that alternative layouts would be possible, the appeal site does not represent a small gap in an otherwise built-up frontage.
12. My attention is drawn to three appeal decisions⁴ and a further decision⁵ (Silver Street) of the Council. The appeal decisions relate to residential development

¹ Paragraph 6.1 Appellants' Evidence prepared by PD Planning Developments

² Paragraph 189, PP

³ Paragraph 197, PP

⁴ Referenced APP/J1860/W/17/3170968; APP/X1545/W/19/3229871; APP/F0114/W/18/3219501.

⁵ Application reference 18/02095/OUT

outside of, but near to a settlement boundary. It is the appellants' view they support a similar approach being taken in this case. Two of the appeal decisions relate to different local planning authority areas and therefore, different development plan policies are in force. As such, the respective Inspector's findings in relation to different development policies are of limited relevance to the consideration of the district wide spatial strategy for Bath and North East Somerset. Even so, I note that in relation to the Little Hill Farm case in Essex the Inspector found the proposal did conflict with the development plan with regards to settlement boundaries. In allowing the appeal, he gave weight to an expired appeal approval for similar development. Given these significant differences to the proposal before me, these two appeal decisions carry little weight.

13. The third appeal decision allowed two dwellings outside of the housing development boundary to the south of Somer Ridge and so, is of greater relevance. The Inspector found that the proposal conflicted with policies DW1 and SV1 of the CS and policy RE4 of the PP. In this regard, my approach is consistent. In allowing the development contrary to the development plan, she gave considerable weight to the urban setting of the site on the southern side of Monger Lane which abutted the settlement boundary and read as part of new housing development. She specifically contrasted this with the limited built development on the northern side of Monger Lane⁶.
14. The appeal proposal relates to the northern side of Monger Lane which in view of the limited built form and the presence of fields or gardens between clusters of development, has a semi-rural character. I further agree with the Inspector that this contrasts considerably with the more intensive development pattern on the southern side of Monger Lane. Accordingly, the context of the proposal before me would be significantly different and therefore, the conclusion of the Inspector in relation to the proposal at Four Winds, Monger Lane attracts limited weight.
15. Furthermore, unlike the proposal before me, the development at Silver Street constituted a major development which, in addition of up to 40 dwellings, included amongst other things, a care home and a primary school. In addition, the delegated report submitted suggests that it provided affordable housing as a planning obligation. The report further indicates that the Council did consider the proposal would depart from the development plan⁷ but would provide public benefits that attracted significant weight. The larger scale and more complex nature of this development distinguishes it from the appeal proposal for a single dwelling. Therefore, it is not directly comparable and consequently, is of little weight.
16. Accordingly, I find that the appeal site would not provide a suitable location for housing as it would be contrary to the spatial strategy for the district and the Somer Valley set out respectively in policies DW1 and SV1 of the CS. Additionally, it would conflict with policy RE4 of the PP, which amongst other matters, seeks to restrict new dwellings outside of the defined housing development boundaries to essential dwellings for rural workers.

⁶ Paragraph 11, APP/F0114/W/18/3219501

⁷ Planning Balance, Page 14, Delegated Report reference 18/02095/OUT

Other matters

17. The proposal would be beneficial to the appellants as it would enable a heating and ventilation system to be integrated from the outset that would assist with managing the medical condition of an intended occupant. Nevertheless, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁸. It is a basic tenet that planning decisions should be exercised in the public interest rather than for private or individual benefits. For that reason, it is rare that personal circumstances attract more than limited weight.
18. Notwithstanding that some information is provided suggesting it would be expensive to retrofit the existing property at 5 Somer Ridge, this falls short of demonstrating that such benefits could not be achieved by other means and in a manner that would not conflict with the policies of the development plan. Therefore, the personal benefits arising from the proposal would not provide sufficient justification to find other than in accordance with the development plan policy in this case.

Conclusion

19. For the reasons given above, I conclude that the appeal is dismissed.

Helen O'Connor

Inspector

⁸ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.