

Appeal Decision

Site visits made on 30 September & 12 October 2020

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 October 2020

Appeal Ref: APP/D0121/W/20/3249151

Woodlands, Woodlands Road, Portishead, Bristol, BS20 7HF

- 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 Mr & Mrs M Adams against the decision of North Somerset Council.
 - The application Ref 19/P/1872/FUL, dated 31 July 2019, was refused by notice dated 15 January 2000.
 - The development proposed is the erection of a dwelling & associated works.
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Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. My initial site visit was carried out on 30 September 2020, but because of the inclement weather I was unable to complete it. I returned on 12 October to view the wider area, including part of the foreshore. Arrangements had also been made for me to assess the proposal from the grounds of the neighbouring dwelling, Daintree, which I did.
3. The site is located within the Portishead East Wood Conservation Area (CA).

Main issues

4. The main issues are: (a) whether the residents of the proposed dwelling would have adequate accessibility to shops, other services and community facilities; (b) whether the development would preserve or enhance the character or appearance of the CA, and (c) the effect of the proposal on the living conditions of the residents of Daintree and Woodlands with specific reference to privacy, outlook and visual impact.

Reasons

Accessibility

5. The site forms part of the garden of Woodlands, a substantial semi-detached dwelling set in a large garden set just above the foreshore of this part of the Bristol Channel. Extensive views are obtained across the Channel. The appellants wish to erect a dwelling within Woodlands' side/rear garden.
6. Portishead is identified in the North Somerset Core Strategy (CS) as a town where a significant level of new housing provision is to be delivered. However, the Council point out that the site lies outside the designated settlement boundary for the town, in an area classified as countryside for the purposes of

- policy CS33, where development is strictly controlled. The proposal is not considered by the Council to be locationally sustainable on account of its rural siting and dislocation from the town's main shopping and community facilities.
7. The appellants, in their original grounds of appeal, do not dispute that the site, and Woodlands Road, sits outside the designated settlement boundary and that, for policy purposes, it falls within countryside. However, having particular regard to the presence of neighbouring development alongside Woodlands Road, the appellants consider the site and the road appear as part of the town, and is not considered isolated. It is also contended that the site is accessible in terms of walking distances to and from various facilities in the town, including public transport, and is therefore considered sustainable in locational terms. The appellants also rely on policy CS31 in support. This provides that a specified minimum of new residential development will be delivered in Portishead '*within and adjoining settlement boundaries*'. Accordingly, it is considered that a '*pragmatic*' application of policy CS31 is called for, since it envisaged development being permitted outside the settlement boundary.
 8. In their final comments the appellants appear to have shifted ground in some regards. By now, they consider the designated settlement boundary as it affects Portishead to be out-of-date, largely on the basis of comments made by the Inspector conducting an appeal¹ relating to land on the outskirts of Nailsea. There, however, a significant part of the development site subject of appeal comprised an allocated site, outside the previously drawn settlement boundary. It can therefore be distinguished from the current appeal, in that no recent designation for development appears to breach or go beyond the settlement boundary in this part of Portishead.
 9. The appellants have provided a fairly accurate physical description of Woodlands Road, from one end to the other. However, my perception of the road and its environs differs from that of the appellants. The road has no footway and is relatively narrow, and is enclosed on its southern frontage with dense woodland set on rising land. Hedges and trees front a substantial length of the northern frontage through which, for the most part, the limited amount of development beyond is fairly well screened.
 10. The road, which was lightly trafficked when I visited, resembles a country lane running through verdant surroundings. Whilst time-expired, the settlement boundary remains relevant in my considerations. It distinguishes between what I saw as the built-up part of the town and the heavily wooded area to its north, within which the appeal site and a limited amount of residential development is situated. The area to the south of the boundary is thus of a distinctly different character to that to the north, and I do not therefore subscribe to the appellants' view that '*the road and housing along it, on the ground, very much appear as part of the town*'.
 11. I acknowledge, especially having regard to the presence of other houses within close proximity, that the site may not be isolated in the terms of the Framework². However, the appellants' data on walking times to community

¹ Ref APP/D0121/W/18/3212682 dated 1 November 2019

² The National Planning Policy Framework

services, shopping and public transport facilities does not convince me that future occupants of the proposed dwelling would be inclined or persuaded to walk to reach these destinations in and around the town. Having regards to the walking times involved, it is far more likely in my view that most of these these journeys, other than to the pub, would take place by car, particularly in winter. The site is not in my view conveniently located to most community services.

12. In conclusion, the appellants ask for a pragmatic approach to be taken to the application of CS policy CS31. To my mind, however, the development is in clear breach of the policy not least because the site comes no-where near adjoining the settlement boundary. Moreover, on the basis of the appellants' own data, I have found the proposal to be locationally unsustainable, and thus harmful, in that it would encourage the use of the car in an area designated as countryside. For these reasons the proposal also conflicts with CS policy CS33, in a location where development is to be strictly controlled.

Effect on Conservation Area

13. The Council has not prepared a CA appraisal, but the appellants have produced a helpful Heritage and Design Statement (HDS). One chapter deals with the evolution of development in Woodlands Road, with particular reference to historical maps. Confirmation is provided that until around 1840, no development had taken place along Woodlands Road, which at that time appeared to be no more than a track running through woodland. By 1888 about 5 large distinctly Victorian buildings had been built, including the appeal property. This remained the position for some time, until at least 1943.
14. According to the appellants, the planning records show that about 5 new dwellings were built between the end of the war and the present day, with the last being consented around 1988, including Daintree, which lies immediately to the west of the appeal site. This evidence corresponds with that produced by the Daintree's owners who say that their permission was the last to be granted prior to the CA's designation. The house was built in the early 1990's.
15. The conclusion drawn by the appellants is that the *'review of the growth of the area shows that change and growth has been accepted over the last 50 years. New houses have been added over time and this has changed the character of the area.'*
16. However, the historical account shows to me that no additional dwellings have been granted permission since the CA's designation, and that despite permissions being granted during this period for extensions and/or modifications to some dwellings, the character and appearance of the area have remained largely unchanged for 30 years or so. It is also of note that the designation extends far wider than the dwellings along Woodlands Road in that it also encompasses the wooded areas, which themselves have remained largely unchanged. It appears to me therefore that the designation has served its original purpose, in that the conservation area has retained its essential character and appearance for a generation.
17. In the design and siting of the dwelling, the appellants have attempted to minimise the impact of the development on the CA's appearance. In this regard, the dwelling would be virtually flat-roofed to reduce its profile, and

split-level so that from the front, it would appear as a single-storey structure. The roof would be green so as to more readily assimilate with its surroundings. Its' contemporary design would contrast sharply with the distinctly Victorian appearance of the host dwelling.

18. However, it would be barely discernible from Woodlands Road, given the amount of natural screening along the frontage and, by reason of its' siting, well below road level. It would be seen clearly from the foreshore below, but judging from my site visit, this would be at low tide only. I have not been given any empirical data to indicate the popularity of the foreshore to the public at large, but it would appear to me that access to it from either side is not easy. Thus from public vantage points, the impact of the proposal on the CA's appearance, in my view would be within acceptable bounds.
19. Appendix A of the HDS is entitled '*Character Assessment of Woodlands*'. This provides a descriptive analysis of the various properties along Woodlands Road, aided by photographs and illustrations. However, an assessment of character relates not only to what can be physically seen, but what the general picture conveys in terms of one's perception of an area. To my mind the over-riding influence within the CA is the woodland, which dominates, and its attractive setting besides the sea.
20. The wood flows down from above onto the foreshore, where over time it has been interrupted by development. That development is largely comprised of large properties set in generous grounds, a pattern conveying the impression of spaciousness, a positive attribute acknowledged by the appellants. The significance of the CA is derived from the delicate balance between the natural and built environment, from which its distinctive character is derived. Some grounds have been subdivided, and this, to my mind, has impinged harmfully on local character. But such sub-division took place at a time before the CA's designation, prior to the application of the statutory test and policies specific to such designated areas.
21. The appellants suggest that the effect of the development would prove neutral. I disagree. The subdivision proposed would prove harmful in the context of spaciousness, and consequent impact on character, notwithstanding the plot ratio exercise submitted. The relatively close juxtaposition of a large Victorian building with a dwelling of a wholly contrasting scale would also prove jarring, and harmfully uncharacteristic of the CA.
22. Although my assessment is specific to the development under consideration, I am also conscious that a successful appeal could encourage others to promote similar developments, which the Council may find difficult to resist, thus potentially leading to greater harm to the character of the CA.
23. I therefore conclude that the proposed development would prove harmful so that the character of the CA would neither be preserved nor enhanced. Thus a clear conflict arises with the provision of policy DM3 of the North Somerset Sites and Policies Plan (NSSPP), and CS policy CS5, directed to conserving the historic environment of North Somerset and to ensure that new development will not cause harm to the existing character and appearance of the Conservation Area and wherever possible positively enhance it.

24. I acknowledge however that the harm would be less than substantial. Accordingly, in accordance with the terms of the Framework, the harm should be weighed against the public benefits of the proposal. The appellant's view of the public benefits are listed in paragraph 7.3 of the HDS, and largely repeated in the appeal submissions. Of the benefits said to arise, only two strike me as publically beneficial. A new dwelling would be created in an area where new housing is needed, and some employment in the building industry would be generated for a temporary period. I consider these to be modest benefits. I note that the appellants say that the money generated by a planning permission would be ploughed back into the site in carrying out improvements to Woodlands, which is considered by the appellants to be a locally notable property. Whilst I note the appellants' intention, no obligation³ has been put before me to ensure that this would be the case in practice. On balance, the harm caused by the scheme outweighs the modest public benefits arising.

Living conditions

25. The Council considers that the proposal would have harmful impacts on the residents of the two neighbouring properties.
26. The new dwelling, in the Council's view, having regard to its siting, would appear oppressive and overbearing when viewed from Woodlands' garden. The new building would undoubtedly be seen from the remaining parts of Woodlands' rear and side garden, whose character and general amenity would consequently be subject to significant change, despite the new dwelling's relatively low profile. At close quarters, the dwelling's side elevation could be perceived as dominating and oppressive. However, uninterrupted wide views of the channel and beyond would be retained, particularly from those parts of the garden furthest away from the proposed development. On balance, bearing in mind that the reduced garden, given the extensive outward views available northwards, would still retain much of its attraction, I do not consider that the Council's objection on this score, whilst understandable, is sustainable.
27. The new dwelling would be sited at a higher level than Daintree, the dwelling to the west, and relatively close, at 6m or so from the appeal's site's western boundary. I noted at my site visit, that it was possible to see into Daintree and parts of its garden from Woodland's garden, through gaps in the foliage along the boundary. Thus Daintree's privacy is already partly compromised, albeit not harmfully. No windows are proposed in the proposed dwelling's western elevation, but I note the proposed balcony and decking. Were permission granted, a condition requiring screening, including boundary fencing, could regulate any potential overlooking from these sources, which could be augmented by planting in the area remaining between the house and boundary. In these circumstances, I do not consider that Daintree's residents would suffer further loss of privacy if the development proceeded.
28. The proposed dwelling would undoubtedly be seen from Daintree's curtilage, particularly from its sloping front garden, and would appear prominent when first built, given its higher level, notwithstanding the extant vegetation. I appreciate that in time, the planting and landscaping proposed would be expected to mature and mellow, thus assisting in screening the proposed

³ Under s106 of the Town & Country Planning Act 1990 (as amended)

dwelling and softening its' impact. During the first few years of the dwelling's existence, I share the Council's view that it would be perceived as overly dominating at a high level when viewed from Daintree's front garden. Since there is no certainty that the proposed landscaping would be retained in the long term, any reliance placed on it to remedy harm would be misplaced. Accordingly, the deleterious impact I have identified could continue indefinitely. I therefore consider the Council's objection on this score to have merit.

29. In conclusion I find that the proposed development would harm the amenities currently enjoyed by the residents of Daintree by reason of the dominating visual impact of the proposal upon their garden. Accordingly, a clear conflict arises with the provisions of NSSPP policy directed to ensure that the design and layout of new development should not prejudice the living conditions of adjoining occupiers.

Other matters

30. The appellants have highlighted the absence of a 5 year supply of housing land in the Council's area, which the Council acknowledges. In these circumstances, the appellants take the view that the provisions of the Framework's paragraph 11 are engaged, and that the 'tilted balance' should be applied in the appellants' favour. This is a matter to which I shall return later.
31. The views of local residents, those in favour and against have have been considered, together with those of Natural England, the Campaign to Protect rural England, The Gordano Civic Society and Portishead Town Council. I have already dealt with the main planning-related points raised. There is insufficient evidence to conclude that parking difficulties would arise as a consequence of the development, and I note that the Council did not object for this reason.
32. The Council's objection relating to potential cliff instability is noted, as are the comments made by CPRE in this regard. However, given the nature of my conclusions on the main issues identified at the outset, this is a matter I do not intend to dwell on, since the issue would be a matter for further investigation were my conclusions different.
33. I have had regard to other appeal and planning decisions referred to by both principal parties.

Planning Balance and Final Conclusions

34. My conclusions in respect of the main issues identified at the outset are set out above. In brief, I concluded that the development was in conflict with policies contained in the development plan as to its rural location and accessibility to services; that it would harm the character of the CA, and that harm would be caused to the living conditions of the residents of a neighbouring dwelling, contrary to the provisions of the development plan. I do not consider those policies upon which reliance is made to be out-of-date.
35. These are sufficient reason to dismiss the appeal given that, having regard to the content of the Framework as a whole, the proposal does not comprise sustainable development. With regard to my observations at paragraphs 30 & 33 above, even if the development plan policies were considered out-of-date, the 'tilted balance' does not apply, especially given my conclusion on the

adverse impact of the development on the CA, and the clarification provided at footnote 6 to the Framework's paragraph 11.

36. All other matters referred to in the representations have been taken into account but none outweigh the considerations that led me to my conclusions.

37. Accordingly, for the reasons provided above, the appeal is dismissed.

G Powys Jones

INSPECTOR