



Appeal Decision

Site visit made on 19 January 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2021

Appeal Ref: APP/Q3305/W/20/3260734

Beechbarrow Farm, Bristol Road, Hillgrove, Wells BA5 3EL

- 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 Peter McCann against the decision of Mendip District Council.
 - The application Ref 2020/1325/FUL, dated 12 July 2020, was refused by notice dated 21 September 2020.
 - The development proposed is the construction of a single dwellinghouse and the change of use from agricultural land to C3 residential.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. There are two other concurrent appeals¹ at Beechbarrow Farm. However, the red edged appeal site is different in each case and there are differences in the nature of each proposed development. Furthermore, the main issues, although similar in some regards, differ for the respective developments. Accordingly, in the interests of clarity I have dealt with the proposals in separate decision documents.

Main Issues

3. The main issues are:
 - Whether the proposed dwelling would be appropriately located having regard to local policies and accessibility;
 - The effect of the proposal on the character and appearance of the area, including the setting of the Mendip Hills Area of Outstanding Natural Beauty (AONB), and;
 - If harm arises, whether this is outweighed by other material considerations.

Reasons

Location and accessibility

4. Core Policy 1 (CP1) of the Mendip District Local Plan 2006-2029, Part 1 Strategy and Policies, December 2014 (LP) sets out the Mendip Spatial Strategy. This seeks to direct development to the principal settlements and

¹ APP/Q3305/W/20/3261591 & APP/Q3305/W/20/3261448

- villages of the district at a scale broadly commensurate with the provision of employment opportunities, local services and access to a range of methods of transport. Part of the strategy involves strictly controlling development in the open countryside subject to specified exceptions set out in Core Policy 4 (CP4).
5. The appeal site forms part of a field located to the east of a small cluster of buildings served off the A39. It is outside of any settlement and approximately 2 miles from the nearest notable facilities in Wells. Therefore, it lies in open countryside for the purposes of the LP, and neither party suggest otherwise. Neither does the appellant claim that the proposal would fall within any of the exceptions in CP4. Consequently, the introduction of a new dwelling at this location would conflict with the approach to rural housing in the Mendip Spatial Strategy.
 6. The proposal would be a large detached house likely to have future occupants with a range of travel requirements. Notwithstanding the existence of a footpath for most of the way, the walking environment to local facilities in Wells would not be attractive for pedestrians given that the route is steep in parts and directly adjacent to the noise and presence of traffic using the A39. The route is also mostly unlit with limited surveillance. Moreover, there is no footway along the A39 between the access to the appeal site and Haydon Drove which represents a considerable stretch where pedestrians would either need to walk on the busy carriageway or walk on the grass verge which would make pedestrians feel particularly vulnerable to traffic. This is of note as it coincides with the route to the nearest bus stop. When combined with the distance involved, these factors would be likely to deter pedestrians from using the route routinely.
 7. Although, the bridleway or other footpaths may offer an alternative route to Wells for some of the way, it is not shown that they are lit or overlooked. Hence, due to the combination of conditions, terrain and distance the walking routes would not constitute a realistic practical option for a wide range of future residents regularly journeying to work or school nor for those with mobility difficulties or pushing prams.
 8. Similarly, cyclists would need to be confident road users given the amount and speed of traffic on the A39. Moreover, the steep incline is likely to be off-putting to some cyclists. I acknowledge that electric bicycles or scooters may prove advantageous in these circumstances, but their use would not overcome all of my concerns.
 9. The bus service along the A39 to Street, Glastonbury, Wells and Bristol would offer a reasonably regular rural service to facilities at Wells. This is reinforced by Figure 6 of the LP². Nevertheless, the pedestrian route to the nearest bus stop at the corner of the A39 and Haydon Drove is problematic for the reasons already outlined. Moreover, I did not observe any bus shelter or lighting. Therefore, the environment for passengers waiting for a bus is not inviting. For these reasons I cannot agree with the appellant's assertion that the site would have excellent public transportation links. Rather, the degree of choice as to means of travel would be limited.
 10. Taking these factors in combination, it is highly likely that future residents of the proposal would be reliant on the private car as their principal means of

²Figure 6 – Accessibility by Public Transport to a Town before 10am on a weekday

transport. Even if vehicles were powered by electricity generated by the wind turbine at Beechbarrow Farm, this would not prevent the growth of private car usage. Consequently, it would do little to reduce congestion or promote public health associated with a genuine choice of transport modes. In any event, I am not assured that a planning condition to require future occupants to use an electric vehicle charged by power from the wind turbine would be enforceable or reasonable and thereby pass the requisite tests set out in paragraph 55 of the National Planning Policy Framework (the Framework).

11. My view on this is consistent with the findings of the Inspector in a recent appeal decision³ for a dwelling at the site who considered that the location would not promote the use of sustainable modes of transport as sought in Chapter 9 of the Framework.
12. The appellant suggests that an alternative private pavement could be provided to Haydon Drove in order to avoid the pedestrian route along the A39 to the bus stop described. Notwithstanding that this does not form part of the application before me, I am not persuaded that a condition to require such an alternative route would render the overall conditions for bus passengers enticing and therefore, it would not fully address my concerns.
13. The appellant considers that the proposed dwelling would not be isolated, and therefore, would not conflict with advice in paragraph 79 of the Framework. Nevertheless, paragraph 78 of the Framework stipulates that rural housing should be located where it will enhance or maintain the vitality of rural communities. Notwithstanding the appellant's reference to the Beechbarrow community of houses, there is little before me to substantiate that the proposal would realize this.
14. Reference is made to an extant planning permission for an agricultural barn at the site. However, aside from some initial foundation works the barn building has not been constructed. Therefore, the proposal before me would not be a conversion of an existing building but rather a new build dwelling. Accordingly, it differs significantly from the circumstances of concurrent appeal reference APP/Q3305/W/20/3261591 in that Development Policy 22 of the LP, which gives some support for the reuse and conversion of rural buildings in the countryside, would not apply in this case.
15. Therefore, when assessed against local policies, the proposal would not be appropriately located as it would undermine the planned pattern of growth and would encourage travel by car. Hence, although not expressly cited in the refusal reason on the decision notice, it would nevertheless conflict with the Mendip Spatial Strategy in CP1 of the LP. The weight to be given to the conflict with CP1 and its consistency with the Framework are matters which I shall consider further in the overall planning balance.

Character and appearance

16. There is a cluster of residential and agricultural buildings near to the appeal site. However, the wider area predominantly comprises fields, hedgerows and woodlands giving it a rural, agricultural character. Although I observed some trenches had been dug, the appeal site predominantly comprises part of a pastoral field. The general absence of built form, presence of grass and nearby

³ Reference APP/Q3305/W/20/3256259

hedgerows means it has a natural appearance that contributes positively to the open rural character of the area.

17. The proposal would create a rectangular domestic plot containing a large detached dwelling some distance to the east of the concentration of existing buildings. The introduction of the sizeable structure onto land where built form is absent would significantly undermine the rural character of the area. Furthermore, the dispersal of built form deeper into the countryside would be harmful to the natural, open appearance of the land.
18. The design concept behind the proposal intends the building to resemble a modern agricultural barn but with windows and doors. However, as the proposal is not the conversion of an existing structure, this approach is problematic for the following reasons. Firstly, the scale of the building, whilst commensurate with a rural working environment is disproportionately large for a domestic dwelling. This would result in an uncomfortable tension between the residential use and form of the building. The lack of authenticity underpinning the development would considerably weaken its identity.
19. Secondly, the contrast between the large, utilitarian structure built from functional materials with the numerous domestically proportioned openings would appear awkward and confusing. Thirdly, the likely level of activity, vehicular movement and lighting associated with domestic occupation would be noticeably different to an agricultural barn. In addition, the grounds of the building would be likely to accommodate domestic paraphernalia, garden and ornamental planting which would appear adversely at odds with the immediate agricultural surroundings. To my mind, these factors would exacerbate the incongruity of the domestic traits of the development which would be harmful in this rural context. I do not consider that a condition to require different materials would address the extent of my concerns.
20. The site is close to, but outside of the AONB. The geology, distinctive topography, expansive views, natural and farmed landscape contribute towards its special qualities. Paragraph 172 of the Framework requires great weight to be given to conserving and enhancing landscape and scenic beauty in the AONB. Although it would be possible to glimpse the proposal from some elevated points in the AONB, this would not necessarily equate to harm. This is consistent with the approach of the Inspector in the appeal⁴ to which I am referred. The combination of the relatively modest scale of the proposal, the distance from the boundary with the AONB and the degree of screening provided by intervening trees and hedgerows would avoid undermining the special qualities of the AONB. My approach is further reinforced by a similar finding by the Inspector in the recent appeal decision for a dwelling.
21. It does not follow from my finding in relation to the special qualities of the AONB that the effect of the proposal on the character and appearance of the area would be unimportant. For the reasons already outlined above, the proposal would cause localised harm to the character of the appeal site and landscape. As such, it would fail to recognise the intrinsic character and beauty of the countryside contrary to paragraph 170 b) of the Framework.
22. Reference is made to an extant planning permission for an agricultural barn at the site that would be of a similar scale and siting to the appeal proposal.

⁴ Reference APP/Q3305/A/12/2185032

However, there would be differences in terms of the use, openings and curtilage treatment that would distinguish the two proposals. By comparison, for the reasons outlined, the appeal proposal would be significantly more harmful to the character and appearance of the area. Consequently, the extant permission for a barn does not carry weight in favour of the proposal.

23. It is stated that the Council have allowed a new residential property at Bethel Barn. Little information is provided in relation to this, but the Design and Access Statement⁵ refers to Bethel Barn as a barn conversion originally granted under prior approval legislation. That being the case, it would not have been subject to assessment against the development plan in the same way as the appeal proposal. In any event, the scheme before me would not involve the conversion of an existing building. Therefore, the circumstances are materially different, and it is of little weight.
24. Accordingly, although harm would not result to the AONB, the proposal would nevertheless be harmful to the rural character and appearance of the area. Therefore, it would conflict with policies DP1, DP4 and DP7 of the LP. In combination, and amongst other things, these policies require development to be of a high quality design that contributes positively to the maintenance and enhancement of local identity and distinctiveness and avoids significantly degrading the quality of the local landscape.

Planning balance and conclusion

25. The Council cannot demonstrate a five year supply of deliverable housing sites. The information provided refers to 3.8 years⁶ supply and I have not seen evidence to suggest otherwise. This represents a sizeable shortfall. In these circumstances footnote 7 of paragraph 11 of the Framework deems that the policies which are most important for determining the application are out-of-date. I have not found harm would result to the AONB, and there is nothing otherwise before me to show that the Framework policies in footnote 6 provide a clear reason for refusing the proposal. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
26. The LP dates from 2014 but paragraph 213 of the Framework states that due weight should be given to development plan policies made prior to the publication of the Framework according to their degree of consistency with it. The Framework stipulates that good design is a key aspect of sustainable development⁷. Furthermore, it requires planning decisions to recognise the intrinsic character and beauty of the countryside⁸. On that basis, the LP policies referred to above which seek to protect the character and appearance of the area align with the Framework. The harm arising from the conflict with those policies therefore attracts significant weight.
27. In addition, the Framework expects development to prioritise pedestrian and cycle movements⁹. Moreover, although it does not preclude development in rural areas, rural housing should be located where it will enhance or maintain

⁵ Paragraph 1.2

⁶ Appellant's Design and Access Statement, paragraph 3.1

⁷ Paragraph 124 NPPF

⁸ Paragraph 170

⁹ Paragraphs 110 NPPF

the vitality of rural communities¹⁰. Additionally, planning decisions should promote the effective use of land¹¹. Therefore, it supports the general thrust of the Mendip Spatial Strategy in the LP in terms of the location of rural housing. On that basis, I do not fully agree with the Inspector in the recent appeal decision¹² at the site that no weight should be given to the conflict with the settlement strategy for new development. Nevertheless, I note that he gave great weight to the failure to appropriately promote the use of sustainable modes of transport and my approach is consistent with that. Overall, in recognition that policy CP1 is out of date and the shortfall in deliverable housing sites, the harm arising from the conflict with policy CP1 in this case attracts moderate weight.

28. The proposal would provide an additional dwelling which would assist in boosting the supply of housing in an area of unmet need. It would allow a limited choice of means of travel and the dwelling would be constructed to a high standard of environmental performance. Energy for the dwelling and future occupants' vehicles could be generated from an existing wind turbine. There would be economic benefits associated with the construction and activity of the future occupants, and the development would generate additional Council tax for the Council. Even so, the extent of these benefits accruing from a single dwelling would be small. Overall, they attract limited weight.
29. Reference is made to the use of an existing access way. However, development policy compliance in relation to highways or other matters would not amount to a benefit of the proposal. As such, this is a neutral factor in the overall balance.
30. I have had regard to the preference expressed for the residential use of the land from nearby residents. However, this would not lead me to a different view on the planning merits of the case and attracts little weight.
31. Consequently, taken together the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
32. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹³. The benefits would not justify my determining the development other than in accordance with the adopted development plan and the provisions of the Framework do not outweigh this finding. Hence, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹⁰ Paragraph 78 NPPF

¹¹ Paragraphs 117 NPPF

¹² Reference APP/Q3305/W/20/3256259

¹³ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.