



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: 21 January 2021

Appeal Ref: APP/Q3305/W/20/3260864

**Hill Top, Blackey Lane to Withy Lane, Neighbourne, Shepton Mallet
BA3 5BQ**

- 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 Simon Wellby against the decision of Mendip District Council.
 - The application Ref 2020/0494/FUL, dated 3 March 2020, was refused by notice dated 4 September 2020.
 - The development proposed is the construction of a new dwelling following demolition of the existing dwelling. Construction of new garden studio following demolition of existing garden store. Change of use of land adjacent to house to be within the residential curtilage of the dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a new dwelling following demolition of the existing dwelling, construction of new garden studio following demolition of existing garden store and change of use of land adjacent to house to be within the residential curtilage of the dwelling at Hill Top, Blackey Lane to Withy Lane, Neighbourne, Shepton Mallet BA3 5BQ in accordance with the terms of the application, Ref 2020/0494/FUL, dated 3 March 2020, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. Neighbourne is a hamlet of predominantly residential properties set within an undulating landscape comprising a patchwork of fields, hedgerows and woodland. The settlement pattern is lightly settled and although there is some variety in the individual scale, form and appearance of buildings, they are generally arranged in linear groups relatively close to the winding country lanes. This results in an attractive, informal rural character to the area.
4. The appeal site comprises a bungalow (Hill Top) and adjoining land to the south. It is located within a linear group of mixed building types that are at an elevated position in the landscape and higher than the adjacent lane. The existing bungalow is of a modest scale and has an unremarkable conventional appearance. Nevertheless, its siting between existing dwellings along the lane means that it generally respects the pattern of development and does not stand out. The land adjacent is less well defined containing several dilapidated

structures, the remnants of an ornamental pond, grass, fruit trees as well as a driveway facilitating access to the rear of other properties. Although somewhat overgrown, it is generally green and retains a sense of rural informality. Overall, the appeal site makes a small positive contribution towards the rural character and appearance of the area.

5. The proposal would replace the existing dwelling and a barn/outbuilding with a detached dwelling and separate garden studio to provide improved and enlarged residential accommodation. Although both the proposed buildings would be larger than the original structures that they replace, they would be aligned between the dwellings to the north and south such that their position and spacing would respect the distinctive linear pattern of development. Furthermore, they would present towards the lane in a broadly similar manner to nearby dwellings.
6. Both buildings would be of a contemporary design and would use a mix of natural stone, timber, render and standing seam zinc roofing which would give a coherent appearance to the development using materials that are likely to weather gracefully, resulting in a muted finish. This would assist in blending the development into the surrounding area.
7. Relative to the garden studio, the proposed dwelling would have greater status due to its height and degree of detailing. This would include a dormer with asymmetric windows on the front elevation, and vertical panels of timber cladding or glazing on the flat roofed sections of the side elevations that separate the pitched components of the principal structure. As a result, the dwelling would be visually attractive, and would add interest and greater distinctiveness to the area. In addition, the internal accommodation would be arranged to suit the needs of a wide range of occupants having regards to accessibility and adaptability.
8. The subordinate appearance of the garden studio would be reinforced by its simple form, low roof profile, significant use of timber cladding, greater set back from the lane and restrained size of openings, some of which would have timber screens. As the building would take some design cues from more utilitarian agricultural buildings commonly seen in rural environments, this would prevent it from having a conspicuously domesticated character as the Council asserts.
9. There would be an increase in the volume of built form across the site and the roof apex of the dwelling would be higher than the existing bungalow. I acknowledge that as a consequence, the development would have added prominence when seen from the lane and in some views from the wider area. However, it does not necessarily follow that this would equate to a harmful impact. The overall height of the dwelling at approximately 7 metres would retain a modest domestic scale. The street elevation provided illustrates it would be lower than the roof ridges of both Woodhill Cottage and Fairview/Woodside situated at either end of the linear group.
10. Furthermore, the continuation of the roof slope to provide a canopy on the front elevation adjacent to the Little House results in a low eaves level. When viewed in combination with the continuation of the zinc cladding on the front wall face this would be visually recessive. In combination with the subordinate appearance of the garden studio, this would prevent the massing and form of

the development from appearing dominant or overly prominent within the mixed group of buildings lining the lane.

11. Consequently, the proposal would accord with paragraph 127 of the National Planning Policy Framework which stipulates that planning decisions should ensure, amongst other things, that developments are sympathetic to local character, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Therefore, despite being larger than the existing dwelling and barn at the site, the development would be successfully assimilated in views from the lane and for the reasons outlined, would enhance such views. Moreover, given the relatively modest nature of the proposal, the relationship of the appeal site with the wider landscape would not be significantly altered, and the rural qualities of the surrounding countryside would be conserved.
12. Accordingly, I find that the proposal would not cause harm to the character and appearance of the area and therefore, it would not conflict with policies DP1, DP4 or DP7 of the Mendip District Local Plan 2006-2029, Part 1 Strategy and Policies, December 2014 (LP). In combination, and amongst other things, these policies require development to be of a scale, mass, form and layout appropriate to the local context, that contributes positively to local identity and distinctiveness and avoids significantly degrading the quality of the local landscape.

Other matters

13. The Council indicate on the appeal questionnaire that the appeal site is not in or adjacent to or likely to affect an internationally designated site. This is further reinforced by the comments of the Council's Ecology Officer¹ who states that the proposal would be highly unlikely to have a significant effect on greater horseshoe bats and therefore, would not be harmful to the Mells Valley Special Area of Conservation (SAC) which is designated for its greater horseshoe bat features. The appeal site is previously developed, and the proposed buildings broadly relate to the footprints of existing structures. Having regard to the ecology survey² which considered the impact on bats, I have nothing before me that would indicate that the proposal would be likely to have a significant effect on the internationally important interest features of the SAC either alone or in combination with other plans and projects. As such I am not required to undertake an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.
14. Nevertheless, the submitted ecological information included an outline mitigation strategy and enhancement measures in order to adequately protect bats and other biodiversity at the site. These are matters which can be addressed by planning conditions.

Conditions

15. The Council did not suggest any conditions as part of the appeal, but I have had regard to the conditions proposed by the Council's Ecology Officer and contents of the submitted Ecological Report in coming to my decision.

¹ Dated 20.3.20

² Ecological Report prepared by the Landmark Practice dated 28 June 2019

16. The three year period in which the planning permission may be implemented is a statutory requirement and it is necessary to specify the plans that are approved and that the development shall be undertaken in accordance with these, as this provides certainty.
17. A condition requiring the agreement of the finish of the external materials to be used is reasonable given their impact on the overall quality of the design. Furthermore, in order to safeguard the verdant qualities of the site and assist in the assimilation of the development into its context, a suitable landscaping scheme is necessary.
18. Based on the outline mitigation strategy and enhancement measures in the ecology report provided and recommendations of the Councils Ecology officer, conditions are imposed in order to adequately protect bats and other biodiversity at the site. These include pre-commencement conditions or other measures to be agreed or followed at an early stage of the development. This is necessary and justified to prevent harm to existing wildlife, including protected species.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

Helen O'Connor

Inspector

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, drawing no. A-01; Proposed Site Plan, drawing no. P-03 Rev A; Proposed Ground Floor Plan, drawing no. P-04; Proposed First Floor Plan, drawing no. P-05; Proposed Elevations, drawing no. P-06; Proposed Section/Street Elevation, drawing no. P-07; Proposed Plan/Elevations, drawing no. P-08; Drainage Plan, drawing no. P-09.
- 3) Prior to construction using any external materials samples of all external facing materials shall be submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) Prior to the first use of the buildings hereby approved, there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. Thereafter, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner.
- 5) Works shall not commence unless the local planning authority has been provided with either:
 - a) a copy of the licence issued by Natural England pursuant to 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
 - b) a statement in writing from a licensed bat ecologist to the effect that he/she does not consider that the specified development will require a licence.Thereafter, works potentially affecting bats shall proceed under the supervision of a licensed bat ecologist.
- 6) Prior to the commencement of works on site:
 - a) Site operatives shall be inducted by a licensed bat ecologist to make them aware of the possible presence of bats, their legal protection and of working practices to avoid harming bats. Written confirmation of the induction shall be submitted to the local planning authority by the licensed bat ecologist within one week of the toolbox talk.
 - b) Two Improved Cavity bat boxes to provide a suitable alternative roosting location, to accommodate any discovered bat(s), shall be hung on a suitable tree or building on or adjacent to the site at a minimum height of 4 metres as directed by a licensed bat ecologist. Any such box shall be maintained in-situ thereafter. Photographs showing their installation will be submitted to the local planning authority
- 7) Prior to the first occupation of the development hereby approved, 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 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 shall thereafter be maintained as such. No further external lighting shall be installed.

- 8) An updated badger survey shall be undertaken by a competent ecologist within two weeks of the start of any work on site. Written notification of the survey along with any mitigation measures shall be submitted to and approved in writing by the local planning authority prior to vegetative clearance, demolition of buildings or groundworks commencing.
- 9) Any vegetation in the construction area shall initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10°C or above) before clearing to minimise the risk of harming/killing any reptiles that may be present and to encourage their movement onto adjoining land. This work shall only be undertaken during the period between March and October under the supervision of a competent ecologist. Once cut vegetation should be maintained at a height of less than 10cm for the duration of the construction period. Any features such as rubble piles which potentially afford resting places for reptiles shall be dismantled by hand by a competent ecologist in April or August to October only and any individuals found translocated to a location agreed with the local planning authority prior to works commencing on site. A letter confirming these operations and any findings shall be submitted to the local planning authority prior to the demolition of the garden store.
- 10) No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check 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. The written confirmation shall be submitted to the local planning authority. Netting shall not be used to exclude nesting birds.
- 11) Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority in writing, detailing the containment, control and removal of New Zealand pygmy weed on site. Thereafter, the measures shall be carried out in accordance with the approved scheme.