



Appeal Decision

Site Visit made on 18 January 2021

by David Wyborn BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2021

Appeal Ref: APP/D0121/W/20/3253758

Builders Yard, Weston Road, Long Ashton BS41 9BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr S Weeks against the decision of North Somerset Council.
 - The application Ref 20/P/0640/PIP, dated 10 March 2020, was refused by notice dated 21 May 2020.
 - The development proposed is permission in principle for the erection of 2-5 dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for the erection of 2-5 dwellings at Builders Yard, Weston Road, Long Ashton BS41 9BJ in accordance with the terms of application Ref 20/P/0640/PIP, dated 10 March 2020.

Procedural Matters

2. The scope of 'permission in principle' is limited to location, land use and amount of development. Issues relevant to these 'in principle' matters should be considered at the permission in principle stage. Other matters should be considered at the technical details consent stage. The application form indicates that the proposal is for a minimum of 2 dwellings and a maximum of 5 dwellings.

Main Issues

3. The first issue is whether or not the proposal is habitats development and therefore whether it can fall to be considered under the permission in principle application procedure.
4. If the scheme can be considered under the permission in principle procedure, the subsequent main issues, having regard to the location, land use and amount of development, are:
 - whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including the effect of the proposal on the openness of the Green Belt, and
 - whether the development plan would support the proposed residential development in this location.

Reasons

Habitats development

5. The Planning Practice Guidance¹ (the Guidance) sets out the approach as to whether a local planning authority may grant permission in principle to sites that have been subject to a Habitats Assessment. This means for sites where development is likely to have a significant effect on a qualifying European site or a European offshore marine site without any mitigating measures in place, the local planning authority should ensure an appropriate assessment has been undertaken before consideration of the grant of permission in principle. The Guidance explains that if the local planning authority is satisfied, after taking account of mitigation measures in the appropriate assessment and concluding that the development will not adversely affect the integrity of the protected site, then, subject to compliance with other statutory requirements regarding the permission in principle process, it can grant permission in principle.
6. In this case, the appeal site is located within Consultation Zone Band B of the North Somerset and Mendip Bat Special Area of Conservation (SAC) for Lesser Horseshoe bats and Band C for Greater Horseshoe Bats. Both species of Horseshoe bat are Qualifying Features of the SAC. I sought the views of Natural England on the potential effect of the scheme on the SAC. Natural England set out a detailed response. Both main parties have commented on the advice and I have taken their views into account.
7. Natural England advised that in its view, for the reasons they set out, the scheme either alone or in combination, without mitigation, would be likely to have a significant effect on the qualifying features of the SAC. I have had regard to the detailed response from the appellant, however, I attach substantial weight to the views of Natural England. I conclude that, taking a precautionary approach, there could be a likely significant and adverse effect on the SAC, alone or in combination with other projects, and it is necessary to undertake an appropriate assessment.
8. Natural England also explain that effective bat mitigation measures are routinely secured for development of the nature of the appeal scheme in North Somerset, and in relation to this site this would be mitigation in relation to suitable habitat and control of light spill. Natural England advise that suitable mitigation would include the retention and enhancement of the native, species-rich hedgerow to the south and south east of the site, the retention and enhancement of the hedge to the north, the retention of any mature trees within the site and the creation of a native, species-rich hedgerow along the western site boundary to provide a strong north-south connection.
9. The plans show the red lined application site for the development is set in from the western and southern boundaries of the overall site. The areas between the blue and red lined areas are quite extensive, especially along the southern boundary. This land within the blue lined area is identified as a wildlife corridor and ecology zone. Along the southern part of the site there is already reasonably extensive trees, hedging and shrubs and these would not be affected by the scheme. Consequently, these ecological areas would not be an area for the built form and are, as provided by the red and blue lines on the plans, part of the structural layout of the proposal.

¹ Paragraph: 005 Reference ID: 58-005-20190315

10. The mature trees along the frontage would not need to be affected by the proposal and there are few other mature trees set in from the boundaries of the red lined site area. Taken together this layout, showing the retention of the existing vegetative areas and provision of wildlife corridors, would accord with the approach to provide ecological mitigation as recommended by Natural England. Consequently, the very substantive parts of the required mitigation strategy, in terms of the important ecological areas and vegetation retention, would be provided at this permission in principle stage.
11. I am satisfied that the details at the technical details consent stage would be able to confirm the precise specification and ensure retention of the necessary structural mitigation identified by the areas shown on the plans. If such details were not shown or retained then technical detailed consent could be refused. The Guidance explains that it is the granting of technical details consent that has the effect of granting planning permission and such an application must be in accordance with the permission in principle that is specified by the applicant.
12. In terms of lighting, I noted at my site visit there is already external lighting associated with the builders yard use and this is likely, when used, to have an influence on the lighting situation for bats on the site. Natural England consider that a lighting assessment in accordance with the North Somerset and Mendip Bats SAC Technical Guidance Supplementary Planning Document should be submitted to provide a suitable bat habitat. With the redevelopment of the site, the present lighting would be removed and this could form part of a scheme to secure a suitable and dark environment for bats. Again the position and extent of the proposed red and blue lined areas would allow an unlit habitat away from the built development in a similar, and potentially improved, way as presently provided by the layout of the site.
13. I am satisfied that by the evidence that a detailed scheme to minimise external lighting within the red lined site for the housing would mitigate any lighting impact satisfactorily at the technical details consent stage. I am reassured on this matter as Natural England consider this would be routine with this type of proposal.
14. The Guidance clearly envisages that there may be circumstances where even though an appropriate assessment is required for a permission in principle proposal, the manner of the scheme and the mitigation is such that the proposal would not have an adverse effect on the integrity of the habitats site. I consider because of the very specific circumstances with this proposal, this would be such a case.
15. I therefore conclude, as the competent authority, and when undertaking the appropriate assessment, for the reasons explained above, and having regard to the manner in which the scheme would be carried out and with mitigation effectively secured in line with the advice of Natural England, that the scheme would not, either alone or in combination with other projects, adversely affect the integrity of the SAC. Accordingly, the scheme, subject to compliance with the statutory requirements regarding the permission in principle process, can proceed to be considered and is not habitats development.

Green Belt

16. The site lies within the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145 of the Framework. The proposed residential development of the appeal site is advanced on the basis that the development would constitute limited infilling in villages (paragraph 145e).
17. In terms of the development plan approach, and those policies referenced in the reason for refusal, Policy CS6 of the North Somerset Council Core Strategy (January 2017) (the Core Strategy) explains that the boundaries of the Bristol - Bath Green Belt will remain unchanged during the plan period. This policy provides context but does not appear to be directly relevant to the considerations of infill development with the present proposal. Policy DM12 of the North Somerset Council Development Management Policies Sites and Policies Plan Part 1 (July 2016) (the DMP Part 1) sets out the approach to development within the Green Belt and states that limited infilling and redevelopment will not be regarded as inappropriate within those villages washed over by Green Belt but have retained their settlement boundaries.
18. The appeal site lies beyond the defined settlement boundary of Long Ashton and therefore the proposal would not accord with the definition of limited infill within a settlement boundary village under Policy DM12 of the DMP Part 1. However, in accordance with the approach in *Julian Wood v SSCLG & Gravesham BC 2015* it is also necessary to assess the situation on the ground in terms of whether the scheme would meet the Framework policy of being limited infilling in a village. I do not consider that Policy DM12 of the DMP Part 1 precludes this analysis and potentially the finding that a scheme would meet with the exception under paragraph 145e of the Framework.
19. Both main parties have provided a series of appeal decisions which it is argued should provide assistance in determining whether or not the present scheme should be considered to constitute limited infilling in a village. I have had regard to all of these decisions, however, I attach limited weight to these cases as the circumstances of what constitutes limited infilling is very much site dependent in the context of each village and the relationship to surrounding development.
20. In this case, when approaching Long Ashton from the west, along Weston Road, the surroundings are predominantly open grazing and arable fields, bounded by hedges. On the southern side of the road, the Long Ashton District Guide Headquarters presents quite a clear and reasonably prominent building with its depth of built form stretching back in its site and the light colour of the elevations. This building appears on the ground to mark the start of a visual transition from open countryside to a more developed appearance. Furthermore, adding to the general feeling of a transition from the countryside, is the presence of the village sign, the reduction in speed limit and related 30mph signage, and the street lights on the southern side of the road. Also the road in the near distance curves so that the Apple Tree Nursery building is visible in direct view and this together with the other surrounding buildings of

the village form the backdrop and the wider context when travelling along this section of Weston Road.

21. The appeal site has a row of trees along part of its frontage, however, the close boarded fence is also a dominant aspect alongside the footway. It exerts quite a visual influence on this side of the road and the fence provides this frontage with a fairly suburban appearance. The extent of the fence stretching along the back of the footway provides a visual link from the District Guide Headquarters towards the denser built form of development further to the east. The more suburban appearance on this southern side of the road is reinforced by the bus lay-by and the pedestrian crossing with the central refuge.
22. Between the appeal site and the settlement boundary is Sunnydene House. The built form of this site is not readily visible from Weston Road because it fronts Wild Country Lane and there are trees and other planting along the northern section of this site. Nevertheless, taking all the circumstances together, because of the presence of the District Guide Headquarters and the other more suburban features I have highlighted, together with the contrast with the more open countryside to the north and west, the impression is that this area south of Weston Road, including the appeal site, has a greater affinity and association with the village than with the surrounding countryside. I therefore conclude that the appeal site, when experienced on the ground, falls within the village for the purposes of considering the allowance under paragraph 145e of the Framework.
23. Long Ashton is quite a substantially sized village. In the context of the size of the village and the extent of development along its linear form, together with the character and appearance of the development in the general vicinity of the site, the size of the appeal site with the proposed two to five units would be limited in extent and scale to the village.
24. In terms of whether the site would constitute infill development, the proposed housing would be bounded by the built form of the District Guide Headquarters site on the western side and by the railway line and its cutting to the south. On the eastern side, buildings do not front Weston Road, nevertheless, this land includes Sunnydene House with its associated outbuildings and its grounds. Part of this adjoining site does, therefore, contain a developed form rather than being an undeveloped gap. The proposed residential development would largely occupy the space between these features and replace the builders yard buildings and use which occupies part of the site at the present time.
25. Furthermore, visually the development would be experienced in the wider context of the District Guide Headquarters and the denser form of development at the junction and to the east of Wild Country Lane. The reasonably low density proposal of up to 5 units, set behind the planting to the frontage and in conjunction with the planting to the north of Sunnydene House, would deliver an acceptable built form where the spacing between buildings would appear as a tapering off of development at the edge of a settlement. In the particular circumstances of this site and the surroundings, the development would therefore appear as an infill site at the edge of Long Ashton.
26. Taking all these matters together, the scheme would, in the context of the particular circumstances of this site, constitute an infill proposal. As I have judged that the site would fall within the village and the extent of development would be limited, I conclude that the scheme would meet with the

requirements of Paragraph 145e of the Framework. There is no requirement to consider the impacts on openness as this is implicitly taken into account within this exception². Consequently, I conclude that the proposal would not be inappropriate development within the Green Belt.

27. Furthermore, as the scheme would be within the village and result in the removal of the buildings and external storage associated with the lawful use of a part of the site as a builders yard, I do not consider that the proposal would conflict with any of the Green Belt purposes, including the need to assist in safeguarding the countryside from encroachment.

Whether the development plan would support the proposed residential development in this location.

28. Policy CS14 of the Core Strategy sets the development plan approach for the distribution of new housing. The policy indicates that settlement boundaries will define the area within which development is acceptable, in principle, subject to compliance with other policies in the plan.
29. Policy SA2 of the North Somerset Sites and Policies Plan, Part 2 – Site Allocations Plan 2006-2026 (2018) (the SAP Part 2) sets the settlement boundaries for the various towns and villages, including Long Ashton. The appeal site lies outside the settlement boundary and the principle of development would, therefore, be contrary to the approach in Policy CS14 of the Core Strategy. Accordingly, as the proposed housing would not be one of the specified categories of acceptable development outside a settlement, the proposal would not accord with Policy CS33 of the Core Strategy.
30. In the light of the above analysis, I conclude that the development plan would not support the proposed residential development in this location. In particular the proposal would not accord with Policies CS14 and CS33 of the Core Strategy and Policy SA2 of the SAP Part 2 which set the strategy for the delivery of housing across the plan area.

Planning Balance and Conclusion

31. The proposal would not comply with the locational strategy for the provision of residential development, including the approach to development within Green Belt villages set out in Policy DM12 of the DMP Part 1 because of the relationship to the settlement boundary. As a consequence, the proposal would conflict with the development plan when considered as a whole.
32. It is accepted by the main parties that the Council is unable to demonstrate a 5 year supply of deliverable housing land. I have found that the proposal would not be inappropriate development and would not be inappropriate development in the Green Belt. Therefore, the application of policies in the Framework that protect areas of particular importance do not provide a clear reason for refusing the development. In these circumstances, the presumption in favour of sustainable development as set out in paragraph 11d of the Framework is engaged. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

² Having regard to the approach set out in *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404*.

33. Due to the Council's housing supply position, the location of the site outside the settlement boundary is not definitive in this case. Long Ashton has a good range of services and facilities which reflects its designation as a Service Village under Policy CS32 of the Core Strategy. These include a convenience store, chemist, Post Office, eating and drinking establishments, a hairdresser, medical centre, dentist and community centre. The site adjoins a footway which provides pedestrian access directly to many of the village services and facilities and would be within a reasonable and convenient walking distance from the site. Furthermore, the village has a primary school, the nearby nursery school and employment sites that provide accessible options for residents who may wish to use these facilities or potentially could be employed locally.
34. Additionally there are bus stops on either side of the road which are quite close to the entrance to the site. The evidence indicates that there is a fairly regular bus service through the village which links to Bristol. Also in front of the site is the dedicated cycle lane and cycling to and from the village and potentially further distances would be a realistic prospect for some residents of the site.
35. Taken together, although outside the settlement boundary, the proposed site for the residential development would allow future occupiers to have fairly good accessibility to local services and facilities other than by the private vehicle. The location is therefore one that would offer genuine choice of transport modes and meet with the Framework approach that development should be located to promote opportunities for walking, cycling and public transport.
36. Part of the site is also lawfully a builders yard. This consists of a series of modest buildings, containers and the outside storage of materials. This section of the site can therefore be considered previously developed land. Making effective use of this part of the land would accord with the policy approach of the Framework to use suitable brownfield land for housing.
37. The second reason for refusal identifies conflict with Policies CS1 and CS32 of the Core Strategy. However, because of the opportunities to use sustainable transport modes and re-use previously developed land, the proposal would accord with the relevant parts of Policy CS1 of the Core Strategy, which seeks to address climate change and promote carbon reduction.
38. Furthermore, while the supporting text to Policy CS32 of the Core Strategy concerning Service Villages indicates that residential development adjoining the settlement boundary of such villages would not be acceptable in the Green Belt, this criterion is not included in the policy itself. Therefore, in terms of the criteria of Policy CS32 itself, which allows for residential development of sites within or adjoining the settlement boundary, and accepting that not all criteria are applicable at this permission in principle stage, I am not persuaded that the proposal would conflict with this policy. This is because of the accessibility that occupiers of the site would have to local services and facilities.
39. The proposal would deliver between 2 and 5 dwellings and make a small but worthwhile contribution to housing supply, thereby helping to meet the housing figure set out in Policy CS13 of the Core Strategy. The housing would be provided on a windfall site and would be a reasonably small site that could be delivered by a small or local builder adding to the overall mix and offer of housing in the area. Also the scheme would bring economic and social benefits to the area during construction and in subsequent occupation.

40. The Long Ashton Parish Council has raised objection to the proposal, including because the site lies outside the settlement boundary, is in the Green Belt and was not included as a development site in the Neighbourhood Development Plan. These are important matters but they are not determinative for the reasons explained.
41. I also note the submissions regarding the planning permission for the single dwelling which was judged to be acceptable replacing the builders yard. However, this permission does not prevent an alternative scheme being considered on its merits which involves a greater number of units. The Council did not include a reason for refusal regarding the effect of the proposal on the character and appearance of the area and, with the submission of a suitable scheme at the technical details consent stage, the impact of the proposal on the area would be acceptable.
42. In terms of the Green Belt, the proposal would not be inappropriate development as defined by the Framework and would not conflict with the purposes of including land within the Green Belt.
43. Drawing all these matters together, the harm that would result from the conflict with the locational policies of the development plan, especially in terms of the alignment of the settlement boundary, and therefore the conflict with the development plan as a whole, in the particular circumstances of the location of this site, affords limited weight³. The benefits of the scheme, including the small boost to housing supply where the future occupiers of the site would have access to local services and facilities other than by the private vehicle and the redevelopment on some previously developed land, cumulatively affords moderate weight in favour of the scheme.
44. I therefore consider that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. As a consequence, the proposal would constitute sustainable development and this weighs heavily in favour of the scheme.
45. Accordingly, I consider that the identified material considerations associated with the scheme are of such weight that they indicate that the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the location, residential land use and amount of development are acceptable and the appeal should succeed with the amount of development specified as being 2-5 dwellings.
46. As stated in the Guidance, it is not possible for conditions to be attached to a grant of permission in principle. I would expect an application for technical details consent to include a Habitat Evaluation Procedure calculation as set out in the North Somerset and Mendip Bats SAC Technical Guidance SPD, a detailed landscaping scheme, ecological assessment and proposals, a lighting assessment and comprehensive lighting scheme, all to ensure that biodiversity issues are addressed comprehensively.

David Wyborn INSPECTOR

³ I have had regard to the appeal decisions which the Council has brought to my attention regarding the weight other Inspectors have attached to the conflict with the various locational and housing policies of the development plan in the circumstances of those appeals.