
Appeal Decision

Site visit made on 27 April 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2021

Appeal Ref: APP/R3325/W/20/3264990

92 Brook Street, Milborne Port DT9 5DN

- 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 Rose against the decision of South Somerset District Council.
 - The application Ref 19/01557/FUL, dated 30 May 2019, was refused by notice dated 1 July 2020.
 - The development proposed is erect two dwellings and reposition existing access gate.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal application was determined, an additional matter has arisen in relation to potential effects on the Somerset Levels and Moors Special Protection Area and Somerset Levels Ramsar site. The appellant has commented on the potential implications of this matter on the proposal and I have therefore fully considered it in reaching my decision.

Main Issues

3. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Milborne Port Conservation Area; and
 - the effects of the proposal on the Protected Sites.

Reasons

Conservation area

4. The appeal site falls wholly within the Milborne Port Conservation Area (CA). Under Section 72(1) of the LBCA Act¹, I am required to pay special attention to preserving or enhancing the character or appearance of the conservation area.
5. The CA's significance derives from the survival of its Saxon/Medieval street plan, with clearly defined minster area and the heritage of the cloth and glove industries which strongly influenced the development of the area. The significant Church of St John the Evangelist which stands on the highest point of a spur and is widely visible in the surrounding townscape as a principal building of the CA. The CA also has a wealth of vernacular buildings on its well-

¹ Listed Building and Conservation Areas Act, 1990

preserved principal streets that contrast with the steep and narrow lanes that run into the river valley. A palette of consistent building materials and scale also combine to create a distinctive local character. Therefore, the CA's significance, insofar as it relates to the appeal, is the range of traditional historic buildings and dwellings laid out in historic street patterns.

6. The site is formed from an overgrown area of garden associated with No 92 Brook Street. It is set at a lower level and has some trees around its edges, with smaller specimens within. More modern dwellings and their gardens adjoin the site to the north and, given the level difference, views from Brook Street are largely over the roofscape towards the more significant church building in the background. A hardsurfaced area adjoining Brook Street currently enclosed by a crenelated stone boundary wall also forms a part of the site.
7. The proposal seeks to nestle two dwellings within a linked barn-style building into the space between No 92 and the adjacent barn conversion dwelling. It would be accessed from Brook Street with an opening created in the stone boundary wall, offset through the blocking up of an adjacent opening. There would be an underpass under a feature lintel with a gabled dormer feature above it, to allow cars to pass through and into the site to park at the rear. The dwellings would be orientated north-south, set back from Brook Street and set down at a lower level so as to form a stepped roof height when seen in context with No 92 and the dwelling to the east. The building would be finished in natural stone with a clay tiled roof to reflect the materials used in surrounding traditional buildings.
8. In my view, the siting, scale, form and design of the building would be appropriate in context in order to assimilate well with the character and appearance of the CA. It would contain elements, including its underpass, pitched dormers and materials, that are found elsewhere in the surrounding area. The height of the building would allow for views to be retained over the roofscape towards the church, but it would introduce a more characterful building into the foreground that would reflect the style of traditional buildings and close off some views to the asymmetric roof profiles of dwellings within 'Brookside', which are less reflective of the vernacular buildings of the CA. The verdant green character of the site would otherwise largely be maintained through the retention of trees to the north, with the view from the footpath preserved as one which would be filtered through said trees. Details to ensure protection of the tree in the garden of No 94 could also be secured by way of condition in order to help retain some greenery in the foreground streetscene from Brook Street.
9. The removal of the stone wall to form the access would include the blocking up of an adjacent access and reinstatement of the feature wall, more as a repositioning of the existing opening. Subject to the careful detailing of the replacement wall and features of the new opening, the proposal could maintain the contribution of this feature within the streetscene. Whilst I note the conclusion of a colleague in relation to the loss of this feature as part of a previous proposal to create a parking area², that materially differs from the nature of the scheme before me which would introduce a well-designed building into part of the site.

² Appeal ref: APP/R3325/A/11/2157095

10. In view of the above, the proposal would maintain the character and the appearance of the Milborne Port Conservation Area, thus preserve its significance. The proposal therefore complies with, in particular, Policies EQ2 and EQ3 of the South Somerset Local Plan (adopted 2015). Together, these Policies seek to achieve development that reinforces local distinctiveness, respects local context and safeguards the significance, character and setting of heritage assets.

Protected Sites

11. The site lies within the water catchment area of the SPA, designated under the Habitat Regulations 2017³, with which the Ramsar Site overlaps to a large extent⁴. While the SPA is designated for its international waterbird communities, the Ramsar Site is designated for its internationally important wetland features, including the floristic and invertebrate diversity and species of its ditches. The Framework offers the same protection to Ramsar sites as SPAs.
12. Increased wastewater from new development, including residential and agricultural developments, has the potential to increase levels of phosphates and nitrates within the SPA and Ramsar areas. Therefore, given its nature and proximity to the SPA and Ramsar sites (the Protected Sites), I cannot rule out likely significant effects on the Protected Sites from the development, considered either individually or in combination with other developments.
13. Somerset Planning Authorities have published a phosphate calculator tool which allows developers to calculate the likely change in phosphate levels related to their respective proposals and propose mitigation, potentially subject to a Section 106 planning obligation, where necessary. The appellant has not provided such information about the likely increase in phosphate levels or the necessity for any mitigation. Nor has it been suggested that a package treatment plant or septic tank could be used that may enable likely significant effects to be screened out in accordance with the interim guidance⁵.
14. Where likely significant effects cannot be screened out and where it is not possible to provide on-site mitigation, a strategic response to the delivery and management of phosphate neutrality management projects will be necessary. Although in development amongst the Somerset Planning Authorities, such an approach is not yet ready to be implemented. Whilst the appellant suggests that a condition could be added to secure the necessary mitigation measures, which may potentially involve payment of a financial contribution towards a strategic management project, I have no specific details about the nature, extent or effectiveness of any mitigation required.
15. Consequently, in the absence of any confirmation of a neutral effect on phosphate levels and absence of mitigation to offset any increases, I can only conclude that there would be significant effects on the Protected Sites.
16. The proposal would therefore fail to accord with the provisions of the Habitats Regulations 2017 and the Framework.

³ Conservation of Habitats and Species Regulations 2017, as amended

⁴Listed under the Ramsar Convention: The Convention on Wetlands of International Importance (1971)

⁵ Interim guidelines on small scale thresholds and nutrient neutrality principles for the Somerset Levels and Moors Ramsar catchment (February 2021)

Other Matters

17. I note the concerns of neighbours in relation to parking and the potential effects of relocating the opening. Following amendments made during the processing of the appeal application, there would be sufficient spaces to accommodate the new dwellings and the proposal would not exacerbate existing parking pressures, even if the position of suitable on-street spaces were altered. In the absence of any highways-related objection in this regard, this does not form a reason for refusing the development.
18. Whilst I have noted concerns in relation to potential ecological effects, I consider that the conditions suggested would adequately mitigate any related impacts and secure enhancements in this regard.

Conclusion

19. Whilst the proposal would preserve the character and appearance of the Milborne Port Conservation Area and deliver two dwellings to the local housing stock with associated economic benefits, potential significant effects on the integrity of the Protected Sites cannot be satisfactorily ruled out. The proposal therefore fails to accord with the provisions of the Habitats Regulations 2017 and the National Planning Policy Framework.
20. For the above reasons, the appeal fails.

Hollie Nicholls

INSPECTOR