
Appeal Decision

Site visit made on 4 March 2021

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 13 May 2021

Appeal Ref: APP/R3325/W/20/3261624

The Oaks, 141 West Coker Road, Yeovil BA20 2HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr B Delve (GSLM Ltd) against the decision of South Somerset District Council.
 - The application Ref 20/00151/OUT, dated 13 January 2020, was refused by notice dated 4 August 2020.
 - The development proposed is construction of single storey detached dwelling with garage and private access drive.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved for future consideration. The appellant has provided plans showing a layout for the proposal but their statement confirms that these are indicative only, therefore I have treated them as such. Nevertheless, as required by law¹ the appellant has shown that access would be achieved from an existing shared driveway from West Coker Road, and I have taken this into account when determining the appeal.
3. Since the Council made its decision, Natural England (NE) has issued advice regarding the implications of high levels of phosphates on the Somerset Levels and Moors Special Protection Area (SPA) and Ramsar site and the consequent impacts of new residential development. As competent authority I have a statutory duty to consider the effects of the proposal on the integrity of these habitats sites, therefore it is necessary for me to elevate this to a main issue in this appeal. NE has been consulted on the appeal proposal and both main parties have had the opportunity to respond to its comments.

Main Issues

4. The main issues are therefore the effect of the proposed development on the character and appearance of the area; the living conditions of neighbouring occupiers in respect of outlook and noise disturbance; and the integrity of the Somerset Levels and Moors habitats sites.

¹ Paragraph 5(3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

Reasons

Character and appearance

5. The appeal site lies behind No 141, one of a group of four substantial dwellings set in very large plots fronting West Coker Road. Large, mature trees along the frontages of these properties make a significant, positive contribution to the street scene and to the sylvan, wooded character of the area. They also provide significant screening of the dwellings, which are set back from the road at different distances. Mature trees along the boundaries of the appeal site further contribute to this sylvan character, with some visible from Nash Lane despite significant changes in ground levels.
6. The evidence before me indicates that historically, this small group of dwellings was on the edge of the settlement, however over the second half of the twentieth century the land to the west was developed and the dwellings are now within the settlement boundary of Yeovil. The residential development to the west is of mixed character and scale, with bungalows on relatively short, steeply sloping plots adjacent the site and larger houses on varied plot sizes on the other side of Nash Lane. It is generally of higher density than this small group of dwellings however, and as such, is of distinctly different character. The spacious plots and large gardens around No 141 are therefore now something of an anomaly in the local area. Nevertheless, this locally distinctive group reflects the development of Yeovil and contributes positively to the character and appearance of the area.
7. There has already been some development on these large plots, with Furzy Lodge to the rear of the appeal site and Coker Lodge adjacent to No 141. Additional dwellings have also been approved next to and opposite Furzy Lodge, accessed from the same side road off Nash Lane. Consequently, the pattern of development in this area is evolving. Nevertheless, by introducing a dwelling into this backland location, the proposal would reduce the spacious, undeveloped nature of the large garden, diminishing the distinctive character of this group of dwellings.
8. The visual impact of the proposal would however largely depend on the layout, scale and appearance of the dwelling and garage and the landscaping of the site, which are not sought for consideration at this stage. The appellant's indicative layout is therefore only one possible design option. The appellant advises that ground levels on the site have been raised by material from construction of Coker Lodge, and could be reduced. They also propose only a single-storey dwelling. Nash Lane is significantly lower than the appeal site and the bungalows provide considerable screening of the site from that road.
9. Taking these factors together, I see no reason why a single-storey dwelling and garage could not be designed to be well screened from view from Nash Lane. Views into the appeal site from West Coker Road would also be very limited due to the slightly offset layout of the drive and screening provided by existing trees, garage and dwellings. Furthermore, due to the size and width of the site there would be sufficient space to achieve a robust landscaping scheme to provide additional screening and contribute to the sylvan character of the area.
10. Trees along the proposed access, driveway and site boundaries, including those in the garden of No 2, could be protected through the design of the scheme, including through consideration of ground levels along the access. Protection

measures and working methods during construction could be secured by planning condition. Therefore, the valuable contribution of these trees to the character of the area could be safeguarded.

11. Consequently, the proposal would disrupt the characteristic long gardens of this group of dwellings and harmfully diminish their spacious character. However, with careful design it would only have a limited visual impact. Overall, therefore, the proposal would result in only slight harm to the character and appearance of the area. Nevertheless, there would be some conflict with Policy EQ2 of the South Somerset Local Plan (LP) which requires development to promote local distinctiveness and preserve or enhance the character and appearance of the district. It would also conflict with Policies ECH3 and ECCN2 of the East Coker Neighbourhood Plan (NP) insofar as they require development be designed to take account of its context and the character of the surrounding area.
12. As the scale and appearance of the proposed dwelling and the number of bedrooms proposed are not before me at this outline stage. I find no conflict with NP Policy ECH2, which seeks to meet local housing need through the mix of housing and requires high-quality design, especially in respect of scale and materials.

Living conditions

13. The proposal could impact on the outlook from the windows and gardens of properties in Nash Lane due to the level differences and the limited screening offered by the patchy vegetation along the boundary. It would also be visible from No 141 and Coker Lodge, albeit at some distance. The actual impact would however be largely determined by the design of the proposed dwelling and garage, including their scale, orientation, position within the site and roof form. These are all matters to be considered at reserved matters stage.
14. The site is relatively wide, with potential to change site levels and to locate the proposed buildings further from neighbouring properties than in the indicative layout. Furthermore, there would be opportunities for additional landscaping to provide screening between dwellings. Accordingly, given the size and shape of the site, I consider that there is scope for the site to accommodate a dwelling and garage without appearing overbearing from neighbouring properties.
15. Turning to noise disturbance, the Planning Practice Guidance sets out that in determining noise impacts, account needs to be taken of the acoustic environment and in doing so consider whether or not an adverse effect is likely to occur and whether or not a good standard of amenity can be achieved². It goes on to advise that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected, and that this will depend on how various factors combine in any particular situation³.
16. Vehicles accessing the proposed dwelling would inevitably generate some noise from engines, vehicle manoeuvring, loading and unloading and car doors closing. Vehicles passing along the proposed driveway are also likely to be noticeable from the properties either side and from Nos 2 and 4 Nash Lane due to their proximity. However, the amount of traffic generated by 1 dwelling

² Paragraph 003 Reference ID: 30-003-20190722

³ Paragraph: 006 Reference ID: 30-006-20190722

would be low and vehicle speeds would also be low due to the width and slightly offset arrangement of the driveway. The proposed driveway is also relatively short, and occupiers and visitors of the proposed dwelling are unlikely to linger in that area. Therefore, noise disturbance is unlikely to be frequent and would be of brief duration.

17. No 141 and Coker Lodge already experience some noise from vehicle movements in their shared driveway and turning area. Moreover, West Coker Road is a busy main route into and out of Yeovil and although my site visit was conducted during a period of travel restrictions due to the Covid-19 pandemic, traffic noise was clearly audible in the shared driveway and on the appeal site. Therefore, the two existing dwellings are already exposed to some noise disturbance from vehicular traffic and the proposal is unlikely to significantly increase this.
18. Nash Lane is however quieter by virtue of being lower than West Coker Road, and vehicles using the proposed driveway would be close to rear gardens which are currently free of traffic. The introduction of vehicle movements into this area would therefore be noticeable. However, the level of noise could be reduced by the type of boundary treatment and surfacing materials used, and by the layout of the site and proposed buildings. While such measures are unlikely to completely remove any noise, they could mitigate and reduce the potential impacts to a minimum as required by the National Planning Policy Framework (the Framework). These could be secured by planning conditions and the layout and design of the scheme at reserved matters stage. Consequently, with careful design the impacts of vehicle activity from the proposed dwelling on the occupiers of Nos 2 and 4 would be unlikely to be intrusive or disruptive or result in changes in behaviour, and would not result in unreasonable noise disturbance.
19. I appreciate that the occupiers of those properties have already experienced disruption during construction of Coker Lodge, and would experience further construction noise should this appeal be allowed. This would however be a temporary situation, and the impacts could be mitigated by controls over construction, secured by condition. Therefore, the impacts of construction noise would not warrant dismissal of the appeal.
20. Accordingly, I am satisfied that a detailed design could be achieved such that the proposal would not result in significant adverse effects on the living conditions of the occupiers of neighbouring properties in respect of outlook or noise disturbance. It would not therefore conflict with LP Policy EQ2 or NP Policy ECCN2 insofar as they require development to protect residential amenity.

Habitats sites

21. The Somerset Levels and Moors SPA and Ramsar site are designated for their international waterbird communities and internationally important wetland features. NE advises that the Ramsar site is currently in an unfavourable condition due to excessive phosphate loading within its catchment. Additional residential properties within the catchment have the potential to add to phosphorous nutrient loads through sewage discharge, contributing to the existing unfavourable condition and further preventing the site from achieving its conservation objectives.

22. The proposal would result in a net gain of one dwelling and as such has the potential to increase phosphorus loads in the catchment area. NE interim guidance identifies that in certain situations a conclusion of no likely significant effect on the habitats sites could be reached. These include where there is no pathway between the proposal and the designated site interest features, or where there is a pathway but the proposal will not increase nutrient levels or such additional contribution will be insignificant alone and in combination. The guidance then sets out thresholds for insignificant levels of phosphorous discharges.
23. There is no evidence before me that the appeal proposal would meet any of these criteria or be below the identified thresholds. Consequently, both alone and in combination with other development in the area, the proposal would be likely to have a significant effect on the integrity of the habitats sites. It is therefore necessary for me, as competent authority, to undertake an appropriate assessment of the impact of the proposal.
24. The appellant has indicated their willingness to enter into a legal agreement to secure mitigation of the impacts of the proposal once the Council adopts a mitigation strategy for the Somerset Levels and Moors. I have not however been advised that any such strategy is in place and in any event no agreement has been submitted. Furthermore, no site-specific mitigation measures have been put forward. Therefore, in the absence of mitigation the proposal would result in a significant adverse effect on the integrity of the Somerset Levels and Moors habitats sites. Accordingly, it would conflict with LP Policy EQ2, which requires that development must not risk the integrity of internationally, nationally or locally designated wildlife sites.

Planning Balance and Conclusion

25. The proposal would make more effective use of land on a small site as supported by the Framework, but as residential garden in a built-up area the site falls outside the Framework definition of previously developed land and does not therefore benefit from the support for use of such land. It would deliver additional housing in a location with access to facilities, services and sustainable transport modes and within the settlement boundary of Yeovil, where the LP seeks to focus development. It would also generate economic benefits through construction and occupation. However, the Council can now demonstrate over 5 years supply of housing land and although this is not a cap on development, in this context the benefits from one additional dwelling would be limited, and carry limited weight.
26. The proposal could be designed with sustainable construction features and to be accessible and adaptable. However, such details would depend on the final design, therefore at this outline stage, and in the absence of a detailed scheme, I can give minimal weight to this matter. Without a landscaping scheme the potential to achieve biodiversity enhancements also carries minimal weight. I note local concern regarding drainage and archaeology, however a robust drainage scheme and an archaeological assessment could be secured by conditions. The proposal could retain adequate garden space for the existing dwellings and provide sufficient parking. These are however neutral impacts in the planning balance.
27. The appellant has drawn my attention to backland developments approved at 62 and 108-110 West Coker Road. Although these indicate some densification

in the local area the context of these sites is not directly comparable to that of the appeal scheme, due to the distinctively different character of this group of houses.

28. For the reasons set out above the proposal would harm the character and appearance of the area and designated habitats sites. The relevant LP and NP policies are consistent with the Framework and as such I give the conflict with them very substantial weight. Framework paragraph 175 states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused. Paragraph 177 makes it clear that the presumption in favour of sustainable development does not apply where proposals adversely affect the integrity of habitats sites.
29. The limited benefits of the proposal would not outweigh the harm identified, and there are no other material considerations that justify granting planning permission contrary to the development plan. The appeal is therefore dismissed.

L McKay

INSPECTOR