



Appeal Decision

Site visit made on 21 June 2021 by Ben Phillips BSc MSc MRTPI

Decision by L McKay MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 23 July 2021

Appeal Ref: APP/D0121/D/21/3271691

Leaze Cottage, Christon Hill, Christon Road, Loxton BS26 2XU

- 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 C Bone against the decision of North Somerset Council. The application Ref 20/P/3205/FUH, dated 22 December 2020, was refused by notice dated 19 February 2021.
 - The development proposed is described as the proposed erection of a replacement front porch.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The proposed development was amended during the application process to remove other elements leaving only the porch. Therefore, in the interest of clarity I have taken the description of development above from Part E of the appeal form and the Council's decision notice, which describe the amended scheme.
4. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issue

5. The main issue in this case is the effect of the proposed porch on bats, a European Protected Species.

Reasons for Recommendation

6. Paragraph 99 of Circular 06/2005¹ states that, *'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.'* Although the Circular states that surveys should only be required where there is a reasonable likelihood of species being present, it advises that surveys should be carried out before planning permission is granted.
7. The appeal property is understood to date from the 19th century and is opposite an area of woodland. It has a tiled roof which the evidence before me suggests had some gaps at the time of the application. As such, there are various features which are likely habitat for bats, having regard to standing advice from Natural England. Furthermore, the appeal site is located within consultation zones for the North Somerset and Mendip Bats Special Area of Conservation (SAC), designated because of its importance for Greater and Lesser Horseshoe Bats. As such, there is a reasonable likelihood that bats were or are using the appeal property.
8. The proposed development would be minor in scale and would only affect a small area of the roof, but would join the pitched roof of the porch into that of the existing dwelling, requiring removal of some tiles. Although the porch would not project into the roof void, the construction work would inevitably involve some disturbance in that area.
9. It is also evident that the roof has undergone a recent repair since the determination of the application, with all the felt replaced. However, I saw on site that small gaps are still evident in areas, such as along the eaves or around the existing front porch. The appellant states they would have ceased work and obtained ecological advice if bats had been found during the roof strip, but do not actually state whether any were present. Nor is there any information before me on whether any signs of bats were found e.g. droppings, which might indicate that the roof was used by bats. Furthermore, there is no substantive evidence before me that bats are not now using the repaired roof.
10. As such, given the age and siting of the property, there is a reasonable likelihood of bats being present, which could be affected by the proposed development. Consequently, the proposal has the potential to disturb, damage or kill any bats who might be using the roof void or spaces under the tiles.
11. In the absence of any survey information it is not possible to establish if, or to what extent, bats would be affected by the proposal. Therefore, it is appropriate to take a precautionary approach. The appellant has not demonstrated that the proposal would not harm bats, or that any impacts on bats could be avoided, mitigated or, as a last resort compensated for, as required by the Framework. Having regard to the Circular, it would not be appropriate to require surveys or further investigation by planning condition.
12. Accordingly, the proposal would be contrary to Policy CS4 of the North Somerset Core Strategy and Policy DM8 of the North Somerset Sites and

¹ Circular 06/2005: Biodiversity and geological conservation - statutory obligations and their impact within the planning system

- Policies Plan (Part 1) which seek to safeguard and enhance natural habitats and set out that development will not be permitted if it would harm species which are legally protected.
13. The proposed development would also conflict with the Framework and the Habitats Regulations, in addition to the advice set out in the North Somerset and Mendip Bats SAC Guidance on Development Supplementary Planning Document (2018) (SPD) and the Biodiversity and Trees SPD (2005).
 14. The Council's validation checklist does not specifically require that a bat survey is required in the circumstances of the appeal site or for the type of development proposed. However, this is a list of the minimum information required to enable validation of a planning application, which will not necessarily be sufficient information for an application to be approved. The Framework sets out that the information required when submitting an application should be kept to the minimum, but this does not preclude the Council asking for more information if it is deemed necessary to assess the impacts of a proposal, particularly following consultation with subject matter experts.
 15. Moreover, the SAC SPD also sets out the requirement for an ecologist to be employed at an early stage for proposals within the SAC Consultation Zone, and the Biodiversity and Trees SPD advises that applicants ensure that adequate survey data for biodiversity is provided with a planning application. The appellant was also made aware that an ecological survey was required prior to the submission of the application. As such, the lack of a requirement in the validation checklist for such a survey does not justify granting permission without an understanding of the likely impacts on bats.
 16. The appellant advises that if the proposal is not permitted they would repair the existing porch, which would affect the roof; and that they could undertake other development without requiring permission. Anyone undertaking such work would be required to comply with protected species legislation irrespective of whether planning permission was required. Therefore, this does not justify granting permission for the appeal proposal.

Recommendation

17. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

L McKay

INSPECTOR