
Appeal Decision

Site visit made on 23 August 2021

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 07 September 2021

Appeal Ref: APP/Q3305/W/21/3276024
72 Portway, Wells BA5 2BP

- 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 Neil Harris against the decision of Mendip District Council.
 - The application Ref 2020/2595/FUL, dated 16 December 2020, was refused by notice dated 24 February 2021.
 - The development proposed is a new dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:-
 - a) The character and appearance of the area,
 - b) The living conditions of the occupiers of the adjacent dwelling to the north, with particular respect to outlook,
 - c) The Somerset Levels and Moors Ramsar site in respect of phosphate emissions.

Reasons

3. The appeal site is an irregular parcel of land containing an access track emanating from the end of Lethbridge Road and the area upon which the new dwelling would be situated, part of which is currently the rear amenity area of 72 Portway.
4. To the south of the appeal site there are terraced properties, including 72 Portway, that face on to Portway. To the north of the site are terraced houses that derive their access from Berryman court. Most properties in the vicinity are of a traditional design with twin-pitched roofs and are orientated such that they face either a road or an amenity area.

Character and appearance

5. The proposed dwelling would be irregularly shaped, having been designed to fit the constraints of the site, with a triangular section containing the kitchen directly abutting the boundaries with the houses to the north and east. There would be little if any space between the proposed dwelling and the western

boundary, and the front elevation would contain a set-back which would be necessary to accommodate the dwelling within the site.

6. I acknowledge that the ground floor WC window would be obscure glazed, but it would be extremely close to the boundary of the site. Furthermore, due to the cramped nature of the development, there would be no outside pedestrian access to the amenity area to the south. I also note that the kitchen would only receive light from a roof light due to the fact that its walls would abut the boundaries of the site. Consequently the kitchen would have no outlook.
7. All of these factors lead me to conclude that the proposed development would be contrived and cramped within its setting, and in terms of its design, positioning, orientation and access arrangements it would at odds with the surrounding built form.
8. Conflict would therefore exist with policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy and Policies (December 2014) (LP). The former of these seeks to ensure, amongst other things, that development proposals contribute positively to the maintenance and enhancement of local identity. The latter requires, amongst other things, that proposals for new development are of a scale, mass, form and layout appropriate to the local context.
9. My attention has been drawn to various other dwellings that have been permitted that are situated at the end of access roads. However, it is a combination of factors, not merely the access arrangements, that have led me to my conclusion on the issue of character and appearance.

Living conditions

10. The proposed dwelling would be set at a higher level than the property to the north and only about 8m from its rear elevation. I acknowledge that the proposed dwelling would only be single storey at the boundary itself, but nonetheless consider that given the height difference and proximity it would severely affect the outlook from the rear elevation of this property and also from its garden.
11. Conflict would therefore exist with policy DP7 of the LP which, amongst other things requires that proposals for new development protect the amenity of users of neighbouring buildings and with policy DP8 of the LP which requires, amongst other things, that development does not have an adverse impact on residential amenity.

Somerset Levels and Moors Ramsar site

12. The appeal site falls within the Somerset Levels and Moors RAMSAR catchment area. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) states that before deciding to grant planning permission for a project which is likely to have a significant effect on a European site, either alone, or in combination with other plans or projects, and which is not directly connected with or necessary to the management of that site, a competent authority must make an Appropriate Assessment of the implications of the plan or project for that site in view of that site's conservation objectives. In this context, paragraph 176 of the National Planning Policy Framework (the Framework) states that listed Ramsar sites should be given the same protection as habitats sites.

13. Natural England have made clear, in a letter sent to the Council dated 17 August 2020, that the RAMSAR site is in an unfavourable condition and at risk from the effects of eutrophication caused by excessive phosphates. The existence of a new dwelling would be likely to cause extra wastewater to be discharged, eventually ending up in rivers. This water could in turn lead to further phosphates being transmitted into the RAMSAR site.
14. The appellant has proposed the use of a Package Treatment Plant to nullify any effects on the RAMSAR site. However, I have been provided with no information to show that this would be a suitable or satisfactory means of mitigation, or that it could be provided within the site. Consequently I cannot be certain that the proposed development would not have a significant effect, either alone, or in combination with other plans or projects, on the RAMSAR site. In such circumstances it is incumbent upon me to dismiss the appeal.

Conclusion

15. For the above reasons, and having taken into account all other matters raised, including the fact that the proposed dwelling would lie in an accessible area, I conclude that the appeal should be dismissed.

John Wilde

Inspector