
Appeal Decision

Site visit made on 21 September 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/Q3305/W/21/3274912

The Barn, Cherry Garden Lane, Laverton, Frome BA2 7RA

- 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 J Alderman against the decision of Mendip District Council.
 - The application Ref 2020/1577/FUL, dated 10 August 2020, was refused by notice dated 4 March 2021.
 - The development proposed is the conversion of existing barn outbuilding to a single storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above I have taken the site address from that given in the appeal form as it is clearer than that on the planning application form.
3. The Government published its revised National Planning Policy Framework (the Framework) on 20 July 2021. The parties have had the opportunity to refer to the revised Framework as part of the appeal process.

Main Issues

4. The main issues are (1) the effect of the proposal on the character and appearance of the area, (2) whether the site is in a suitable location having regard to local and national planning policies, and accessibility, and (3) the effect of the proposal on highway safety, having regard to the visibility of the access.

Reasons

Character and appearance

5. The appeal site is within a field, and the mosaic of nearby fields bounded by hedgerows, pockets of woodland and narrow lanes contribute towards a strong countryside character. Clusters of farm buildings and sporadic built form reinforce the rural character and appearance of the area.
6. Aside from the grass and hedgerows at the appeal site, there is a timber barn building which has been used as stables¹. Its modest size, limited openings and timber cladding result in a rudimentary unassuming appearance, typical of

¹ Paragraph 1.1 Appellant's Planning Application Justification/Design/Access Statement

structures often seen in rural contexts. Together with its location, some distance from the lane and adjacent to a hedgerow, it has an unobtrusive presence that integrates with the surrounding paddocks and fields. It is served by an informal winding track leading to an existing access onto Cherry Garden Lane which also has a low key visual appearance. Overall, the building has a neutral impact on the prevailing rural character and appearance of the area, whilst the wider verdant site makes a positive contribution to it.

7. The proposal would involve physical alterations to the existing building and change its use to a two bedroom dwelling with generous grounds. The residential use would be likely to lead to large parts of the appeal site being used as a domestic garden with the remainder providing driveway and parking space. Consequently, domestic paraphernalia such as outdoor seating, play equipment, outbuildings, boundary treatments, areas of hardstanding or similar objects, as well as ornamental planting would be likely to be introduced. This would emphasise the domestic nature of the development with an appearance discordant to the rural context. The large patio area shown on the proposed site plan² and artists impression provided reinforces my concerns in this regard.
8. Although the appellant suggests that landscaping would be minimal, this could not be guaranteed or reasonably controlled for the lifetime of the dwelling. Moreover, paragraph 54 of the Framework confirms that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. It would be unreasonable to permit a residential use but place onerous restrictions on the use of the associated grounds to prevent small scale domestic outbuildings. As such, it is highly likely that the accoutrements and more cultivated grounds associated with a domestic use would cumulatively undermine the countryside character of the appeal site.
9. In addition, the proposals include extensive areas of glazing on the south and west elevations³. When internally illuminated, this would draw the eye and make the presence of the structure more conspicuous in the landscape. Notwithstanding the established hedgerows nearby, some glimpses of lighting may be possible from Cherry Garden Lane to the west when trees and hedgerows were not in full leaf.
10. Taken together, these factors would adversely dilute the prevailing rural character of the area. As such, the proposal would run counter to paragraph 174 of the Framework which states that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. Moreover, it would fail to comply with paragraph 130 c) of the Framework which stipulates that planning decisions should ensure developments that are sympathetic to local character and history, including the surrounding built environment and landscape setting.
11. The appellant highlights that the proposed materials would mean the building would generally retain the appearance of a barn. Be that as it may, whilst this would limit the extent of harm to a degree, it would not outweigh the concerns I have identified. He further contends that the proposal would lead to an

² Drawing number 2020573

³ Drawing number 2020571

enhancement of the setting of the building as debris and rubbish would be removed. However, I did not observe that such material was present to such a degree that it was objectionable. Even if it were, harmful development would not be the most appropriate way to address it, and other powers exist to require the proper maintenance of land⁴.

12. Accordingly, I find that the proposal would be harmful to the character and appearance of the area contrary to policies DP1 and DP4 of the Mendip District Local Plan, Part 1, Strategy and Policies 2006-2029, December 2014 (LP). In combination these policies, amongst other matters, require proposals that contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district and avoid significantly degrading the quality of the local landscape.

Location

13. The appeal site lies within the countryside for the purposes of the Mendip Spatial Strategy set out in policy CP1 of the LP. This confirms that, subject to specific exceptions, development in the open countryside will be strictly controlled. Policy DP22(2) of the LP outlines the circumstances when the reuse and conversion of rural buildings to a residential use in the countryside will be supported.
14. The criteria in policy DP22 are not entirely consistent with the range of exceptions set out in paragraph 80 of the Framework. This states that isolated homes in the countryside should be avoided save for express exceptions, including paragraph 80 c) where a development would re-use a redundant or disused building and enhance its immediate setting.
15. The building is located within a field, a notable distance from other built form. I observed it to be physically separate or remote from a settlement and therefore, the proposal would result in an isolated home in the countryside for the purposes of paragraph 80 of the Framework. The parties dispute whether the proposal would meet the relevant criteria for policy DP22 and whether it would fall within the scope of paragraph 80 c).
16. There is no definition of 're-use' in the Framework, but the wording of paragraph 80 c) does not include rebuilding or replacing the building. On that basis, it is reasonable to deduce that enough of the building as an original entity would have to be present in the proposed development in order for it to be used again for a different purpose. Whether this would be the situation in any given case requires the exercise of planning judgement based on the individual circumstances.
17. The structural engineer's diagram and calculations⁵ provided fall short of providing a report that clearly articulates the condition of the existing building and what degree of building work would be necessary to undertake the proposal. However, the proposed elevations and section⁶ suggest that the proposal would replace the existing timber wall cladding and roofing with cedar weatherboarding and Envirotile lightweight roof tiles respectively. In addition, a considerable number of new windows and doors would be introduced. Cumulatively, these works would amount to extensive building operations

⁴ For example, Section 215 Town and Country Planning Act 1990

⁵ Vale Design Partnership dated July 2020

⁶ Drawings numbered 2020571 (Proposed Elevations) & 2020572 (Proposed Section & Notes)

replacing the existing external building fabric, in addition to internal works required to make the building habitable. Therefore, notwithstanding the calculations provided by the structural engineer, based on the information before me, this would be more akin to a rebuilding of the structure rather than a reuse of the existing building.

18. In any event, both paragraph 80 c) of the Framework and policy DP22(2) of the LP require the development to enhance the immediate setting of the building. For the reasons outlined in relation to the first main issue, the proposal would be harmful to the character and appearance of the area and hence, would fail to do so.
19. Therefore, even if I were to accept that the building was redundant or disused as is asserted by the appellant, for these reasons it would not be within the scope of residential development supported in the countryside in either local or national policy. On that basis, it is unnecessary to consider the additional criteria in policy DP22(1) of the LP as it would not affect the outcome of my determination.
20. As previously outlined, the proposal would result in an isolated home in the countryside. Given the rural location some distance from local facilities and absence of frequent public transport services, future occupiers would be heavily reliant on the private car to travel to work, attend educational establishments, access healthcare, shops and other purposes. Accordingly, they would not have a genuine choice of travel modes.
21. My attention is drawn to an example⁷ of a different timber building converted to a dwelling, which was permitted at appeal. However, that example concerned a prior approval where the principle of development was permitted under the Town and Country Planning (General Permitted Development) Order 2015. As such, it was not assessed against the development plan and hence, represents significantly different circumstances to the appeal case. Consequently, it is of little weight.
22. Therefore, I find that the proposal would result in an isolated home in the countryside with poor accessibility. It would conflict with policy DP22 of the LP, which sets out the limited circumstances where residential reuse and conversion of rural buildings in the open countryside are supported. It follows that the proposal would therefore be contrary to the Mendip Spatial Strategy in policy CP1 of the LP which seeks to strictly control development in the open countryside. Furthermore, it would conflict with paragraph 80 of the Framework which seeks to avoid isolated homes in the countryside. Therefore, having regard to local and national planning policies, the site would not provide a suitable location for the development.

Highway Safety

23. Paragraph 110 of the Framework stipulates that it should be ensured that safe and suitable access for the site can be achieved for all users. Paragraph 111 further states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

⁷ Reference 2019/1888/PAA and photograph

24. Access to the proposed dwelling would use the existing access onto Cherry Garden Lane, which is a narrow, unlit rural lane with limited visibility. The access is also close to a farm entrance on the opposite side of the lane. Therefore, the visibility for the existing access is less than ideal.
25. The consultation response from the Highway Authority states that the Highways Development Control Standing Advice, Somerset County Council published June 2017 applies. This states that where a driveway would be created or altered visibility splays should be in accordance with Manual for Streets visibility splay criteria. No evidence is before me as to how the existing access compares with those criteria. In any event, as the proposal does not intend to create or alter the existing driveway, it is not made clear how the standing advice applies to the circumstances of the proposed development.
26. In addition, there is little evidence before me specifying the nature and number of transport movements that used the access when the building was in equine use. However, neither party suggest there is a history of accidents close by. Neither do they indicate how many traffic movements the proposed dwelling would generate for comparison purposes. Nevertheless, the existence of the access and its lawful use is a relevant consideration as a benchmark to assess whether the proposal would have an unacceptable impact on highway safety.
27. The continued use of the building for equine use would be likely to involve regular movements of larger vehicles or vehicles using trailers. By comparison, a two bedroom dwelling would be likely to generate a limited but frequent amount of domestic vehicle movement. Overall, the respective factors are broadly balanced in terms of highway safety.
28. Moreover, the narrow winding nature of the lane is likely to restrict the speed of traffic using it, and the presence of sporadic entrances to fields and farms means that drivers would be likely to be proceeding with caution. In this context, the limited evidence before me does not demonstrate that the proposed use would generate an increase in traffic using the access such that it would have an unacceptable impact on highway safety. Based on what is provided, my view is that the impact is likely to be neutral.
29. Accordingly, I find that the proposal would not have an unacceptable impact on highway safety. Therefore, it would not conflict with DP9 of the LP, which, in combination and amongst other things, requires development to make appropriate provision for access.

Conclusion

30. Both parties refer to the Council's inability to demonstrate a five year supply of deliverable housing sites, although a specific figure is not given.
31. In these circumstances footnote 8 of paragraph 11 of the Framework deems that for applications involving the provision of housing, the policies which are most important for determining the application are out-of-date. It is not shown that any of the Framework policies in footnote 7 provide a clear reason for refusing the proposal. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
32. The proposal would provide an additional dwelling which would contribute towards housing provision in an area of unmet need. There would be economic

benefits associated with the construction of the building and future spending activity of the occupants. However, even if the shortfall in supply were considerable, the extent of benefits derived from a single dwelling would be limited. As such, a commensurate amount of weight is given to them.

33. Balanced against that, is the permanent harm that would be caused to the character and appearance of the area. Paragraph 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. In addition, the proposal would conflict with paragraph 80 of the Framework as it would result in an isolated home in the countryside. Contrary to the thrust of paragraph 105 of the Framework, the poor accessibility of the site would mean that future occupants would not have a genuine choice of transport modes. These matters, and the respective conflicts with the development plan policy in those regards, attract significant weight.
34. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
35. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁸. The benefits would not justify my determining the development other than in accordance with the adopted development plan and the provisions of the Framework do not outweigh this finding. Hence, for the reasons given above I conclude that the appeal should be dismissed

Helen O'Connor

INSPECTOR

⁸ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.