



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/21/3275919

Land at 379975 152332, Bath Road, Beckington, Frome, Somerset

- 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 Joy Building Company Limited against the decision of Mendip District Council.
 - The application Ref 2020/0693/OTA, dated 30 March 2020, was refused by notice dated 27 April 2021.
 - The development proposed is the provision of two dwelling houses.
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Decision

1. The appeal is allowed, and outline planning permission is granted for the provision of two dwelling houses at land at 379975 152332, Bath Road, Beckington, Frome, Somerset in accordance with the terms of the application, Ref 2020/0693/OTA, dated 30 March 2020, subject to the conditions in the attached schedule.

Procedural Matters

2. The application is made in outline with all matters reserved. Therefore, I have taken into account that there may be alternative ways of developing the site as part of my determination.
3. The Government published its revised National Planning Policy Framework (the Framework) on 20 July 2021. The parties have had the opportunity to comment on the revised Framework as part of the appeal process.

Main Issues

4. The main issues are:

- The effect of the proposal on the character and appearance of the area, and;
- Whether the proposal would create satisfactory living conditions for future residents having regard to noise and whether it would integrate effectively with the nearby Beckington Memorial Hall and recreation field.

Reasons

Character and appearance

5. The combination of residential development set within landscaped gardens, grassed verges, presence of the recreation ground and proximity of the

surrounding countryside result in a spacious verdant rural character to the northern part of Beckington village.

6. The broadly wedge shaped appeal site lies between a row of semi-detached dwellings dating from the 1950's to the north and Beckington Memorial Hall, with its associated play area and recreation ground to the south. I observed it to comprise a modest somewhat overgrown area with a mixture of fencing and hedgerow along its boundaries. Given its position between the dwellings and community facilities, my impression was the site formed a gap in the peripheral northern projection of the settlement. This is reinforced by the presence of the continuous footway adjacent. The undeveloped nature of the site, together with the views it affords to the wider countryside beyond contribute positively to the spacious verdant character of the settlement.
7. The proposal would introduce two dwellings onto the land, although as all matters are reserved, the layout, scale and external appearance of them are not before me. Even so, the presence of domestic built form, activity and associated grounds would result in a marked change to the open nature of the land.
8. Nevertheless, although the Council refers to an urbanising effect in their refusal reason, it does not necessarily follow that such a change would be harmful. The modest nature of the proposal amounting to two dwellings would have only a limited visual impact. Moreover, with a sympathetic layout, they would be visually contained between the existing built form of the dwellings to the north and the Memorial Hall to the south. As such, a development could be achieved that would read as a continuation of the established linear settlement pattern without enlarging the overall extent of the village. This would avoid a harmful urbanising effect.
9. Furthermore, my observations were that the site was too small to provide a meaningful landscape buffer between the 1950's dwellings and the remainder of the settlement to the south. Sensitive development of the site could anchor this row of dwellings more firmly to the settlement. Additionally, the configuration of the site would make it possible to achieve a layout whereby some glimpses between built form could be retained. Therefore, an appreciation of the wider countryside setting would not necessarily be lost.
10. Consequently, I find that two dwellings could be accommodated at the site in a manner that would be in keeping with the intrinsic peripheral rural qualities of this part of the village. Subject to an appropriate sympathetic detailed design, the proposal would not have a harmful impact on the character and appearance of the area. It follows that there would be no conflict with policy DP7 of the Mendip District Local Plan 2006-2029, Part 1 Strategy and Policies, December 2014 (LP) which supports, amongst other things, high quality design appropriate to the local context.

Noise

11. Paragraph 187 of the Framework (which is similar to paragraph 182 of the previous version of the Framework) states that planning decisions should ensure that new development can be integrated effectively with existing community facilities. Moreover, it establishes an 'agent of change' principle such that existing facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Policy

- DP8(4) of the LP accords with this approach as it requires development proposals which are on or adjacent to land impacted from existing sources of noise to demonstrate that measures can be taken effectively to mitigate those impacts.
12. The Memorial Hall is a popular local venue for social events and is licenced from 0500-0200 Monday to Sunday. Parties and other events may therefore take place late into the evening. The Council is concerned that noise from such use would unreasonably disturb future occupants of the proposed dwellings. Furthermore, an increase in complaints may jeopardise the licence of the Memorial Hall to hold such events in the future.
 13. Planning Practice Guidance (PPG) provides further advice in relation to noise and the agent of change principle. It, and the Framework refer to potential mitigation being necessary where there would be a significant adverse effect. It lists the local arrangement of buildings amongst the relevant factors¹ to consider in the assessment of noise.
 14. There are existing dwellings to the south west and south east at a broadly similar distance from the main Hall to the appeal site. By comparison, the parking area and access would be further away from the proposed dwellings as it is situated on the other side of the Hall, closer to existing dwellings. This would be an area where a greater risk of disturbance and activity might be anticipated due to people leaving events at the end of an evening. The evidence before me does not suggest that events held at the Memorial Hall in the past have caused frequent or significant disruption to existing residents, as only one noise complaint has been identified since 2017². Neither has an objection been raised by the Council's Environmental Protection Officer subject to a condition requiring a scheme of noise mitigation measures to be agreed.
 15. The information provided indicates that a noise management plan for the Memorial Hall is in place and based on the general absence of noise complaints, appears to be working successfully. Accordingly, there is little substantive basis to suppose that it would not equally prevent a significant adverse effect from arising to future occupiers of the proposed two dwellings. This would especially be the case if construction measures that provided insulation from the effects of noise were secured as part of the development. Policy DP8(4) of the LP stipulates that appropriate mitigation and remediation will be secured through planning conditions.
 16. I have not seen any technical evidence to suggest that a planning condition to ensure such noise mitigation would be inadequate to address the likely degree of occasional noise arising from social events held at the Hall or recreation ground. Whilst the Council highlights the potential for noise impact to garden areas, I am not persuaded that the likely impact would be markedly different to other nearby residential gardens which the evidence does not indicate to be problematic.
 17. Furthermore, although it is asserted that cricket can be a noisy activity, no evidence is provided to demonstrate that it would be likely to cause unacceptable disturbance to nearby residents. Such sporting activity is also likely to be of limited duration and, in the absence of artificial lighting, take

¹ Paragraph: 006 Reference ID: 30-006-20190722

² Page 11, Appellants' Statement of Case

place during the daytime. Hence, whilst I acknowledge there may be some impact, it is not shown that it would amount to a significant adverse effect. Accordingly, in these circumstances the avoidance of the development in principle would be a disproportionate response.

18. Reference is made to a planning application and subsequent appeal³ for residential properties next to Frome Rugby Football Club being refused due to the likely significant adverse effects of noise from clubhouse entertainment on future residents. However, as I am not provided with the full details of that development, this inhibits a meaningful comparison with the scheme before me.
19. Nevertheless, the Inspector refers to the first-floor clubhouse being very close to the north east corner of the appeal site, with the club's car park adjoining the site's north and east boundaries, each holding around 50 parking spaces. The configuration described is notably different to the scheme before me given the location of the car park on the other side of the Hall building. Moreover, the Memorial Hall is single storey, with the main component most likely to be used for larger social events located further to the south. Therefore, this decision is of limited weight in my determination, which in any event, I have made on its individual merits.
20. Accordingly, I find that subject to an appropriate condition, the proposal would create satisfactory living conditions for future residents having regard to noise and could be integrated effectively with the existing community facilities. On that basis, I find no conflict with policy DP8 of the LP which permits development proposals where the impact and risks from noise can be mitigated appropriately for the proposed use.

Other matters and planning balance

21. Many of the representations received refer to a footpath on the site being obstructed by the proposal. However, based on the evidence before me, it is not shown that a public right of way crosses the appeal site. It follows that the development would not be harmful to such a route.
22. There are no nearby surface watercourses or public surface water or combined sewers for the surface water at the site to discharge into. Nevertheless, a Sustainable Drainage Assessment Report⁴ is provided. Based upon site investigations it confirms that infiltration to ground via permeable paving is likely to be feasible but recommends further infiltration testing should be undertaken to confirm the feasibility of deeper soakaways. The technical information provided outlines a drainage strategy incorporating sustainable drainage principles to ensure surface water runoff can be managed effectively over the lifetime of the development. The level of information is proportionate to the outline nature of the proposal.
23. In response⁵ to the report provided and subject to a condition, the Council's Land Drainage Engineer removed her initial objection on the basis that infiltration has been proven, which given her expertise carries considerable weight. Despite representations made that it may not be possible to drain the site, I have seen little technical evidence to undermine the finding of the

³ Reference APP/Q3305/W/20/3256570

⁴ Prepared by Plym Design Ltd

⁵ Consultation response dated 15.2.21

assessment provided. Therefore, subject to a condition to require further details, I am reasonably assured that adequate surface water drainage would be achieved.

24. Concerns are raised that cricket balls from the adjacent recreation ground could cause damage to the proposed dwellings or injury to the occupants. I acknowledge that given the disposition of the appeal site adjacent to the cricket pitch this would be a possibility. Even so, I am not persuaded that the degree of risk would be of such magnitude that it should prevent an otherwise acceptable development from proceeding, nor that it would provide a credible reason to shut down the cricket club. Nevertheless, this would be a relevant factor when considering the nature of the boundary treatment to be used on the southern boundary of the development as part of any reserved matters application.
25. The appeal site lies outside but adjacent to the settlement boundary for Beckington, which is identified as a Primary village in the LP. As such, the LP does not support residential development in this location, a point which is reiterated in the representations received, including from Beckington Parish Council. However, there is no dispute that the Council is unable to demonstrate a five year supply of housing land. The information before me refers to 3.8 years supply⁶, which represents a sizeable shortfall.
26. Footnote 8 to paragraph 11 of the Framework states that in these circumstances relevant policies for the supply of housing are deemed to be out-of-date. There is no suggestion that any of the policies of the Framework listed in Footnote 7 that protect areas or assets of particular importance would provide a clear reason for refusing the development in this case. Therefore, paragraph 11(d)(ii) is engaged. This means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
27. The Council does not suggest that tangible harm would arise in this case because of its location adjacent to but outside of the settlement boundary identified in the LP. Some concerns are raised in the representations regarding the cumulative impact of development in the village, but no substantive evidence has been provided to show that the development before me would result in an unacceptable strain on local infrastructure. It will be seen from my reasoning above that I did not otherwise find any conflict with the development plan.
28. The principal benefit of the proposal would be the provision of two additional dwellings to the housing supply where there is considerable unmet need. It would also bring economic benefits due to the construction, and the social and economic benefits associated with the occupants of the additional dwellings supporting local services. Paragraph 69 of the Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Therefore, although a modest amount of development is proposed, cognisant of the shortfall in housing land supply, the benefits attract moderate weight.
29. Given that I have not found any notable adverse impacts arising from the development, it follows that they would not significantly and demonstrably

⁶ Page 9, Appellants' Statement of Case

outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the presumption in favour of the development applies and represents an important material consideration in favour of the proposal.

30. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁷. In this case, little tangible harm would arise from the location of the proposed development, and the presumption in favour of the development constitutes a material consideration of significant weight. Therefore, the proposal should succeed.

Conditions

31. Paragraph 56 of the Framework stipulates that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. PPG⁸ advises that the rigorous application of these 6 tests can reduce the need for conditions and reiterates that it is good practice to keep the number of conditions to a minimum wherever possible.
32. The submission of reserved matters and implementation of the development within a specified timescale are statutory requirements. The Council has indicated that reserved matters should be submitted within 2 years of the consent. I have imposed this as in light of the shortfall in housing supply, it would be beneficial to ensure the relatively swift delivery of the development. In the interests of certainty, it is also necessary to specify the plans that are approved.
33. In addition, consistent with my reasoning above, I have imposed conditions to secure surface water drainage details and noise mitigation measures.
34. The Council have suggested a further condition in relation to tree protection. However, as the site is predominantly grass and ruderal vegetation, a pre-commencement condition relating to an arboricultural method statement and tree protection plan is not clearly justified nor so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission⁹. The retention and protection of trees near the boundaries would be directly connected to the reserved matters of layout and landscaping and therefore, would be more appropriately addressed at that stage.

Conclusion

35. For the reasons given above, I conclude that the appeal should be allowed.

Helen O'Connor

Inspector

⁷ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

⁸ Paragraph 018 ID:21a-018-20190723

⁹ PPG Paragraph: 007 Reference ID: 21A-007-20180615

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Location Plan drawing number 202090-02 Ver 1.0 and Site Plan drawing number 202090-01 Ver 1.0.
- 5) The reserved matters details shall include a scheme for protecting the dwellings from noise associated with the adjacent Memorial Hall. Works which form part of the approved scheme shall be completed before any individual dwelling is occupied.
- 6) No development shall commence, except ground investigations and remediation, until infiltration testing, including details of groundwater levels and soakaway design in accordance with Building regulations Part H, section 3 (3.30) has been undertaken to verify that soakaways will be suitable for the development. If the infiltration test results or ground water levels demonstrate that soakaways are not appropriate, an alternative method of surface water drainage, shall be submitted to and approved in writing by the local planning authority and installed prior to the occupation of the development.