
Appeal Decision

Site visit made on 2 November 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Appeal Ref: APP/Q3305/W/21/3271096

Cooks Farm, Partmans Hill, Stoke St Michael, Shepton Mallet, Somerset, BA3 5LE.

- 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 D Eaton against the decision of Mendip District Council.
 - The application Ref. 2020/1362/FUL, dated 15 July 2020, was refused by notice dated 26 February 2021.
 - The development proposed is the erection of a dwelling and formation of a new access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling and formation of a new access at Cooks Farm, Partmans Hill, Stoke St Michael, Shepton Mallet, Somerset, BA3 5LE, in accordance with the terms of the application, Ref. 2020/1862/FUL, dated 15 July 2020, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Main Issues

2. The main issues are:
 - Whether the proposal accords with the development strategy; and
 - The effect on the character and appearance of the area.

Reasons

3. The appeal site forms part of the garden of a dwelling at Cooks Farm and is low lying adjacent to a brook. The site is located in a hamlet of properties served off a narrow lane which lies on the edge of the village of Stoke St Michael and the modern estate of St Michaels Close extends towards the appeal site.
4. It is proposed to erect a new detached single storey dwelling with walls of timber cladding and a grassland roof. A new access would be formed to Partmans Hill by creating an opening in the existing wall along the frontage.
5. I note that a similar, but outline, proposal was dismissed at appeal in 2017 (APP/Q3305/17/W/3167877) where the inspector concluded that the then proposal conflicted with the development strategy set out in Local Plan Core Policies 1 and 2 and the proposal would introduce a more built up form which would cause some limited harm to the rural character and appearance of the area.

Policy and housing land supply context

6. The Council accepts that it cannot demonstrate an adequate five year housing land supply at the moment (although the actual shortfall is not specified) and so paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged in this case. Moreover, the Council accepts that local plan policies CP1, CP2 and CP4, which restrict the location of new housing, should be given limited weight at the moment. The Parish Council also refers to an emerging Local Plan but I have only been advised of the provisions of the Mendip Local Plan as adopted in 2014 and cannot yet place much weight on an emerging plan as it may change through the formal examination process.

Accord with the development strategy

7. Core Policy 1 – Mendip spatial strategy indicates that Stoke St Michael is a primary village, one of a number which are best placed to accommodate new rural developments. In Policy 2 primary villages are allocated an annual target provision of 80 dwellings in total but the strategy goes on to indicate that land outside of the boundaries of identified settlements will be regarded as countryside. In such an area Core Policy 4 limits new residential development to essential enterprises which have a functional need to locate there.
8. The appeal site lies beyond the identified settlement boundary of Stoke St Michael, which relates to the principally developed parts of the village, and in a countryside area which reflects the scattered form of the hamlet around Partmans Hill. As the proposal is for an ordinary dwelling with no functional rural justification, it is in conflict with the adopted Local Plan Core Policies 1,2 and 4. However, as indicated in paragraph 6 above little weight can be given to these policies at the moment because of the Council's present position on housing land supply. The proposal therefore turns on the local location and impact of the new house.
9. The Council says that the location of the site means that the occupiers of the new dwelling would have to walk to the village amenities via narrow winding lanes which are unlit. These are unlikely to be used by many people on foot or cycling as a safe route particularly at night. The Council therefore submits that the proposal does not constitute sustainable development because the site has limited accessibility.
10. At the site visit I experienced the tortuous nature of Partmans Hill and other lanes leading to the village. These have restricted visibility with no separate pavements and are unlit. However, I also noted that Mill Lane, opposite the appeal site, provides a much shorter pedestrian route to the centre of the village and its pub and shop. In terms of safe and convenient access for a range of users I find that the appeal site is relatively well located on the edge of the village and I do not consider that it is remote or inaccessible. There is no conflict with the guidance in section 9 of the Framework in achieving sustainable transport and a sustainable pattern of growth.

Effect on character and appearance

11. The Council object to the physical and visual encroachment of development beyond both the village and the cluster of dwellings around Partmans Hill, and to the modern form of the dwelling proposed which is said to be at odds with the prevailing character of the area.

12. The cluster of buildings around The Mill and Mill Cottage have a presence on the lane which reflects their historic origins associated with the stream. These together with Cooks Farm have a strong vernacular appearance with stone elevations and tiled roofs and stone boundary walls. However, I see the appeal site as visually separate to this prevailing built form along the street scene of the lane. It is low lying and substantially enclosed by trees. It has a distinctly verdant form.
13. Whilst in spatial terms the proposed dwelling would be a physical encroachment beyond the tight cluster of the existing dwellings, its simple design with timber elevations and a 'green' roof, would be visually appropriate for its setting. The architecture and overall form of the new dwelling would not be imposing around the environs of the site or appear out of place in the street scene. Neither would the proposal affect the setting of the listed buildings of The Mill and Mill House.
14. The siting of the 'arms' of the dwelling would generally respect the position and spread of the quality trees as shown on the Tree Constraints Plan – drawing TCPSPC-201605-IMT – Rev1. Some of the existing screening of the site alongside the small treatment works is formed by a Leyland Cypress hedge which would need to be removed to allow the siting of the garage, however, I am satisfied that there is space available for replacement hedge planting with more native species.
15. The Framework indicates that new development should be visually attractive as a result of good architecture, layout and appropriate landscaping which is sympathetic to local character whilst not preventing or discouraging appropriate innovation. The proposal would meet this national guidance.
16. Overall on this issue I find that while the appeal scheme would be an encroachment into the countryside beyond the fabric of the cluster of houses that exist and the village itself, the design and form of the new dwelling would respect the specific context of the site and would maintain the verdant character of the land around the stream. This would accord with the relevant details of Policy DP7.

Other matters

17. In addition to the main issues discussed above, an objector to the proposal also raises an issue about the siting of the new dwelling close to the existing sewerage pumping station. There is evidence of regular 'overspilling' of sewerage into the stream from the pumping station during periods of heavy rain. It is suggested that this pollution makes the adjacent site unsuitable for residential use. Whilst I note this evidence the agreement to discharge is likely to have been given by the Environment Agency and takes into account the effect on health. Moreover, there is no other formal evidence before me that the operation of the pumping station makes the land around it and downstream unsuitable for residential use bearing in mind that the present use is as a residential garden. If other aspects of the proposal were acceptable, this issue on its own would not provide clear grounds for the dismissal of the appeal.

Planning balance

18. The appeal needs to be considered in the context that the policies in the development plan that generally restrict the supply and location of housing can only be given limited weight. On the site specific matters, I have found that the site has reasonable accessibility to the village and is not remote from day to day

facilities. Although the proposal would be a form of encroachment into the countryside around the existing cluster of houses, the architectural form of the new dwelling proposed respects the verdant form of the site and its context and would complement rather than harm the local environment. In this regard the proposal accords with Local Plan Policy DP7.

19. I have also found that the proposal accords with the requirements of the Framework in achieving a sustainable pattern of movement and well-designed places and the proposal constitutes 'sustainable development' when the Framework is read as a whole.
20. Overall, I find that the other considerations that arise in this case outweigh the Local Plan Policies CP1, CP2 and CP4 against the principle of the development, and this indicates that the appeal should be allowed.

Conditions

21. In terms of conditions the Council recommends 14 which I will consider under the same numbering. I have also had regard to the policy reasons put forward by the Council for these conditions. Where the conditions are 'pre-commencement' ones the appellant has indicated that he is content with the imposition of the condition. I have also amended some of the conditions to better meet Planning Practice Guidance.
22. In addition to the condition on the commencement of the development (No.1) it is reasonable for clarity to specify the plans that are approved and the development should be undertaken in accordance with them (No.2). In the interests of biodiversity and given the verdant nature of the site it is necessary to impose conditions 3, 4, 5 and 6 to control external lighting on the dwelling; control works to hedgerows and vegetation; and for the fenestration of the house to be adapted to avoid 'bird strikes'. I will therefore impose these conditions.
23. In order to avoid flooding and/or pollution it is reasonable to impose a condition (No.7) on details of drainage to be submitted, agreed and implemented. To maintain the appearance of the area (Conditions No. 8 and 12) further details of external materials and roof planting are needed. Similarly a landscaping scheme and its implementation are justified (No.13 and 14) given the site's verdant quality, together with an Arboricultural Method Statement (No.11). Finally, in the interest of highway safety Condition No.10 is necessary to ensure that the new dwelling has parking and turning facilities off the public highway.
24. The Council also recommends a condition (No.9) concerning the removal of 'permitted development rights' (Classes A to E) in the interests of visual amenity and a specific local plan policy. However, these nationally applicable rights should not be withdrawn unless special and unusual circumstances apply and these have not been demonstrated in this case. I will therefore not impose this condition.

Conclusion

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

David Murray

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) This decision relates to the following approved drawings / documents:
Location plan dwg no: 100 Rev 2; Existing site plan dwg no: 101 Rev 2; Proposed site plan dwg no: 102 Rev 2; Proposed ground floor plan dwg no: 103 Rev 2; Proposed elevations 1 dwg no: 104 Rev 2; Proposed elevations 2 dwg no: 105 Rev 2; Tree constraints plan: TCP- SPC- 201605-IMT Rev 1.
- 3) Prior to construction above foundation level, a "lighting design for bats" shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. No other external lighting shall be installed without prior consent from the Local Planning Authority.
- 4) No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist. In no circumstances should netting be used to exclude nesting birds.
- 5) Windows on the north and south elevations of the living/kitchen area shall be provided with measures to reduce the risk of bird strike. A specification shall be submitted and approved in writing by the Local Planning Authority prior to ground works commencing and the measures applied prior to the first occupation of a building. The approved measures shall be implemented and maintained as agreed for the duration of the development.
- 6) Any vegetation in the construction area should initially be reduced to a height of 15 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10°C or above) before clearing to minimise the risk of harming/killing any reptiles or hedgehogs that may be present and to encourage their movement onto adjoining land. This work may only be undertaken during the period between April and September under the supervision of competent ecologist. Once cut vegetation should be maintained at a height of less than 10cm for the duration of the construction period. A letter confirming these operations and any findings shall be submitted to the Local Planning Authority by the ecologist responsible prior to the commencement of groundworks.

- 7) Prior to the first use or occupation of the development hereby approved, a scheme of surface water drainage shall be fully installed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the results of infiltration testing, along with details of groundwater levels and soakaway design, in accordance with Building Regulations Part H, to verify whether or not soakaways will be suitable for the development. If so, the submitted scheme of surface water drainage shall provide details of the soakaways to be installed. If the infiltration test results or ground water levels demonstrate that soakaways are not appropriate, an alternative method of surface water drainage shall be detailed and justified instead. Once installed, the approved scheme shall be retained for the life of the development.
- 8) No development above damp proof course shall take place until details, including photographs, of the proposed external materials, finishes, and colour scheme, including the proposed use of openings, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details and shall be retained as such thereafter.
- 9) The dwelling hereby approved shall not be occupied or brought into use until the access arrangements, parking spaces, and manoeuvring areas detailed on the approved plans have been provided, and they shall thereafter be retained for the life of the development.
- 10) No development shall commence, other than those required by this condition, until a Detailed Arboricultural Method Statement following the recommendations contained within BS5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The Detailed Arboricultural Method Statement shall contain full details of the following: (a) Timing and phasing of arboricultural works in relation to the approved development; (b) Construction exclusion zones; (c) Protective barrier fencing; (d) Ground protection; (e) Details of any works within the RPA (Root Protection Area) and the proposed arboricultural supervision; (f) Service positions; and, (g) details of any special engineering requirements, including 'no dig construction'; The development shall thereafter be carried out in strict accordance with the approved details.
- 11) The sedum roof hereby approved shall not be installed until a planting and maintenance plan for the roof has been submitted to and approved in writing by the Local Planning Authority. The development shall be installed and maintained in accordance with this in perpetuity.
- 12) No occupation shall commence until a soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation.
- 13) All soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme

(phasing) agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

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