



---

# Appeal Decision

Site Visit made on 14 December 2021

**by Stuart Willis BA Hons MSc PGCE MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 January 2022**

---

**Appeal Ref: APP/D0121/W/21/3279778**

**Guild House, Greenhill Road, Sandford BS25 5PH**

- 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 Phillip Tomlinson against the decision of North Somerset Council.
  - The application Ref 21/P/0870/FUL, dated 18 March 2021, was refused by notice dated 14 June 2021.
  - The development proposed is change of use of land to holiday recreation use, erection of 5no. holiday rental cabins, reception/storage hut and associated works.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. In their appeal submissions, the appellant indicates that they would be willing to remove the outdoor communal facilities, alter the access to the rear part of the site and relocate the pods elsewhere in the site. No amended plans have been provided to this effect. To avoid prejudice to appeal and third parties, I have considered the appeal on the basis of the scheme that was determined by the Council and upon which consultation took place.
3. I have taken the appellant name from the appeal form. Although different to that given on the application form, the initial error has been clarified. The description of development is from the decision notice. While different to those on the application and appeal forms, that also do not match, the decision notice is more precise and indicates the extent of the development sought.
4. At the time of my site visit, there was a timber structure on the site. It does not correlate with the submitted plans. Therefore, I have considered the scheme as a proposed development.

## Main Issues

5. The main issues of the appeal are:
  - whether the appeal site is a suitable location for the proposed development, with particular regard to the local development strategy.
  - the effect of the proposed development on the character and appearance of the area, including the scenic beauty of the Mendip Hills Area of Outstanding Natural Beauty (AONB),

- whether the proposed development would have a likely significant effect, alone or in combination with other plans and projects, on the North Somerset and Mendip Horseshoe Bats Special Area of Conservation (the SAC); and
- the effect of the proposed development on the living conditions of the occupiers of nearby properties, with particular regard to privacy, noise and disturbance.

## **Reasons**

### *Local Development Strategy*

6. Guild Hall is a substantial property with outbuildings to the front and side. These are located off the main access and driveway. The appeal site is an area of grass and hard surfacing that is currently within the same ownership as Guild House and other nearby land. While it is said that the site has been maintained as garden area, there is no certificate of lawful development or planning permission to indicate the site has residential use. In any event, this does not solely determine whether it is within the curtilage of the dwelling.
7. The information before me indicates that the appeal site was previously more open to the property and adjacent land. However, at my visit I saw that the site has fencing to most of its boundaries. There is also landscaping, some of which is mature, and most relatively tall, to the perimeter of the site.
8. The intention of boundary features was to create privacy. Nevertheless, they have resulted in a clear separation and enclosure of the appeal site. The site appeared clearly separated from the more open land around the dwelling and outbuildings. The hard stoned area to the front of the appeal site is said to have been created from the separation of a larger horse menage area, part of which remains outside the site. This is again separated by boundary treatments from the property, outbuildings and the other part of the appeal site.
9. It is unclear how the appeal site is used. There was some paraphernalia on the site when I visited that could be considered domestic. However, photographs and other evidence from the appellant indicate camping taking place in the field with associated parking on the hard surface area. Signage on gates leading to the area more readily associated with the dwelling and outbuildings indicates that land was private. There was also a timber structure on the appeal site. These factors do not suggest a functional link to the dwelling.
10. To my mind, from the evidence before me, the appeal site is physically separated from the property and is not intimately associated with it. Consequently, it is not part of the curtilage of the dwelling and removing the boundary treatments would not alter the current situation at the site.
11. Parts of the appeal site would be relatively close to the boundary between it and the annexe. The grassed area is also adjacent to the parking area and boundary planting would create privacy for the cabin users. Nevertheless, the cabins would be spread across the whole width of the site. These would not be adjacent to the dwelling or the annexe. Consequently, the new accommodation would not be adjacent to these buildings.
12. I do not have full details of the previous permission at the site for a hotel or to demonstrate this was on the basis of the appeal site being part of the curtilage

of the house. Imposing a condition to prevent the appeal site being sold separately to the dwelling and that the cabins are for holiday use only would not alter my findings on this main issue.

13. Therefore, the appeal site would not be a suitable location for the proposed development with regard to the local development strategy. It would fail to accord with Policy DM57 of the Part 1 Plan<sup>1</sup> where it requires visitor accommodation to be set within the curtilage of an existing building and located adjacent to that building.

#### *Character and Appearance*

14. The site is located in the AONB. The SPG<sup>2</sup> highlights that small scale incremental changes, including clutter and recreational uses as well as pressure for diversification of land uses, that can be visually intrusive and impact on dark skies, as potential forces for change in the Mendip Ridges and Combes character.
15. Other than the timber structure, of which I have no details of its planning status, the rear part of the appeal site is an open undeveloped field. There are clusters of development in the area. However, the absence of development at the appeal site forms part of a network of paddocks/fields in the AONB. The appeal site is seen as part of the countryside, rather than part of the curtilage of the dwelling. The visual separation retained due to the surrounding undeveloped land mean the scheme would not appear as an extension to the ski centre.
16. Views of the site as a whole are limited due to the landscape features to the site boundaries, between the parking area and the rear grassed part. There would be only glimpsed views of the site. Nonetheless, these views are attractive, providing visual links to the wider countryside, and the site contributes to the rural setting and character of the locality.
17. The open nature of the site makes a positive contribution to the character and appearance of the area. There were some timber buildings in the area. However, I did not see examples of clusters of them and associated domestic paraphernalia. The introduction of several cabins and other related structures, that would be permanently at the site, would be harmful, reducing and unacceptably damaging the largely undeveloped qualities of the site.
18. The provision of a lighting scheme suggested in the Preliminary Ecological Appraisal (PEA). There is no indication of any existing permanent lighting. While this could be subject to conditions, there is limited evidence before me with regard to the level, location and extent of lighting. As such, I cannot be sure that the scheme would protect the dark skies of the AONB, something the SPG highlights as a concern.
19. The parking area is more prominent than the rear of the site given its proximity to the road and there would be views through the existing boundary vegetation. However, views are filtered by the vegetation and, although the parking area may have been enlarged, there is already a hard surfacing area to the front of the site, and it is not suggested this area would be resurfaced. Therefore, there would be little change to this part of the site.

---

<sup>1</sup> North Somerset Development Management Policies Sites and Policies Plan Part 1

<sup>2</sup> North Somerset Council Landscape Character Assessment Supplementary Planning Guidance

20. No tree survey or arboricultural assessment has been provided and services are proposed. However, the land is gently sloping suggesting limited levelling works would be needed and much of the development would be set in from existing trees and hedgerows.
21. Were the appeal to be allowed conditions could be imposed requiring further information regarding services, the retention of existing features and further landscaping more typical to the AONB. As such, the scheme would accord with the SPD<sup>3</sup> and Policy DM9 of the Part 1 Plan.
22. Notwithstanding this, the proposed development would have a significant harmful effect on the character and appearance of the area and the scenic beauty of the AONB. The scheme would fail to comply with Policies CS5, CS12 and CS33 of the Core Strategy<sup>4</sup>, Policies DM11, DM32 and DM57 of the Part 1 Plan, the SPG, the Countryside and Rights of Way Act 2000 and the National Planning Policy Framework (Framework). These, in part, seek to ensure development conserves, protects and enhances the local character and environment, recognising the intrinsic character and beauty of the countryside and the scenic beauty of AONBs.

*The North Somerset and Mendip Horseshoe Bats SAC*

23. The site falls within the catchment zone for the SAC which has been created to protect greater and lesser horseshoe bat navigation and foraging habitats to ensure roosts continue to be viable and maintained in a favourable condition. The SAC is designated due to its important habitat features and network of habitats that support numerous bat species, including horseshoe bat species.
24. There is a reasonable likelihood that bats would be using the site, including hedge lines and other parts of the site. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment is carried out.
25. The Habitats Regulations also indicate that permission may only be granted after having ascertained that a scheme will not affect the integrity of the European site. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the site. I have undertaken this assessment on a proportionate basis and adopting a precautionary approach.
26. A PEA was provided with the application and subsequently a letter from Fenswood Ecology. This suggested that the onsite habitats, such as hedge lines offer negligible bat roosting potential. Most trees around the site were said to be immature or have no suitable features for bats to utilise for roosting.
27. However, the appellant's supporting documents considered it likely that bats may use the hedge lines and onsite habitats for foraging or commuting purposes. On that basis, it concluded that the site was of importance to foraging and commuting bats up to a local level. Recommendations were made in relation to lighting, planting and protection of landscape features.
28. The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application if the type and location of

---

<sup>3</sup> Biodiversity and Trees SPD

<sup>4</sup> North Somerset Core Strategy

development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.

29. Natural England objected to the proposal prior to the determination of the application by the Council requesting details such as full season bat surveys and a lighting strategy.
30. While I acknowledge time constraints with providing additional information, without this evidence it is simply not known whether protected species, in this case bats, are present and if so, how they use the site. Notwithstanding the recommendations of the PEA, and that the provision of a lighting strategy could be subject to a planning condition were the appeal to be allowed, without survey information or a lighting strategy before me, it is not known what mitigation measures would be appropriate. There is a further question concerning the implementation of any such measures. Given this degree of uncertainty, the use of conditions would not be reasonable in this case.
31. Where suitable mitigation cannot be secured the Habitats Regulations state that planning permission should only be granted if there are no alternative solutions, that there are reasons of overriding public interest and suitable compensatory measures are secured.
32. There would be economic and social benefits associated with the construction period and future use of the scheme. However, given the scale of the scheme these would be limited, as would any environmental benefits associated with landscaping or the site and sustainable transport.
33. Based on the individual merits of the case, the scale of the proposed scheme is not sufficient in this instance to amount to imperative reasons of overriding public interest. There is limited information before me to demonstrate that the appeal scheme is the only possible solution to such provision. In addition, no compensatory measures have been put forward.
34. The absence of sufficient information regarding bats at the site means I cannot rule out potentially significant harm to biodiversity. Consequently, having regard to the Habitat Regulations, permission should not be granted for the scheme.
35. The proposed development could result in harm to the integrity of the SAC. It would conflict with the Habitats Regulations and Policies CS4 of the Core Strategy, Policy DM8 of the Part 1 Plan, the SPD and the Framework where they state that development that would harm sites of European importance will not be permitted and that important habitats should be protected.

#### *Living Conditions*

36. A large parking area is already in place. Given the number of cabins, there are unlikely to be a significant amount of vehicle movements. Moreover, there is mature vegetation and other boundary treatments to the site boundaries and at the nearest properties which are across the lane from the site. The nearby dwellings also have generous rear gardens creating further separation between the site and the properties themselves. As such, while there may be some movements at different times of day, any noise and disturbance experienced at other properties from comings and goings would be limited.

37. No details of sound proofing of the cabins have been provided. Nonetheless, the proposed cabins are set back in the site and would be some distance from other residential properties and further mature vegetation. The size and number of the units, as well as the location of the communal areas amongst the cabins and away from other dwellings, would also reduce any noise and disturbance from the site.
38. The land in the parking area is relatively flat while views from the grassed area would be largely screened by landscape features which are also found on the roadside boundaries. The cabins do not have high level windows. Therefore, there would not be any significant overlooking or loss of privacy.
39. As such, the proposed development would not harm the living conditions of nearby occupiers with regard to privacy, noise and disturbance. It would accord with Policy CS3 of the Core Strategy and Policy DM57 of the Part 1 Plan, where they seek to prevent significant adverse effects on the living conditions of adjoining occupiers.

### **Other Matters**

40. Given the scale of the scheme, economic and social benefits from the development to the local economy along with environmental ones associated with additional planting and sustainable transport would be limited.
41. There is no detailed information to indicate that there is a lack of the proposed facilities in the area. Although smaller than the nearby ski centre, as with the previous hotel/conference centre permission at the appeal site, even without full details of the schemes there would have been different considerations given their scale. A lack of harm to highways matters is a neutral factor.
42. I do not have full details of the development referenced in a nearby field<sup>5</sup>. However, it is said to relate to the conversion of existing buildings. Therefore, it is materially different to the scheme before me.
43. The provision of suggested conditions is standard procedure and does not affect the Council's position in relation to the proposal. Pre-application advice is not binding and the conduct of the Council during the application is not a matter for this appeal.
44. I appreciate that the appellant has amended their scheme seeking to address concerns raised by the Council and sought to make improvements to the land and buildings within their ownership. However, this does not alter my findings on the main issues.

### **Conclusion**

45. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
46. For the above reasons, I conclude that the appeal should be dismissed.

*Stuart Willis*

INSPECTOR

---

<sup>5</sup> 20/P/2657/FUL