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# Appeal Decision

Site Visit made on 9 November 2020

**by David Wyborn BSc(Hons), MPhil, MRTPI**

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

**Decision date: 2 December 2020**

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## **Appeal Ref: APP/W3330/W/20/3257876**

### **Land at Beacon Road, Minehead.**

- 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 Mr Way against the decision of Somerset West and Taunton Council.
  - The application Ref 3/21/19/007, dated 28 January 2019, was refused by notice dated 26 February 2020.
  - The development proposed is the erection of up to five new homes on land south of Beacon Road, Minehead.
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### **Decision**

1. The appeal is dismissed.

### **Applications for costs**

2. An application for costs has been made by Mr Way against Somerset West and Taunton Council. This application is the subject of a separate Decision.

### **Preliminary Matters**

3. The application has been submitted in outline with all matters reserved for consideration at the subsequent stage. Illustrative plans have been included which show a possible layout and related development to accommodate 5 dwellings. I have treated these plans and details as indicative of the approach that the appellant has in mind for the development of the site.
4. The first reason for refusal states that the site lies within the North Hill Conservation Area. The Council has confirmed within its statement that the site actually lies within the Higher Town Conservation Area, which forms part of North Hill. It is not in dispute that the site lies within a Conservation Area. The appellant's heritage statement correctly identifies the name of the Conservation Area and therefore I am satisfied that no party has been prejudiced by the incorrect reference in the reason for refusal.

### **Main Issue**

5. The main issues are:
  - the effect of the proposal on the character and appearance of the area, with particular regard to the setting of the listed buildings, St Michael's Church and Clevelands<sup>1</sup>, and whether the proposal would conserve or enhance the

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<sup>1</sup> The listing description identifies the property as Cleveland, however, the sign on the road directing visitors says Clevelands and I have used this name in the appeal decision.

character or appearance of the Higher Town Conservation Area (the CA), and

- the effect of the proposal on biodiversity.

## **Reasons**

### *Character and appearance*

6. This section of North Hill rises above the lower areas of Minehead and is a prominent and attractive feature of the landscape. Across this part of the hillside the buildings are generally more closely sited together towards the lower slopes. Gradually, further up the slope, the buildings generally become more separated in larger plots with a dominance of mature trees, and the hillside then merges with the countryside beyond.
7. One of the landmark features of this part of North Hill is St Michael's Church, a Grade II\* Listed Building, and in particular the tower. The tower forms a focal point that draws the eye, and often appears with a backdrop of the generally undeveloped and treed hillside. The Church is significant because of the 15<sup>th</sup> century origins, design and form and this includes its presence amongst this part of North Hill. The building is experienced from the adjoining roads and also in the extensive views from parts of Minehead where the generally verdant areas of surrounding hillside form part of the setting of this heritage asset.
8. Further around and up the slope of this part of the hillside is Cleveland's, a Grade II Listed Building. The significance of the building includes its size, age, history and design with largely unaltered attractive architectural detailing. Cleveland's is visible from various locations across Minehead, such as parts of Hopcott Road and Periton Road, and some of the areas of the town broadly north of these roads, including for instance, parts of Townsend Road. From these types of location there are direct views towards this elevated building and the treed backdrop forms part of its attractive and elevated setting which helps frame the building in the landscape.
9. The Higher Town CA covers parts of the town at the foot of North Hill and also includes extensive areas of the hillside and some of the buildings. The significance of this hillside section of the CA includes the verdant surroundings to the buildings, the subtle merging of the upper slope with the surrounding countryside and the landmark provided by the Church Tower.
10. The appeal site is located reasonably far up the slope of this section of North Hill within the CA. It lies parallel with Beacon Road and the land slopes down towards Cleveland's and Cleveland Chalets, with the Church further down the slope. The site also slopes broadly from west down to the east. The site has an extensive row of pine trees along the road boundary and other trees, bushes and scrub across other parts of the site. Groups of trees are subject of a preservation order. Some of the trees, such as the row along the Beacon Road, are significant structurally within the landscape. Other trees and bushes are individually not of such importance, however, collectively across the site the combination of trees, bushes and scrub ensure that the site has a verdant and in part woodland character that merges fairly seamlessly with the generally treed character of the surrounding parts of this section of North Hill.
11. The indicative plans show the erection of 5 houses and detached garages across the site and this would require the clearance of bushes, scrub and some

- of the trees in these areas. Although the majority of the preserved trees should be able to be kept, the plans show level changes across much of the site, areas of hardstanding, three accesses and garden areas, all of which is likely to be necessary in some form to deliver the intended housing, notwithstanding the details at the reserved matters stage.
12. A belt of landscaping would be retained on a lower part of the slope and this could be supplemented with additional planting. Furthermore, the backdrop of the trees along Beacon Road and some trees adjoining the housing would be retained. However, because of the extent of the likely clearance works to accommodate the housing and related infrastructure, the result would still be that across a significant part of the site the verdant qualities that contribute to the character and appearance of this part of North Hill would be substantially eroded.
  13. Sections of the proposed housing, indicatively shown as three stories facing the town, would, even if well designed and extensive landscaping details were submitted at the reserved matters stage, be quite conspicuous on this elevated part of the hillside. The extent of housing would erode the undeveloped character of the site and, together with the loss of vegetation, the contribution the site makes to the gradual transition to the countryside would be significantly diminished. The combination of all these changes, even having regard to any details that could be submitted at the reserved matters stage, would harm the character and appearance of this part of the hillside. The result would undermine positive aspects of the CA that contribute to its attractive and locally distinctive appearance.
  14. The appeal site forms a general verdant backdrop to Clevelands and/or St Michael's Church tower, depending on the angle of view, from a variety of locations across Minehead. The loss of vegetation and replacement with housing would be experienced in many of the same views in conjunction with one or both of the listed buildings. The position of the new buildings would, in all likelihood, draw the eye and erode the characteristic backdrop and thereby harm the way that the listed buildings were presently framed and experienced in the landscape. The proposal would therefore unduly harm their settings.
  15. I am mindful of the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 when considering the impact of development on conservation areas and the setting of listed buildings. Consequently, drawing all these matters together, the combined effect of the proposal would not preserve or enhance the character or appearance of the CA and it would harm the setting of both listed buildings. As a consequence, the proposal would detract from the significance of these heritage assets. The combined harm to these heritage assets would be significant, although this harm would still be less than substantial within the meaning of paragraph 196 of the National Planning Policy Framework (the Framework). In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.
  16. The scheme would provide a boost to housing supply with up to 5 units of accommodation in a location that would have good access to services and facilities in the nearby town, and links to public transport. The site would be considered a windfall site and make effective use of the land. There would be related economic and social benefits to the area during construction and in

subsequent occupation. However, as only 5 units of accommodation would be provided, the public benefits would be minor and afford limited weight in favour of the proposal.

17. The Framework advises that any harm to the significance of a heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the potential harm to the significance. I have found that the public benefits of the proposal afford limited weight and therefore they would not outweigh the harm to the CA and to the setting of the listed buildings. There would be harm to the significance of these heritage assets, which in accordance with the Framework, is required to be attributed great weight. For these reasons, I do not agree with the appellant's analysis and the conclusions of the Heritage Impact Assessment (July 2019).
18. In the light of the above analysis, I conclude that the proposal would harm the character and appearance of the area and, in particular, not preserve or enhance the character or appearance of the CA and detract from the setting of Clevelands and St Michael's Church. Accordingly, the proposal would conflict with Policies NH1 and NH2 of the West Somerset Local Plan to 2032 (the Local Plan) and the Framework which seek, amongst other things, to conserve and enhance the historic environment.

### *Biodiversity*

19. The second reason for refusal indicates that there is insufficient information to make a detailed assessment of the biodiversity of the site and includes comments that the Ecological Survey and Assessment Report (16/11/2017) (the Ecological Report) is undated and may not be up to date. There are also concerns that no bat survey has been undertaken, no survey of nesting birds and no reptile survey.
20. The application was accompanied by the Ecological Report. The appellant has indicated that when the report was first submitted and uploaded this resulted in every other page being missing, including the page with the date of the report. It is explained that this matter was resolved when the full report was resubmitted and uploaded to the Council web site in March 2019 – 11 months before the Council determined the application.
21. The Ecological Report is a Phase 1 Habitat Survey undertaken by a qualified practitioner and the criticisms of the report, in terms of the date, for instance, are unfounded.
22. The Ecological Report provides a reasonable analysis in relation to nesting birds and reptiles and the survey and conclusions are adequate in these respects. However, in terms of bats, the Report explains that bat emergence surveys were not conducted as the survey was outside the optimum period for bat surveys and that the larger of the Monterey pines and to a lesser degree the standard ash to the west offered potential roosting sites.
23. Bats are a protected species and trees on the site appear to have the potential as roosts and other areas for foraging. The site is about 0.45km from the Exmoor Heaths Special Area of Conservation. While many of the trees on the site would be retained, it is not clear from the information whether trees which, in all likelihood because of the extent of development proposed, would be felled are roosting sites. Furthermore, the effect on foraging from the loss of scrub

and other foliage has not been comprehensively analysed. In these circumstances, the Ecological Report does not provide the necessary certainty that any bats would be adequately protected on the site, notwithstanding the recommendations which include the provision of bat boxes and other mitigation and enhancement measures.

24. It would not be reasonable to attach a survey requirement as part of a condition in any approval. This is because, in accordance with Circular 06/2005, it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted.
25. Accordingly, I conclude that it has not been demonstrated satisfactorily whether any bats which may be present on or use the site could be adequately protected as part of the development proposal. As a consequence, the scheme would not accord with the Framework which seeks to conserve and enhance the natural environment.

### **Other Matters**

26. I have taken into account all the objections, including from local residents, the Minehead Town Council, the North Hill Action Group and the Minehead Conservation Society, as well as the letters of support, and the responses to all these matters from the appellant. I have examined above the main issues that have been raised.
27. I also have taken into account that the site was identified in the Strategic Housing Land Availability Assessment (SHLAA) as having the potential for a greater level of development than that proposed in the present scheme. However, this is not determinative in relation to the consideration of a planning application and the detailed assessment of the key issues. I therefore afford the identification of the site within the SHLAA limited weight in this case.
28. The appellant has raised detailed concerns and frustration with the processing of the application by the Council that led to the refusal after a lengthy period of time. However, the way in which the Council handled the application is not a matter for me to consider in the context of this appeal, which I have determined on its own merits.

### **Conclusion**

29. For the reasons given above, the scheme would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

*David Wyborn*

INSPECTOR