



Appeal Decision

Site visit made on 17 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2023

Appeal Ref: APP/W3330/W/22/3299543

Lower Hayne, Honiton Road, Corfe, Taunton TA3 7DA

- 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 R & A Bevins against the decision of Somerset West and Taunton Council.
 - The application Ref 12/21/0008, dated 24 October 2021, was refused by notice dated 2 March 2022.
 - The development proposed is erection of annex and garage (Demolition of existing garage). Alterations to existing access.
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Decision

1. The appeal is allowed and planning permission is granted for erection of annex and garage (Demolition of existing garage) and alterations to existing access at Lower Hayne, Corfe, Taunton TA3 7DA in accordance with the terms of the application, Ref 12/21/0008, dated 24 October 2021, subject to the conditions set out in the Annex attached to this decision.

Preliminary Matters

2. I note that the appellant's appeal form indicates that the description of the development changed from that stated on the application form. However, I have used the description provided on the application form in the banner above as this adequately describes the development.
3. Following the decision of the Council, the appellant has submitted additional amended plans incorporating ecology mitigation. The appellant suggest that this information should be considered in the appeal decision to address the Council's reasons for refusal.
4. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. I have had regard to the Wheatcroft Principles, the degree of engagement of all parties and the interests of fairness. Noting the limited concerns of third parties in respect of the matters and the opportunity for the Council to fully respond, I do not consider that any party will be prejudiced if I take the information into account. I have subsequently referred to them in reaching my decision.

Main Issues

5. The main issues are:

- The effect of the proposed development on the character and appearance of the area, having regard to the site's location within the Blackdown Hills Area of Outstanding Natural Beauty (AONB); and
- the effect of the proposed development on ecology.

Reasons

Character and appearance

6. Lower Hayne is a large 2 ½ storey dwelling with a steep tiled pitch roof and stone elevations contributing to its attractive traditional appearance. The dwelling is set in large gardens within a countryside location and within the AONB. Within the gardens are an existing detached two storey rendered garage building as well as further single-story timber clad workshop and storage buildings. The topography of the appeal site rises markedly from the B3170 highway to the west, towards the house, and upwards towards the garden beyond.
7. The existing garage building is located to the front, and lower than the main house, and despite mature tree planting along the northeast and northwest boundaries, due to the rising topography both the garage and main house are prominent from the highway, particularly from the driveway entrance.
8. The surrounding area features rolling wooded and pasture hillside, with occasional single, and small groups of dwellings and farmsteads of traditional appearance and materials which contribute to the character of the area.
9. As the appeal proposal is located within the AONB, I have had regard to the purpose of conserving and enhancing the natural beauty of the area as set out in section 85 of the Countryside and Rights of Way Act 2000 (as amended). The Blackdown Hills Management Plan and the National Planning Policy Framework (Framework) also seek to protect such designated landscapes, recognise the intrinsic character and beauty of the countryside, and attach great weight to conserving and enhancing the landscape character and scenic beauty of AONBs, which have the highest status of protection in relation to these issues.
10. Policy D6 of the Taunton Deane Adopted Site Allocations and Development Management Plan (SADMP) relates to ancillary accommodation and supports the erection of a new building subject to various criteria, including at (A) that the proposal would be less damaging to the character of the main dwelling or the surrounding than an extension or conversion which meets the need.
11. The appeal scheme would remove the existing garage structure, and introduce an annexe building, a further detached flat roof open front garage with decking above, and alterations to the entrance. The annexe building would be located in a similar area to the existing garage building, although further to the north away from the main house. Although the annexe will be a single storey building, due to the topography, the northwest elevation will be raised above the falling ground level. Native landscaping has been proposed to the southwest elevation which will soften the lower parts of the building when seen from public vantagepoints on the highway.
12. The annexe design incorporating steep pitch roofs, and natural materials of similar appearance to the main house, will sit comfortably in views into the site

alongside the main dwelling, and would appear subservient to, whilst also maintaining a strong visual and function relationship with the main dwelling. Furthermore, the ridge height of the proposed annexe would be significantly below that of the existing garage building, which currently due to its height and render finish appears visually prominent in the site.

13. The 'L' shaped floorplan of the annexe and its spatial relationship with the dwelling will also create a courtyard character which I noted elsewhere in the wider area. I observed that the proposed site of the annexe is a location where the ground levels and topography would allow level access to the building, without requiring significant excavation. Even if other flat areas within the site could facilitate a building of this size, these areas would be further away from the house, thereby diminishing the visual and functional relationship.
14. The proposed garage building, located to the west of the house, would be cut into the hillside, with the flat roof being utilised as a raised terrace area. The excavation works required to achieve the proposed levels would not be insignificant, however the resulting building, utilising stone and timber, would be unobtrusive alongside the main dwelling. Furthermore, while the roof terrace would utilise a hard surface, due to the topography rising from public viewpoints on the highway, this would be inconspicuous in the wider landscape.
15. The Council have not raised any objection to the proposed access alterations in terms of highway safety and I have no reason to disagree. Furthermore, the widened entrance, and use of a low stone wall will not visually harm the area and maintains the character of the residential entrance and driveway.
16. Consequently, I conclude that the proposed development would not adversely affect the character and appearance of the area. As such, it would accord with policies DM1 and CP8 of the Taunton Deane Core Strategy 2011-2028 (CS) and SADMP Policy D6 which, amongst other things, seek development to be appropriate in terms of scale, siting and design, and protect, conserve or enhance landscape character. I have had regard to the Blackdown Hills Management Plan and find no conflict with Policy PD2 which requires, amongst other things, development to respect the local character of the built environment of the AONB and be sensitively sited and of appropriate scale.

Ecology

17. An ecology survey was submitted following the decision of the Council. A small number of bat droppings were found within the attic space of the garage building and a single active swallow nest. CS Policy CP8 seeks to ensure that all developments enhance and protect the countryside and biodiversity resources including habitats and species.
18. All bat species and their roosts are legally protected from damage or destruction whether occupied or not. Emergence surveys have been carried out which noted a number of bats emerging from the adjacent house. Although no bats were seen to emerge from the garage, the survey indicates it is likely the building is used occasionally during the spring and summer seasons by bats associated with the nearby roost within the house.

19. The surveys also conclude that the garage attic had been used as a day roost by a low number of brown long-eared bats and further states that the proposed demolition of the garage would cause the loss of a roost for a low number of bats. However, it is stated this will equate to a low scale impact on a roost of low conservation significance, with a Natural England mitigation licence being required. Such a License requires various precautions to be taken out during a development in order to minimise impacts to the protected species.
20. No evidence of reptiles was found at the site, although the survey indicates the garden is likely to contain slow worm. Cotoneaster was also found within the site, and certain species of cotoneaster are listed as an invasive species, although whether the species found at the site is invasive, or location within the site isn't specified. Notwithstanding, given the lack of certainty of the presence of either following the survey, and the protection and requirements afforded under the Wildlife and Countryside Act 1981 (as amended), I see no reason why the proposed development would result in harm to the ecological receptors.
21. The Council have had the opportunity to respond to the submitted ecology survey, and have suggested ecology conditions, in the event of the appeal being allowed aligning with the findings of the survey.
22. Consequently, given the evidence before me, noting the low scale impact and requirement for a license and subject to the imposition of appropriate mitigation and enhancement conditions, the proposal would protect and enhance ecology including habitats and protected species. As such, the proposed development would accord with CS Policy CP8 which seeks, amongst other things to protect habitats and species, and conserve and expand biodiversity. There would also be no conflict with the provisions of the Framework in relation to habitats and biodiversity.

Conditions

23. A number of conditions have been suggested by the Council in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance. As well as the statutory time limit condition, a plans condition would be required to provide certainty. A further condition would be necessary to ensure that the annexe building is occupied ancillary to Lower Hayne given the countryside location away from services and facilities in order to ensure a sustainable approach to development.
24. In the interest of ecology, conditions are needed to ensure that the works take place outside of the bird nesting season, appropriate roofing membranes are utilised, and, in order to provide biodiversity gain, details of bat boxes, bird nesting, bee and hedgehog measures are also required.
25. The Council has also suggested conditions preventing commencement of the development until the appellant provides the Council with details of a European Protected Species Licence (EPSL) or Bat Mitigation Class License, as well as a further condition requiring a bat ecologist provide a toolbox talk to the contractor. The ecology survey has confirmed that a Natural England Bat Mitigation License will be required. It would not be reasonable or necessary to impose a condition preventing development until details of the license, or lack of need of a license has been provided to the Council as this is a requirement

under differing legislation. In respect of a toolbox talk, such a condition is imprecise and unnecessary given the requirements of a licence.

Conclusion

26. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

S Harrington

INSPECTOR

Annex

Conditions

- 1) The development hereby permitted shall be begun within three years of the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: E100 Rev A; P100 Rev D; P200 Rev A; P201 Rev B; P300 Rev E; P350.
- 3) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the existing dwellinghouse within the site currently known as Lower Hayne, Honiton Road, Corfe.
- 4) No vegetation removal works within the site required to enable the development hereby permitted shall take place between 1st March and 30th September inclusive, unless a competent ecologist has undertaken a detailed check of the trees, shrubs and scrub and tall ruderal vegetation to be cleared for active birds' nests immediately before works proceed 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 accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.
- 5) Only 'bat safe' roofing membranes/underfelt must be used in roofs to which bats have access. These comprise:
 - Traditional hessian re-inforced bitumen 1F felt.
 - Non-bitumen-coated roofing membranes that are accompanied by a certificate proving the membrane has passed a snagging propensity test.
- 6) At least one Habitat 001 bat box (or similar) should be built into the west gable wall of the new building. The bat box should be situated under the eaves and at a minimum height of 3-4m, away from potential sources of

disturbance and light pollution such as windows, doorways and external lighting.

- 7) Prior to the commencement of the approved works 2 No. Schwegler 1FF or 2 FN bat box (or similar) shall be hung on the existing dwelling or a suitable tree at a minimum height of 4 metres. Any such box will be maintained in-situ thereafter. Photographs showing installation will be submitted to the Local Planning Authority.
- 8) A sparrow terrace shall be erected directly under the eaves and away from windows on the north or east elevation of the annex or dwelling within 6 months of the first occupation of the annex hereby permitted and maintained thereafter.
- 9) Prior to the first use of the development hereby permitted, a hedgehog house should be provided within the site, and retained thereafter.
- 10) Prior to first use of the development hereby permitted, a bee brick shall be built into the wall approximately 1 metre above ground level on the south or east elevation of the development, or alternatively, a bee or insect hotel shall be erected in the garden and retained thereafter.