
Appeal Decision

Site visit made on 13 June 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

Appeal Ref: APP/F0114/W/23/3318194

**Widcombe Tennis Court, South Widcombe, Hinton Blewett, Bristol
BS40 6BN**

- 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 and Mrs Andrew and Tracey Cotterell against the decision of Bath & North East Somerset Council.
 - The application Ref 22/04026/FUL, dated 4 October 2022, was refused by notice dated 5 January 2023.
 - The development proposed is the erection of a dwelling, covered parking, implement store and formation of vehicular access.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Andrew and Tracey Cotterell against Bath & North East Somerset Council. This application is the subject of a separate Decision.

Procedural Matters

3. The development plan includes the Bath and North East Somerset Core Strategy, July 2014 (CS), the Placemaking Plan, July 2017 (PP) and the Local Plan Partial Update, January 2023 (LPPU). It also includes the Chew Valley Neighbourhood Plan, made April 2017 (NP).
4. The LPPU was adopted after the Council made its decision. Insofar as is relevant to the appeal proposal, the policies cited on the Council's decision notice have not fundamentally changed and remain part of the development plan. In addition, the parties have had the opportunity to refer to the LPPU as part of their appeal submissions. Accordingly, I am satisfied that no one would be disadvantaged by my reference to the LPPU.

Main Issues

5. The main issues are whether the site is in a suitable location for housing development having regard to local and national planning policies for rural housing; and if harm arises, whether this is outweighed by other considerations.

Reasons

Location of the site

6. The CS and PP set out a district wide spatial strategy that seeks to direct residential development to the towns and principal villages of the district. The approach to rural areas forms part of the overall spatial strategy and seeks to focus rural residential development at settlements with a good range of local facilities and access to public transport. A housing development boundary assists in identifying those settlements.
7. Policy RE4 of the PP further reinforces the spatial strategy and confirms that new dwellings will not be permitted outside a housing development boundary in the open countryside unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside provided certain criteria are met.
8. This broadly accords with the approach to rural housing set out in the National Planning Policy Framework (the Framework). Paragraph 79 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. This approach does not preclude the use of housing development boundaries.
9. The appeal site is within South Widcombe a small hamlet that does not have a housing development boundary identified in the development plan. This is consistent with the lack of local facilities and public transport provision. The evidence before me¹ indicates that Bishop Sutton is the closest settlement to the site which has a shop, community facilities and access to public transport. Bishop Sutton is located approximately 2.5 miles from the site which equates to an approximate 10 minute drive.
10. It is proposed to construct a new dwelling on land that was formerly part of the domestic grounds to Widcombe Lodge, that includes a tennis court. It is not part of the appellants' case that the dwelling is necessary for a rural worker. Furthermore, there is consensus that the proposed dwelling would not constitute an isolated home in the countryside within the meaning of paragraph 80 of the Framework. Given the proximity of other dwellings and buildings at South Widcombe, and the findings of the Inspector in this regard in a previous appeal decision², I see no reason to disagree. It follows that the permitted exceptions for such isolated homes listed in paragraph 80 are not directly relevant in these circumstances.
11. Accordingly, the location of the appeal site outside of, and some distance from, any housing development boundary conflicts with the spatial strategy contained in the development plan.
12. Moreover, as the proposal is for a four bedroom house, it would be likely to have future occupants with a range of travel requirements. The nearby lanes are generally narrow, unlit, with little footpath provision and limited surveillance. Combined with the distance to Bishop Sutton, this would be likely to deter many pedestrians and less confident cyclists. Therefore, these are not

¹ Pre-application advice dated 7 May 2020, Appendix 3, Appellants' Statement of Case

² Appeal reference APP/F0114/W/18/3208289 dated 1.3.19

methods of travel that would be likely to be routinely used, instead future occupants would be likely to be reliant on the private car as the principal means of transport. This would further undermine the district wide spatial strategy.

13. The appellants seek to rely on pre-application advice³ from the Council that states a modest dwelling could be acceptable despite the site lying outside of a housing development boundary. Nevertheless, the wording of the advice is not definitive, and somewhat vaguely refers to acceptability being subject to the provision of further details. In any event, it is prefaced by an explanation that it constitutes an informal officer opinion that is not binding on formal decisions. Hence, it carries limited weight and would not lead me to a different view.
14. I therefore find that the site would not provide a suitable location for housing given its poor access to local services and public transport and would conflict with the district wide spatial policy for development in rural areas. Consequently, the proposal would result in a more dispersed settlement pattern than that advocated in the development plan, and specifically would be contrary to policy RE4 of the PP. My finding in this regard is reinforced by the similar conclusion of the previous Inspector⁴.

Other considerations

15. The appellants confirm⁵ that the proposed dwelling is promoted as an exception to policy RE4 of the PP on account of the outstanding innovative design of the property. In doing so, they seek to rely upon paragraph 134 of the Framework. Sub-paragraph 134b) stipulates that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
16. However, policy RE4 does not specify such an exception. Neither does paragraph 134 of the Framework suggest that this matter has paramountcy over the spatial policies in the development plan, it merely points to the amount of weight that should be given. Hence, for the proposal to succeed on this basis, it must be shown that this matter is of such import, that it outweighs deciding in accordance with policy RE4 of the PP.
17. The parties disagree as to whether the proposal would fall within the scope of paragraph 134b) of the Framework, and consequently whether or not it ought to attract significant favourable weight in this regard. The alternative initial limbs of paragraph 134b) are both provisional upon the development fitting in with the overall form and layout of their surroundings. Hence, if this latter requirement is not met, the significant weight attributed by paragraph 134 would not follow irrespective of whether the design otherwise complied with one of the initial qualifying limbs.
18. Paragraph 134 of the Framework also refers to government guidance on design, which in part is contained in the National Design Guide (NDG). The NDG⁶ assists in the consideration of form, layout and whether proposals fit in with their surroundings. Amongst other things it states that layout defines the

³ Appendix 3, Appellants' Statement of Case

⁴ Paragraph 42

⁵ Paragraph 7.4, Appellants' Statement of Case

⁶ Paragraphs 23-25, NDG

settlement pattern and grain of development, whereas form is the three-dimensional shape and modelling of buildings and the spaces they define. It confirms that buildings can take many forms, depending upon their size and shape in plan, height, bulk and massing. Moreover, the form of a building has a relationship with the form of the wider place where it is sited.

19. The NDG goes on to identify context as one of the 10 characteristics of well-designed places. Paragraph 38 refers to an understanding of the context, history and the cultural characteristics of a site, neighbourhood and region influencing the location, siting and design of new developments. Consequently, responding positively to the context will mean new development is well grounded in the locality. This resonates with the requirements found in policies D1, D2 and D3 of the PP and policies HDE1 and HDE2 of the NP which relate to character and design. Amongst other things, they generally indicate that new development should respond positively to the distinctive character of the local context.
20. The amount of built form in South Widcombe is limited, which I observed to be in sporadic clusters along a loosely linear layout relative to the road. Most domestic properties are two storey and address the road due to a limited set back. Their form is predominantly traditional in character with well-proportioned elevations and a limited range of materials. Coherence is derived in part from the use of gable ended or hipped pitched roofs, which in turn restrains the impression of the massing of the dwellings.
21. There are significant gaps between clusters of buildings within which fields, woodland and hedgerow prevail. In combination with the wider scenic rural setting (the site lies within the Mendip Hills Area of Outstanding Natural Beauty (AONB)), this gives the settlement a spacious and attractive countryside character where most of the limited built form gives visual cues as to the rural and agricultural heritage of the area.
22. The proposal would introduce a large, detached dwelling onto land where built form is largely absent, albeit that a domestic tennis court exists. Although it would broadly align with the position of Widcombe Lodge, it would not have an obvious presentation to the road in the same way. Moreover, its presence would encroach into the spaciousness between buildings in the hamlet.
23. Furthermore, owing to the elongated two storey element and roof form, the dwelling would have a strong horizontal emphasis. The upper storey would overhang the curved lower storey, creating greater bulk at the upper level. In combination with the use of white lias stone, timber cladding, the ratio of solid to void used in the elevations would result in a bold contemporary design redolent of the International Style of architecture. Hence, the form of the dwelling would be quite different from those nearby. To my mind, rather than seeking to fit in with the overall form and layout of the surroundings, the proposal would provide an overt contrast with a new identity less rooted in the rural surroundings.
24. Although some comparisons of footprint, scale, volume and height are given in relation to nearby dwellings, the definition of form in the NDG is not confined to those factors, and also includes the three-dimensional shape, bulk and massing of the building. It is not persuasively explained how the form of the proposed

dwelling would be well grounded or have a coherent identity with its surroundings.

25. I acknowledge that the proposed dwelling would generally be well screened from the road and wider area due to the presence of established vegetation and trees along the boundaries of the site. Therefore, I am satisfied that the proposal would not significantly harm important views identified by policy HDE3 of the NP. However, such a degree of screening is not particularly characteristic of the nearest dwellings, which tend to have a more open visible aspect that presents to the road. Furthermore, the absence of an objection from the Council in relation to the likely impact on the natural beauty of the landscape and AONB does not amount to positive evidence that the proposal would otherwise fit in with the overall form and layout of their surroundings within the meaning of paragraph 134 of the Framework.
26. I have also had regard to the views of the Design Review Panel⁷, and recognise that the appellants have spent considerable time and effort in evolving the submitted design. Nevertheless, I note that in the most recent recommendations received, the Design Review Panel stated that it would be helpful to show how the design responds to the settlement pattern, how the proposals would be experienced in their context and how the proposed materials relate to local materiality.
27. Therefore, whilst I agree that taken in the abstract the proposed dwelling is of high quality, it is not successfully demonstrated how the proposal would fit in with the overall form and layout of the surroundings. On that basis, I find that it would not fall within the scope of paragraph 134b) of the Framework. Therefore, it is unnecessary to examine whether the proposal would meet either of the initial qualifying limbs of paragraph 134b) as this would make no difference to my overall finding on this point.
28. Nevertheless, the proposal would incorporate innovative green hydrogen technology using a 'battolyser' for heat and power, a technology that is being researched by Loughborough University. As a real-life prototype, the development would be likely to further research and potentially support the greater future use of green hydrogen gas. These notable benefits weigh in favour of the proposal.
29. However, although supported by Loughborough University, there is little evidence to show a specific link between the need for a demonstrator showcase and the location of the appeal site. Nor is it fully explained what efforts there have been to identify a site that would meet the University's key requirements⁸. Consequently, I am not assured that no suitable sites exist that would be development plan compliant in terms of their location that could equally assist with the research. In addition, and as acknowledged by the appellants⁹, the design of the dwelling would not meet the sustainable construction standards required by policy SCR6 of the LPPU for total energy use of less than 40 kWh/m²/annum. These considerations reduce the weight given to the benefits highlighted. Therefore, they attract a moderate amount of positive weight.

⁷ Appendix 2, Appellants' Statement of Case

⁸ Letter dated 26.9.22, Appendix 7, Appellants' Statement of Case

⁹ Paragraph 7.13, Appellants' Statement of Case

30. The proposal would incorporate other renewable and energy performance measures and would include arboricultural and ecological mitigation. However, the information provided does not show that this would be to a greater extent than would otherwise be required by other policies of the development plan. Overall, these measures attract limited positive weight.
31. It is also asserted that by providing educational open days the dwelling would provide opportunities for shared learning in relation to biodiversity and engineering technologies with local schools and universities. Given the likely limited extent of such activity, this attracts a commensurate amount of favourable weight.
32. The proposed dwelling would be a self-build dwelling, support for which is found within the Framework. It would contribute towards the overall housing supply, and principally during construction, would bring some economic benefits. These are benefits which also attract positive weight. However, the extent of such benefits accrued from a single dwelling would be limited. Furthermore, the Council points out that it can demonstrate an adequate supply of housing land, which has not been contradicted. As such, I give limited weight to these benefits.
33. The appellants point out that the Council did not object in relation to highway safety, the living conditions of other residents and drainage. Be that as it may, the absence of harm in relation to those matters do not amount to benefits, rather they are neutral factors in the overall balance.

Planning balance and conclusion

34. Planning law requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise¹⁰. I have found that the proposal conflicts with the development plan strategy for development in rural areas. There are other considerations which weigh in favour of the proposal. However, even taken cumulatively, they attract moderate weight. Accordingly, these considerations, including the provisions of the Framework, would not justify departing from the consistent application of the district wide strategy. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹⁰ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990.