



Appeal Decision

Site visit made on 4 July 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Appeal Ref: APP/Q3305/W/22/3313125

Land rear of Lilac House, The Street, Draycott, Cheddar BS27 3TH

- 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 Mrs Teresa Rooney against the decision of Mendip District Council.
 - The application Ref 2021/2500/FUL, dated 27 October 2021, was refused by notice dated 24 June 2022.
 - The development proposed is to replace detached outbuilding used as therapy studio and residential bedsit with dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council have been merged with others into Somerset Unitary Authority, with the individual development plans remaining relevant. As Mendip District Council made the decision on the original application, I have referred to that name above.

Main Issues

3. The main issues in this case are firstly, the effect of the proposal on the character and appearance of the area; and secondly, whether the proposal would afford future occupiers acceptable living conditions, with particular regard to outdoor amenity space and outlook.

Reasons

Character and Appearance

4. The appeal site comprises the shared access and rear garden of Lilac House. This house is part of a short row of stone and tile terraced houses that share a vehicular access to the rear from Twitchens Lane. To the immediate rear of the house is a courtyard garden, the shared access, and a single storey garage that has been converted into a bedsit and treatment room. Beyond the garage is a garden with various outbuildings.
5. There are a number of historic properties near to the appeal site, many of which front the public highway or are set back from it behind shallow front gardens. This enclosure of the public realm contrasts the verdant spaciousness that derives from the rear gardens that many of these

houses possess. The repeated use of the richly coloured local stone in the houses, outbuildings and boundary walls creates a visual cohesion that is part of the distinct identity of the area.

6. The existing building is constructed of a variety of materials, with rendered and timbered walls and a mostly glazed conservatory to the rear. Despite the presence of a small, enclosed front garden to the bedsit, the outbuilding has a legible subservience in terms of size and form, and as such it retains its ancillary relationship with Lilac House. The proposed dwelling would be single storey with the same height eaves as the existing building, but with a higher roof ridge. In addition, it would also have a larger footprint, and as the garden tapers in breadth near to the house, this would result in the new dwelling extending across much of the garden. Even though single storey in height, the size and positioning of the dwelling in a back garden location would result in a building that would appear harmfully constrained within its plot. Furthermore, unlike many of the other houses nearby, the dwelling would have no active frontage with the public realm, thereby exaggerating its incongruously cramped position and appearance.
7. As often occurs with houses with generous gardens, there are a variety of outbuildings nearby, some of which are of a comparable size to that proposed, such as that in the rear garden of the neighbouring property to the north. However, as this outbuilding is positioned within a broader, more generous garden, it does not have such a constrained and dominating impact as the appeal scheme. The narrow breadth of the garden of Lilac House when combined with the size and height of the dwelling would result in a building that would appear unduly cramped and constricted within its plot. There would be movements and activities associated with the existing use of the building, but the provision of a family home would result in an intensification of domestic uses and paraphernalia at the same time as removing the legible ancillary appearance and function of the existing building.
8. Furthermore, this harm would be exaggerated by the use of black corrugated fibre cement for the roof and walls. A single material would exaggerate the size of the building, as it would have a conspicuously monotone appearance that would draw the eye. This impact would be particularly harmful given the contemporary style of the building in an area where many of the outbuildings have a simple form and are constructed of traditional, local materials. The stone has an attractive, rich colour, comprising a variety of harmonious tones, and in such a context a mono-coloured building would appear unacceptably alien and stark.
9. For these reasons, the proposal would unacceptably harm the character and appearance of the area, and the suggested conditions would not overcome this fundamental harm. The scheme would be contrary to Policies DP1 and DP7 of the Mendip Local Plan (2014) (LP), which seek, amongst other things, that development should be of a high quality,

contribute positively to the maintenance and enhancement of local identity and distinctiveness, and have an appreciation of the built context of their locality, thereby reflecting objectives of the National Planning Policy Framework (the Framework).

Living Conditions

10. The considered design of the dwelling has sought to minimise overlooking of future occupiers into neighbouring properties. Apart from the bathroom each room would benefit from full height windows, and the combination of these and the rooflights in the west facing roof plane would provide future occupiers with natural light. Despite this and the window box, the close proximity of the building to the property boundaries would result in an oppressively constrained outlook for future occupiers, with views from the north and south elevation windows directly onto the tall boundary treatments that delineate the garden. Although the dwelling has been designed for the appellant, this does not outweigh the harm that would be experienced by other occupiers, a factor recognised by the Framework which requires a high standard of amenity for existing and future users.
11. The dwelling would have a rear garden, but in doing so would remove much of the external space from Lilac House. The appellant has pointed out that the Council have no internal or external space standards, albeit guidance in the Design and Amenity of New Developments Supplementary Planning Document (2022) (SPD) supports good quality design to ensure that the amenity of current and new occupiers is protected. The host dwelling would retain parking spaces, but the occupiers of this property would have a small enclosed rear space that would provide limited opportunity for day-to-day residential ancillary use, such as washing lines and bin storage. It would also be close to the shared access and parking provision of other properties and the associated pedestrian and vehicular movements. The appellant has pointed out that an offer to purchase the property with just the courtyard was made, and other homes have small gardens. Given the circumstances in this case, the small size of the remaining garden for the occupiers of Lilac House and the loss of private outdoor amenity space would provide unacceptable living conditions for occupiers of this property.
12. Having regard to my findings, the proposal would not provide acceptable living conditions for future residents, and the suggested conditions would not overcome this harm. The scheme would fail to accord with objectives of the Framework, and also with LP Policy DP7 and the supporting advice in the SPD. These seek, amongst other things to protect the amenity of users of neighbouring buildings and provide a satisfactory environment for future and current occupants.

Other Matters

13. The site is near to the Somerset Levels and Moors Ramsar, an internationally important habitat designated for its rare aquatic invertebrates. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority. The Council have referred to updated advice concerning the impact of phosphate levels on the integrity of the Ramsar, and I shall return to this matter below.
14. Both main parties have referred to the current use of the existing building, and at my site inspection I saw that part is a bedsit and the other part is a treatment room. Neither party has provided evidence of a Certificate of Lawfulness of Existing Use, and it is not the role of the appeal process for the consideration of a planning application to conduct an exercise as to the lawful use or operation of a site. Moreover, the appeal proposal is for the demolition of the existing building and its replacement with a family home. This is very different to what is currently occurring on site, and thereby limits the weight I can attribute to the existing uses.

Planning Balance

15. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d) of the Framework is engaged, whereby planning permission should be granted unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
16. The provision of an additional dwelling would be a benefit arising from the scheme as it would contribute towards the supply of housing. There would also be a small, time-limited economic benefit arising from the construction phase, and occupiers would contribute to the local economy. The development would be in a village with community services and some public transport services, which would be in accordance with the strategic housing objectives of LP Policies CP1 and CP2 to direct new housing to villages that offer key community facilities. These would be social and environmental benefits.
17. Weighing against these benefits would be significant environmental and social harms. The scheme would deliver an additional high-quality home, but in doing so would cause significant harm to the distinct character and appearance of the area, and future occupiers would not experience adequate living conditions. LP Policies DP1 and DP7 are broadly consistent with the Framework, as the Framework also requires development to be sympathetic to local character and to provide adequate living conditions for future residents.

18. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The adverse environmental and social impacts in this case amount to harms which carry substantial weight, and this thereby significantly and demonstrably outweighs the benefits arising from the scheme, even the weight that derives from the provision of an additional dwelling, when assessed against the policies in the Framework as a whole. It follows that the presumption in favour of sustainable development does not apply.
19. Returning now to the matter of the Ramsar, if I had come to a different conclusion, it would have been necessary for me to consider the impact of the proposal on the integrity of this habitat site. In doing so I would have had to give consideration to the recent advice regarding phosphate impacts, whether to undertake an Appropriate Assessment and consider the likely effectiveness of any mitigation measures, as I would have to be certain that the integrity of the protected site would not be adversely affected. However, as I am dismissing the appeal for other reasons, this has not been necessary.

Conclusion

20. The scheme would adversely impact upon the character and appearance of the area, and would provide unacceptable living conditions for future occupiers. The proposal would conflict with the development plan and there are no considerations that outweigh this conflict. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR