
Appeal Decision

Site visit made on 13 July 2023

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2023

Appeal Ref: APP/W3330/W/22/3313229

Llantarnum, Nursery Lane, Chelston, Wellington, TA21 9PH

- 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 Alan Hale against the decision of Somerset West and Taunton Council.
 - The application Ref 46/22/0005, dated 11 March 2022, was refused by notice dated 19 October 2022.
 - The development proposed is erection of 1 no. 3 bed dwelling and formation of access.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is a suitable location for housing having regard to the development plan and national policy.

Reasons

3. The proposed dwelling would be located on a site bounded by the A38 to the north-west and Nursery Lane to the south-east. Existing dwellings are located to the south-west and north-east of the site. Policy SP1 of the Council's Core Strategy¹ (CS) sets out the overarching spatial strategy for the district and seeks to direct new housing to the most sustainable and accessible locations in accordance with a settlement hierarchy. The site is not within a settlement identified by Policy SP1 and is therefore within the open countryside.
4. Policy SB1 of the Council's Site Allocations and Development Management Plan² (DMP) seeks to maintain the quality of the rural environment, and secure a sustainable approach to development, by ensuring proposals outside of the settlement boundaries comply with CS Policies CP1, CP8, and DM2. Policy CP1 advises that development should result in a sustainable environment, and that locational decisions should be made to reduce the need to travel. Policy A5 of the DMP further expands on this and advises residential development should be within walking distance of, or should have access by public transport to, employment, convenience and comparison shopping, primary and secondary education, primary and secondary health care, leisure and other essential facilities.

¹ Taunton Deane Core Strategy 2011- 2028, Development Plan Document, September 2012

² Taunton Deane Adopted Site Allocations and Development Management Plan, December 2016

5. The route from the appeal site to the nearest convenience store at the Westpark business park requires pedestrians to either walk eastwards along the grass verge at the side of the A38, or on the main carriageway. At the time of my site visit, there was frequent traffic in both directions. The grass verge along the A38 is narrow, uneven, and includes protruding road signage and overgrown boundary vegetation. The signage and vegetation must be avoided by moving close to the highway, an uncomfortable experience given the risk of tripping on the uneven surface of the grass verge. For the most part, the route from the site to the retail park is unlit.
6. The appellant suggests alternative routes into Wellington or to the Jurston Farm development, either walking west along the grass verge to the A38 or crossing the A38 and using the green lane byway. Neither of these alternatives provides an even walking surface and there is poor visibility of traffic when crossing the A38 to get to the green lane byway. Furthermore, future occupants who wish to cycle to Wellington, or to the Jurston Farm development, would have to use the busy A38 for part of their journey which does not have a cycle lane.
7. I acknowledge that the distances to the business park and to the Jurston Farm development could reasonably be walked or cycled. The conditions of the grass verges, and the busy unlit main road, would, however, make such journeys unattractive and potentially unsafe. I have had regard to the appeals at Shepton Mallet³ and Gatchell Farm⁴ drawn to my attention by the appellant. However, in this case, the opportunity to seek refuge for certain groups of people, such as users of mobility scooters and people with mobility issues, blind or partially sighted persons, and people with prams, would not be readily available. Furthermore, I am not persuaded that access to facilities and services meeting day-to-day needs would only be required during daylight hours.
8. As such, the siting of the proposed dwelling would not provide safe and suitable routes to facilities by sustainable modes for all users. I have reached my own conclusions on the appeal proposal based on the evidence before me and following a detailed site visit. The lack of suitable walking and cycling routes from the site would result in future residents relying on the private motor car to meet their regular day-to-day needs, such as schools, shops, public transport, employment and health services. This would significantly reduce the likelihood of sustainable journeys.
9. CS Policy DM2 sets out a permissive approach to a range of developments in the open countryside that are not applicable in this case. Therefore, whilst the proposal is not supported by this policy, nor does the policy specifically oppose it either. This policy interpretation is consistent with the Bagley Road appeal decision⁵ where the Inspector concluded that if a use/development is not explicitly listed under Policy DM2, it does not automatically follow that it should be refused. It is also consistent with other examples of housing development, cited by the appellant, which have been granted permission on land falling outside of defined settlement limits.

³ APP/Q3305/W/22/3296599

⁴ APP/D3315/W/19/3220853

⁵ APP/D3315/W/17/3179264

10. Notwithstanding the lack of conflict with CS Policy DM2, the site is not a suitable location for an additional dwelling and would conflict with the objectives of CS Policies SP1, SP4, CP1 and CP8, and DMP Policies SB1 and A5. Taken together, amongst other things, these policies seek to direct new housing to the most sustainable and accessible locations. It would also contravene CS Policies SD1 and CP6, which again promote the importance of sustainable development and the need to reduce travel for jobs, services and community facilities. The development would also conflict with Section 9 of the National Planning Policy Framework (the Framework), including paragraph 105, which promotes managing patterns of growth to maximise sustainable transport opportunities in both urban and rural areas.

Other Matters

11. The site is within the Somerset Levels and Moors Ramsar Site and Special Protection Area (SPA) hydrological catchment. There is potential for significant effects on these protected sites due to increases in nutrients as a result of foul and surface water discharges from the proposed dwelling. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (as amended) indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to approve planning permission. Thus, given my overall conclusion, it has not been necessary for me to pursue this matter any further.

Planning balance

12. The proposal would result in some economic and social benefits, including through the dwellings' construction and as a result of a slight increase in spending and patronage of services in the local area. The proposal would also make a limited contribution to the Government's objective of significantly boosting the supply of homes. However, as the proposal is for only a single dwelling, the benefits identified attract limited weight.
13. I note that a range of ecological enhancements are proposed, including bird and bat boxes. Subject to these matters being secured by condition, I acknowledge that limited biodiversity net gain could be achieved and afford this benefit limited weight. The dwelling would also include a range of energy efficiency measures, representing a limited environmental benefit.
14. There would, however, be environmental and social harms arising from the poor accessibility to necessary day-to-day facilities by sustainable transport modes. This would not promote sustainable development in rural areas or encourage the healthy lifestyles and community building supported by the Framework. The proposal would not comply with the spatial strategy of the development plan and would not represent a plan led development, thereby undermining the settlement hierarchy. I give these harms and the consequent conflict with the above noted development plan policies significant weight.
15. The main parties differ on whether the Council can demonstrate a five-year supply of deliverable housing land (5YHLS). Even if I were to conclude that there is a shortfall in the 5YHLS as suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise. The proposal would conflict with the development plan when read as a whole and there are no other considerations that outweigh that identified conflict.

Conclusion

17. For the reasons above, the appeal is dismissed.

S D Castle

INSPECTOR