



Appeal Decision

Site visit made on 17 February 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th July 2023

Appeal Ref: APP/Q3305/W/22/3305951

The Bell Inn, 13 Frome Road, Rode, Frome BA11 6PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Wellington Pub Company against Mendip District Council.
 - The application Ref 2021/2297/FUL, is dated 4 October 2021.
 - The development proposed is described as 'Erection of four dwellings and creation of new access'.
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Decision

1. The appeal is dismissed and planning permission for the erection of four dwellings and the creation of a new access is refused.

Preliminary Matters

2. Whilst the Council did not issue a decision on the planning application, it has provided a statement setting out the reasons why it would have refused planning permission. This has informed the main issues of the appeal.
3. On 1 April 2023 Mendip District Council merged with other councils in Somerset to form Somerset Council. However, the development plan for the area formally covered by the District Council remains in place until such time as it is revoked or replaced. I have determined the appeal on this basis.

Main Issues

4. The main issues are: i) the effects of the proposed development on the character and appearance of the surrounding area, including with reference to the nearby setting of designated heritage assets; and ii) if harm should occur, whether this would be outweighed by material planning considerations.

Reasons

5. The appeal site comprises an area of open land, to the west of Church Lane, on the outskirts of the village of Rode. It lies immediately to the north of the Grade II Listed Bell Inn Public House (currently vacant), whilst it is also adjacent to the Rode Conservation Area (RCA).
6. The appeal site is enclosed by a mature hedgerow along its boundary to Church Lane, whilst mature vegetation is also located along its northern and western boundaries. The site's southern boundary is open and exposed to the adjoining public house (Bell Inn). At the time of my visit the site was largely overgrown with scrub.

7. Rode consists of two distinct clusters of development, that are largely surrounded by countryside and linked via Church Lane. Dwellings along this section of Church Lane, whilst varying in their overall scale and appearance, share a generally consistent linear layout and close building lines. Although mainly set back behind front gardens, nearby dwellings also tend to have strong frontages onto the road.
8. The proposed development would instead involve a courtyard style arrangement with dwellings not reflecting the linear layout of surrounding development. The proposed dwellings would also be set back behind a sizeable area of shared car parking and therefore would not address the street, in contrast to neighbouring built form. I appreciate that the courtyard style arrangement may have rural connotations and may be found within the wider vicinity. However, the proposed arrangement of dwellings would not reflect the existing layout or grain of development that it would be viewed alongside.
9. The appellant argues that the proposed layout better utilises the plot, whereas a linear arrangement would result in a lower development density and plot sizes that are not akin to neighbouring properties. Be that as it may, I find that the proposed layout would be at odds with its surroundings and would cause harm to the character and appearance of the area.
10. I note the Council's concerns regarding the scale and appearance of the proposed dwellings. However, properties along Church Lane vary in their precise appearance and scale. Furthermore, dwelling of a similar rural design and vernacular can be found very nearby to the site along Frome Road. As such, I do not find that the particular design of the dwellings would in themselves be harmful to the character and appearance of the area. Nevertheless, this does not overcome my concern with the proposed layout.
11. In coming to the above views, I recognise that the scheme would only be visible from limited public vantage points, while the proposal seeks to largely screen development from Church Road, Frome Road, and the adjacent Bell Inn via proposed landscaping measures. However, I do not consider the use of landscaping measures to screen otherwise unacceptable development to be an appropriate solution. This is because there can be no guarantees that the landscaping will remain in perpetuity.
12. Additionally, close range views of the proposal would be available to the front of the site along Church Lane. These would be extremely localised and to some extent obscured by existing vegetation. Nevertheless, where visible, the proposal would not fit well within the streetscene, by virtue of its layout.
13. Turning to heritage assets, the site lies immediately to the rear of The Bell Inn (Grade II Listed), beyond an area of car park that serves the public house. Given the intimate relationship that the appeal site shares with the public house, the proposal would affect the setting of the listed building.
14. The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), requires that I give special regard to the desirability of preserving a listed building or its setting and any features of architectural or historic interest that it possesses. The National Planning Policy Framework (the Framework) further advises that 'significance derives not only from the asset's physical presence but also from its setting'.

15. The Bell Inn is likely to date from around the mid-19th Century. It is positioned in a prominent position on Frome Road and is a landmark building within the Rode Conservation Area. Based on the evidence before me and my observations on site, I find that the significance of the building lies in its age and historic function as a coaching inn/public house on a key route through the area. Despite modern additions/alterations having previously been undertaken, the building also has architectural significance, particular its frontage.
16. The appellant's evidence is somewhat conflicting in setting out the previous function of the appeal site. Notably, the appellant's heritage impact assessment (HIA) identifies that the area of open space has functioned as a working part of the Inn, including as an orchard, yards, and car parking/beer garden area. In contrast, the appellant's appeal statement suggests that the site has never been used as outdoor serving/garden space by the pub.
17. Regardless of the previous function, at present, the appeal site provides a sense of spaciousness and a soft edge to the public house, whilst also reinforcing its rural context. Therefore, although located to the rear of the public house, beyond an area of car park, I still find that it contributes positively to the setting of the listed building.
18. The proposed development would introduce four dwellings on the site, alongside car parking and domestic paraphernalia that would have a significant urbanising effect. This is despite being viewed in the context of existing residential development along Church Lane and a large area of hardstanding associated with the pub. Furthermore, as previously identified the proposal's layout would be at odds with the surrounding built form and so would further harm the setting of the listed building.
19. Although no statutory protection is afforded to the setting of Conservation Areas, paragraph 194 of the Framework sets out that the significance of a heritage asset can be harmed or lost through development within its setting. Furthermore, Policy DP3 of the Mendip District Local Plan Part 1: Strategy & Policies 2006 – 2029 (adopted 2014) (the Local Plan) seeks for development proposals to preserve or enhance the significance and setting of the district's heritage assets.
20. As indicated, the appeal site is immediately adjacent to the RCA and within its setting. The RCA consists of two separate areas: the Rode Village Area and the Frome Road Area. The site lies immediately to the north of the Frome Road Area, which is largely defined by its linear corridor of low-density development and verdant, rural character. This contributes positively to its significance, alongside the presence of several historic listed buildings.
21. Due to the close relationship with the RCA and that the proposed layout of development would not be in-keeping with the general historical built form, I find that the appeal scheme would also harm the setting of the RCA.
22. Given the scale of the proposed development and its relationship to the designated heritage assets, including the levels of intervisibility, I find that the overall harm to the heritage assets would be relatively limited. Indeed, I note that the appellant's HIA also identified a low level of harm to the significance of the Bell Inn, which is suggested as being at the lower end of less than substantial harm. In the context of the Framework, it would still amount to 'less than substantial harm'.

23. The Framework states that great weight should be given to the conservation of heritage assets. Any harm to the significance of a designated heritage asset therefore requires clear and convincing justification and in accordance with paragraph 202 of the Framework, I must weigh the harm against the public benefits of the proposal.
24. In this instance, the development would make a modest contribution to housing provision, whilst there would be socio-economic benefits associated with the delivery of four new dwellings. However, given the scale of the proposal such benefits would be limited and in this instance do not outweigh the harm to the designated heritage assets.
25. Overall, I find that the proposed dwelling would not integrate well with its surroundings. It would therefore detract from the character and appearance of the area and the setting of designated heritage assets. Accordingly, the proposed development conflicts with Local Plan Policies DP1, DP3 and DP7. When read together these policies require development to be of a high quality of design that should protect, conserve and where possible enhance the historic environment.
26. Furthermore, the proposal would also fail to meet the requirements of Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 or the Framework insofar as it relates to heritage assets.

Other Matters

27. There are several other listed buildings in the vicinity of the appeal site. However, the Council's concern only relates to the impact on the setting of the Grade II Listed Bell Inn. Based on my site observations, and the evidence before me, I have no reason to disagree.
28. The appeal site lies outside of the development settlement limit for Rode as defined by the Local Plan and so in policy terms is located in the countryside. Core Policy CP1 of the Local Plan sets out the spatial strategy for the districts and indicates that development in the open countryside is to be strictly controlled, but may be exceptionally permitted if in line with the provisions set out in Core Policy 4. The proposal would not accord with these. Consequently, the proposed development is contrary to the spatial strategy of the Local Plan identified under the above policies. The Council has highlighted it would not have refused the application on this basis, acknowledging that it cannot demonstrate a 5-year housing land supply, but it remains that the proposal conflicts with the adopted spatial strategy.
29. I note the appellant's frustration with the way the Council dealt with the original application. However, this is a matter for the Council to resolve. The appeal has been determined on its own merits.

Planning Balance

30. I have identified conflicts with the spatial strategy and harm to the character and appearance of the area, including to designated heritage assets. The scheme therefore conflicts with the development plan when taken as a whole.
31. It is common ground that the Council is unable to demonstrate a 5-year supply of deliverable housing sites, as such, its housing policies are deemed out of date and paragraph 11(d) of the Framework is engaged.

32. This states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless one of the two limbs of paragraph 11(d), (i) or (ii), indicates otherwise.
33. In this instance, I have found the harm to designated heritage assets would outweigh the public benefits of the scheme. Accordingly, the application of policies in the Framework that protect designated heritage assets provide a clear reason for refusing the proposed development in accordance with paragraph 11(d)(i). As such, the presumption in favour of sustainable development does not apply.

Conclusion

34. The proposal would conflict with the development plan when taken as a whole and material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with it. The appeal is therefore dismissed, and planning permission refused.

Lewis Condé

INSPECTOR