



Appeal Decision

Site visit made on 2 January 2024

by Neil Pope BA (HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2024

Appeal Ref: APP/Q3305/W/22/3314152

Land adjacent to Unit 1, Station Works , Dyehouse Lane, Glastonbury, Somerset, BA6 9UU.

- 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 Colin White of CWS Engineering Ltd against the decision of Mendip District Council.
 - The application ref. 2022/1074/FUL, dated 7/5/22, was refused by notice dated 9/9/22.
 - The development proposed is the retention of 3 caravans (resubmission).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In April 2023, Mendip District Council was incorporated into Somerset County Council (the LPA).
3. The LPA has informed me that it is unable to demonstrate a 5 year housing land supply. It estimates that the current supply is between 2.87-2.94 years.
4. During my visit, there were three caravans on the appeal site. One of these was not in use and was in a rather poor condition. The appellant informed me that this was to be replaced by another caravan, also currently unoccupied, and sited nearby on land edged in a blue colour on the submitted plans.

Main Issues

5. The five main issues are: firstly, the effect upon the local economy, having particular regard to the provision of employment land and the need to support growth; secondly, the effect upon the local townscape; thirdly, whether there would be adequate living conditions for occupiers of the caravans, having particular regard to private amenity space, privacy and noise disturbance; fourthly, whether the development would be likely to contribute to an unacceptable increase in phosphate levels within the Somerset Levels and Moors Ramsar Site and; fifthly, the flood risk implications of the development.

Reasons

Planning Policy

6. The development plan includes the Mendip District Local Plan Part 1 2006-2029 and the Mendip District Local Plan Part II (LP). The most important policies to the determination of this appeal are CP3 (supporting business development and growth), DP1 (local identity and distinctiveness), DP5 (biodiversity), DP7

(design and amenity), DP8 (environmental protection), DP20 (reuse of employment sites), DP23 (flood risk) and DP25 (employment land).

7. My attention has also been drawn to the LPA's Supplementary Planning Document (SPD) 'Marketing and Business Evidence to Support Planning Applications' (2017).
8. In determining this appeal, I have also had regard to the provisions of the National Planning Policy Framework (the Framework).

First Main Issue - Local Economy

9. LP policy CP3 supports business development and growth. LP policy DP20 supports the reuse of employment sites where, amongst other things, development would deliver comparable employment generation or wider economic benefits and would not prejudice LP policy CP3. Under LP policy DP25, proposals will be supported which maintain the integrity of, and support investment in jobs, premises and infrastructure within established employment areas. Proposals for the change of use to non-employment sites are set out within the LPA's SPD.
10. The LPA has informed me that the appeal site is in established industrial use and is identified for employment use as part of the LP. As I saw during my visit, immediately to the north of the site there are two industrial buildings owned by the appellant (neither of which appeared to be in use). Immediately to the south of the site (and on part of the former Somerset and Dorset railway line) there is a storage container depot. To the south west of the site there is a sizeable scrap/breakers yard.
11. The access to the appeal site also serves some other business premises (including the two above noted industrial buildings), two flats/apartments and a pair of bungalows. All of these buildings/premises are also owned by the appellant. I understand that the appeal site was formerly garden space to the bungalows alongside which, in the past, were occupied by railway employees.
12. I recognise the economic need to ensure that there is variety and choice in the availability of employment land and buildings within this part of Somerset. The loss of employment land and/or buildings could also undermine efforts to support or strengthen the local economy. However, as explained by the appellant, the caravans would provide accommodation, during part of the working week, for those employed (skilled engineers) in his businesses and who are unable to find affordable rented accommodation within the local area. In this regard, I have noted above the current housing land supply position.
13. The caravans would be stationed on the appeal site for a limited period of time and would not entail the loss of land that has previously been used for employment purposes or result in the permanent loss of land allocated for employment use. Moreover, the provision of residential accommodation, which could be tied by way of suitably worded planning condition, would help attract and/or retain the necessary labour to support the appellant's businesses. In so doing, the proposal would accord with the objectives of LP policy CP3 and would not conflict with LP policies DP20 or DP25.
14. I conclude on the first main issue that the proposal would help to support the local economy.

Second Main Issue - Townscape

15. I note the concerns of the LPA that the caravans are of an unsympathetic design and appearance, have a haphazard layout and fail to maintain local identity. However, the LPA has also informed me that the character of the area is dominated by industrial uses and development. As I saw during my visit, the neighbouring scrap/breakers yard, storage containers, industrial buildings and commercial premises are lacking in any distinctive character or local identity. The design of the flats/apartments and bungalows alongside are also unremarkable and caravans are what they are.
16. Whilst I recognise the importance of encouraging good urban design, it is unclear to me what distinctive qualities or attributes of the built environment the LPA is seeking to encourage here. Although the caravans can be seen from a public footpath that bisects the countryside to the north of the appeal site, they appear against the backdrop of the scrap/breakers yard, the container storage depot and in the context of a variety of industrial buildings. They cannot reasonably be said to harm the character or appearance of the area.
17. I conclude on the second main issue that development does not detract from the townscape quality (such as it is) of the local environment. There is no conflict with the provisions of LP policies DP1 or DP7.

Third Main Issue - Living Conditions

18. There is no private external amenity space set aside for the occupiers of the caravans and the caravans are closely grouped together. Whilst I note the LPA's concerns regarding the likely impact for future occupiers, the caravans are intended to be used only as overnight accommodation (Monday-Thursday) and for employees of the appellant's neighbouring business.
19. The caravans would not be the sole or main residence of the occupiers and are unlikely to be occupied during daylight hours, other than at breakfast and dinner times in the summer months. Although not ideal (the terms of any separate Caravan Site Licence that may be required could stipulate separation distances for the caravans and/or provision of amenity space) on balance, and for the limited duration of the overnight stays/sleeping accommodation, the absence of private amenity space and the proximity of the caravans to one another would provide adequate living conditions.
20. As I saw and heard during my visit, the caravans are in close proximity to various industrial/business premises, some of which are capable of generating significant volumes of noise. In this regard, activity within the scrap/breakers yard was clearly audible when standing on the appeal site. If uses were to resume from the neighbouring industrial buildings there could be further noise disturbance. This is not an area where general residential development is to be encouraged as it would be very unlikely to provide a satisfactory living environment for residents. This could also result in noise complaints being made to the LPA which, in turn, could affect the efficient operation and viability of neighbouring businesses.
21. However, the LPA has not made me aware of any noise complaints from occupiers of the neighbouring flats/apartments or the bungalows immediately alongside. Furthermore, the caravans would be occupied when neighbouring businesses are likely to have ceased operating for the day or had yet to

commence operating. As the appellant has control over some of the neighbouring industrial/business premises and the occupiers of the caravans would be employed in other neighbouring industrial /business premises, there would be a measure of control over some activities around the appeal site.

22. I conclude on the third main issue that, on balance, the proposed development would provide adequate living conditions for occupiers of the caravans and there would be no conflict with the provisions of LP policies DP7 or DP8.

Fourth Main Issue - Somerset Levels and Moors Ramsar Site

23. I understand that the appeal site lies within the hydrological/fluvial catchment and the Impact Risk Zone of the Somerset Levels and Moors Ramsar Site and Special Protection Area (SPA). Amongst other things, this extensive area of lowland wet grassland supports an assemblage of rare aquatic invertebrates. Natural England has advised that poor water quality, due to nutrient enrichment from elevated levels of phosphorus, has resulted in a loss of biodiversity¹ within these protected areas and has led to them being in an 'unfavourable condition'.
24. The proposed development could result in an unacceptable increase in phosphate levels from foul water discharges entering into the above noted hydrological/fluvial catchment. If this was to arise, it would have further adverse effects upon biodiversity within the Ramsar Site and SPA and prevent this protected site from achieving its conservation objectives. This would conflict with the provisions of LP policies DP5 and DP8.
25. The appellant's agent has informed me that the development would be served by an existing cess pool. I understand that the foul waste is collected from here on a regular basis and is then discharged into a sewage works whose outflow drains into water courses away from the Ramsar Site and SPA. However, there are no details before me to demonstrate/substantiate this and there does not appear to be any mechanism in place (such as a planning obligation) to ensure that, in future, foul waste would not be discharged into the hydrological/fluvial catchment of this protected area.
26. On the basis of the information before me, I reach a similar finding to the Inspector who determined an appeal for a dwelling on a site at Wells that has been drawn to my attention (ref. APP/Q3305/W/22/3294179). It has not been demonstrated, beyond reasonable scientific doubt, that the proposed development would achieve nutrient neutrality.
27. I conclude on the fourth main issue that there is a realistic possibility that the development would contribute to an unacceptable increase in phosphate levels within the Somerset Levels and Moors Ramsar Site and SPA.

Fifth Main Issue - Flood Risk

28. Established national and local planning policies attach importance to the need to avoid increasing the risk of flooding and seek to direct development away from areas at highest risk. In this regard, the LPA has informed me that the appeal site lies within Flood Zone 2 (medium probability of flooding). It has also pointed out that the application was not accompanied by a Flood Risk

¹ I understand that, amongst other things, aquatic invertebrate communities are suffering the effects of hyper-eutrophication, caused by excessive levels of phosphates.

Assessment and no sequential test (aimed at steering new development to areas with the lowest risk of flooding) has been undertaken by the appellant.

29. I note the appellant's arguments that not all of the site is in Flood Zone 2, the caravans would be 600mm above existing ground level and would provide only temporary accommodation. However, both the development plan and the Framework require the application of the sequential test. Furthermore, even those sites which are used for short-let caravans are classed as 'more vulnerable' development for the purposes of assessing flood risk. The site could flood during the night when the caravans were being occupied, putting people (employees) at risk of danger.
30. It has not been demonstrated that there are no reasonably available sites appropriate for the development in areas with a lower risk of flooding. On the basis of the information before me, I am therefore led to find that there could be a more suitable site (lower risk of flooding) available. In the absence of a Flood Risk Assessment and application of the sequential test, occupiers of the caravans could be at unacceptable risk of flooding.
31. I conclude on the fifth main issue that the proposed development could have unacceptable flood risk implications and, in so doing, would conflict with the provisions of LP policy DP23.

Planning Balance/Overall Conclusion

32. My findings in respect of the first three main issues (local economy, townscape, and living conditions) do not outweigh or overcome the harm that I have identified in respect of the fourth and fifth main issues (potential adverse impact upon the Somerset Levels and Moors Ramsar Site and SPA, and the flood risk implications). Whilst the proposal would accord with some aspects of the development plan, it would conflict with other important LP policies and the provisions of the Framework when read as a whole. I therefore conclude, on balance, that the appeal should not succeed.

Neil Pope

Inspector