



Appeal Decision

Site visit made on 13 December 2023

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2024

Appeal Ref: APP/W3330/W/23/3324084

Hilltop, Langford Common Road, Langford Budville, Wellington TA21 0RW

- 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 Alvin Bellamy against the decision of Somerset Council.
 - The application Ref 21/22/0011, dated 12 September 2022, was refused by notice dated 14 December 2022.
 - The development proposed is proposed conversion of agricultural building to dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal was submitted against the refusal of permission by Somerset West and Taunton Council, which since the submission of the appeal, has merged with other Councils to form Somerset Council. As a result, I have referred to Somerset Council in the banner heading above.
3. An updated version of the National Planning Policy Framework (the Framework) was issued in December 2023. The parties were invited to comment on the relevance of any changes and so, no prejudice has occurred.

Main Issues

4. The main issues in this appeal are:
 - whether the development would be located to accord with local policies that seek to provide residents with convenient access to facilities and minimise dependency on private vehicles;
 - whether the development accords with local policies that specify the types of building suitable for conversion and the sequential approach to determining their uses; and
 - the effects on the Somerset Levels and Moors Special Protection Area (SPA).

Reasons

Context and proposal

5. The proposal seeks to convert a small, single storey agricultural building to a 1 bed dwelling, with vehicular access and modest curtilage.

6. The development plan for the area currently comprises the Taunton Deane Core Strategy (CS) (2012) and the Taunton Deane Site Allocations and Development Management Plan (SADMP) (2016).

Location of development

7. The site is situated a short distance outside of the defined settlement limit of Langford Budville. Under CS Policy SP1, the village of Langford Budville is one of the lower tier settlements that has a defined settlement boundary, within which small scale development may be permissible. SADMP Policy SB1 reinforces the role of the settlement boundaries in order to maintain the quality of the rural environment and promote a sustainable approach to development. In this case, despite being a short distance therefrom, the site is outside of the settlement boundary and therefore is to be treated as being within the open countryside.
8. CP Policies CP1 and CP6 seek to ensure that development contributes to reducing the need to travel, improve accessibility to jobs, services and community facilities and adapt to the effects of climate change.
9. SADMP Policy A5 sets out more detailed criteria for the proximity of new residential development to facilities and services. The preamble sets out that whilst rural accessibility is important, there is a difference between the accessibility standards compared to those applied to the main towns. Under the Policy, shopping and education facilities are required to be accessible within a 45 minute public transport journey and 30 minutes by car. Other non-residential facilities are to be accessible within 60 minutes by public transport and 40 minutes by car.
10. Langford Budville has a modest range of facilities, including a public house, primary school, church, village hall and cafe. Other facilities, including healthcare facilities, shops and employment opportunities are located in Tonedale and Wellington, from around 5km to the north of the site. Within Langford Budville, there are few dedicated footways. This necessitates residents walking along the edge of the carriageway to reach the available facilities. With the exception of the recreation ground, facilities within Langford Budville are further from the appeal site and journeys on foot would need to be made along a stretch of rural road without footways. Whilst the additional distance from the site to facilities within the village is not prohibitive and residents would have a similar travel time to Wellington as those within the settlement boundary, CS Policy SP1 and SADMP Policy SB1 require that small scale development shall occur *within* the settlement so as to promote a sustainable approach to development.

Given that the site falls outside of the settlement boundary and is strictly considered to be within the open countryside, the proposal for a new dwelling is contrary to, in particular, CS Policies CP1, SP1 and CP6 and SADMP Policies SB1. This conflict is not changed by the existence of the limited transport service offered within the area, the 'Taunton Slinky' or the existence of Public Rights of Way that may connect residents to local facilities or to Tonedale via other routes than just the main roads through and beyond the village.

Suitability and alternative uses

11. Irrespective of the finding under the first main issue above, a building in the open countryside may be converted where it complies with CS Policy DM2, which has two principal requirements in relation to such schemes. DM2 7) a) requires that the building under consideration must be of a permanent and substantial construction and of a size suitable for conversion without major rebuilding or significant alteration or extension. Provided that a building is considered of a suitable construction for conversion, DM2 7) b) requires that a sequential approach to its reuse should be applied, in the following order: community uses; Class B business uses; other employment generating uses; holiday and tourism uses; affordable, farm or forestry dwellings; community housing; and thereafter in exceptional circumstances, conversion to other residential use.
12. In terms of the permanence and substance of the construction of the building under DM2 7) a), it has a concrete base, and its dwarf walls and internal partitions are largely concrete and blockwork. It has a timber frame and its upper walls are largely timber clad. The roof is covered in fibre cement sheeting. A Structural Report has been submitted with the appeal (Fairhurst, July 2021) which indicates that the building is considered to be in generally good condition without the need for major alterations or rebuilding to enable its conversion to a dwelling.
13. My view is that the building's condition is better described as reasonable than good, with more signs of age and wear than are described. There also appears to be more work necessary to enable its conversion than is described in the Structural Report. For instance, the proposed plans show the entire removal of the fibre cement sheet roof and its replacement with a new slate roof with insulation and double glazed roof lights. The Structural Report indicates that should the roof covering be changed, it should not weigh more than the current covering. From this, I deduce that the weight bearing elements of the building will also need to be upgraded to accommodate the new slate roof and roof lights.
14. I note that the dwelling, at around 59 sqm, would meet the minimum space standards required of a dwelling without the need for extension under that particular requirement of Policy DM2 7) a). However, given its construction and condition, my view is that the relatively insubstantial nature of the building prevents it from fully aligning with the requirements of CS Policy DM2 7) a). However, in the interests of comprehensiveness, I consider the sequential approach to the conversion of buildings under DM2 7) b).
15. The appellant indicates that there is no evidence of a need for a community use and that given the size of the barn and the economic costs for conversion it would simply not be functional or viable as such. Despite the absence of a Parish Council comment to this effect, my view is also that this would be an impractical use of such a small building given its location and limited parking, particularly in view of the better located existing community buildings.
16. In terms of Class B employment uses, the Appellant cites potential effects on the living conditions of the host dwelling, in terms of noise and smell, as reasons for such uses not being pursued. The economic unviability of the conversion to such is also put forward, particularly in the context of the existence of purpose-built units at relatively local business parks. Though I do

not consider that harm to living conditions of the neighbouring occupiers would be likely, there is a distinct absence of forecast conversion costs and predicted income yields from rental or disposal of the unit on which to base an assumption that a Use Class B unit would be economically unviable.

17. Similarly to the Class B employment uses, the demand for the converted building for other employment generating uses is, in my view, likely to be limited based on its size and location. However, there is limited evidence to support these views.
18. The prospect of using the building for holiday and tourism uses has not been fully explored and, despite the preamble discouraging new-build tourism accommodation, the Policy is supportive of conversions of buildings to holiday accommodation. Though the evidence suggests that there is a wealth of accommodation available locally, there is limited analysis of the prospects of such a proposal based on the likely demand and potential income yield.
19. In terms of affordable housing, the Appellant indicates that this form of housing is largely provided within the town of Wellington. However, from the Council's evidence, I can only assume that an unmet demand for affordable housing still exists. Similarly, there is limited evidence that the proposal would be economically unviable or unsuitable for conversion to an intermediate affordable dwelling.
20. The Council accepts that the holding would not support an agricultural or forestry worker and I do not reach a different view. The Council do, however, indicate that limited consideration has been given to the prospect of conversion to community housing. Despite some explanation in the Policy preamble, this is not a tenure of housing recognised by the Framework or defined more robustly in the glossary of the CS. As the Policy already deals with affordable housing which requires some local connection, and in the absence of sufficient clarity otherwise, this part of the Policy is not considered further.
21. In my view, the application of the sequential approach has been done on a rather light-touch basis with limited evidence to support the assertions made. Therefore, and for the other stated reasons, the building is not fully suited to the proposed conversion and, despite having ruled out a small number of alternative prospects, I am incapable of concluding that the building would be demonstrably unsuitable for all of the other listed uses under the sequential approach. Thus, the proposal fails to accord with CS Policy DM2 7), a) and b).

SPA Effects

22. The application site is within the catchment of the Somerset Levels & Moors SPA and Ramsar which is deteriorating due to increased nutrient loads, in particular phosphates. The addition of overnight accommodation and new residents which increase the amount of foul water produced in the catchment area will be likely to increase the phosphorus loading and further unbalance the nutrient levels within the SPA. Significant effects from the development are therefore incapable of being ruled out and are considered likely.
23. The appeal was submitted with a Nutrient Neutrality Assessment and Mitigation Strategy (Mitigation Strategy)¹ which outlines that the proposed dwelling would be served by a specified package treatment plant (PTP) as no mains sewers

¹ WCI Nutrient Neutrality, March 2023

connections are available. In addition, the existing dwelling within the site plan blue line, Hilltop, would also have its septic tank replaced by a more efficient PTP. Together, these measures would more than offset the additional nitrates that would otherwise be generated by the development and would result in a phosphate reduction of around 0.96 kg/yr. The scientific evidence therefore points to the development creating some phosphate betterment within the catchment area.

24. I have had regard to the requirements of the Conservation of Species and Habitats Regulations 2017, as amended (Habitats Regulations) to undertake an Appropriate Assessment. The need to robustly secure any proposed mitigation at the appropriate juncture is also a requirement, subject to which the proposal could achieve compliance with the Habitats Regulations and Policies CP8 and DM1 of the CS that seek to avoid harm to protected habitats. I return to this matter in the planning balance below.

Other Matters

25. In terms of the visual aspects of the proposal, the building exists as a feature of the rural landscape and its character and appearance would be modestly improved through the upgrading of its external materials. The small curtilage would also limit the spread of domesticity associated with the building, thus preserving the rural character of the landscape. The proposal would therefore comply with CS Policy CP8.
26. Whilst it has been suggested that the building may be capable of conversion under Class Q of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 2015, this is not presented as a legitimate fallback available in the event of the appeal being dismissed. Thus, this has not formed a consideration of more than limited weight.
27. The Appellant also highlights that a permission was granted for around 8 dwellings outside of the settlement limit of Langford Budville, next to the Village Hall. As the evidence suggests that this unimplemented permission has since expired, it has not attracted weight as a consideration in this appeal.

Planning balance and conclusion

28. Though the scheme could avoid harmful effects on the SPA through mitigation, owing to the building's construction, rural location and the residential use proposed in favour of other potentially suitable uses which have not been fully considered, the proposal conflicts with the development plan when taken as a whole.
29. The Framework, in paragraph 84, allows for the creation of isolated homes in the countryside provided the form of development fits under one of the specified criteria, which includes the conversion of redundant or disused buildings where there would be an enhancement to the immediate setting. Despite the building not being truly isolated, the form of development would align with the Framework objective of allowing rural buildings to be reused to create homes, but would have the benefit of being closer to facilities and a community than would otherwise be permissible.
30. The Appellant indicates that Policy DM2 7) is out of date given the age of the Core Strategy (2012) and the numerous updates which have occurred to the

Framework in the intervening period. Other appeal decisions² put forward by the Appellant which may have examined the acceptability of open market housing in the countryside under CS Policy DM2 were not strictly concerned with proposals involving the reuse of a rural building, as is the case here. Policy DM2 7) already envisages a rural building being capable of use for other forms of housing, i.e., market housing, albeit in exceptional circumstances following consideration of the sequential approach outlined under DM2 7 b).

31. Whilst I do not consider the whole of Policy DM2 out of date, limb 7) b) contains a level of rigidity and prescription about the application of the sequential approach that highlights its vintage. As such, I attribute reduced weight to the conflict with CS Policy DM2 7).
32. At the time the appeal application was submitted, the Council was unable to demonstrate a five year supply of housing land as required by the provisions of the Framework. This was set out in the *Somerset West and Taunton Strategic Housing Employment Land Availability Assessment* (May 2022) (HELAA). The effect of this would have been to trigger Framework paragraph 11 d) and the presumption in favour of sustainable development.
33. Since then, the Council has put in measures to release additional housing land and the latest figure reported by the Council³, relevant to the former Taunton Deane area (Area West), is a housing land supply position of 5.16 years. The Council's evidence to this effect is limited and does not appear as robust as the HELAA of 2022. However, and despite its small margin above the minimum 5 year requirement, the latest figure is not contested by the Appellant with any cogent evidence either. Therefore, on the basis of the evidence presented to me, I consider that the Council can demonstrate a five year supply of housing sufficient to prevent the engagement of the 'tilted balance' under Framework paragraph 11 d). As such, I apply the ordinary balance, taking account of the reduced weight that I consider should be attributed to CS Policy DM2 7) b).
34. The public benefits of the scheme would be generated by the creation of a single dwelling to add to the local housing stock. The modestly scaled dwelling would be at the more affordable end of the market given its limited size, and there would be some minor enhancement from the improved appearance of the building. There would also be some construction phase economic benefits from the works to convert the building to a dwelling, albeit limited by the nature of the works proposed and the short duration. Nevertheless, these public benefits are still capable of attracting modest weight in favour of the scheme. The absence of harms is a factor that neither weighs for or against it.
35. However, on balance, my view is that the public benefits fall short of outweighing the identified harms and therefore do not indicate that a decision should be taken other than in accordance with the development plan when taken as a whole.

36. For the foregoing reasons, the appeal is dismissed.

H Nicholls
INSPECTOR

² Including: APP/D3315/W/17/3179264

³ Reported to the Strategic Planning Committee of 19 October 2023