



Appeal Decisions

Site visit made on 20 November 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2024

Appeal A Ref: APP/E3335/W/23/3322002

Kattegat, Cheddar Road, Somerset, Axbridge, BS26 2DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Tony Hogg Design Ltd against the decision of Somerset Council.
 - The application Ref 02/23/00006, dated 21 February 2023, was refused by notice dated 17 April 2023.
 - The development proposed is described as "erection of a new self-build dwelling."
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Appeal B Ref: APP/E3335/W/23/3322138

Kattegat, Cheddar Road, Somerset, Axbridge, BS26 2DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by John Thompson & Tony Hogg against the decision of Somerset Council.
 - The application Ref 02/23/00004, dated 21 February 2023, was refused by notice dated 18 April 2023.
 - The development proposed is described as "erection of two new self-build dwellings."
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Decision

1. Appeal A is allowed, and planning permission is granted for Erection of 1no. self-build dwelling at Kattegat, Cheddar Road, Somerset, Axbridge, BS26 2DL in accordance with the terms of the application, Ref 02/23/00006, dated 21 February 2023, subject to the conditions in the attached schedule.
2. Appeal B is allowed, and planning permission is granted for Erection of 2. no self-build dwellings at Land to the rear of Kattegat, Axbridge, BS26 2DL in accordance with the terms of the application, Ref 02/23/00004, dated 21 February 2023, subject to the conditions in the attached schedule.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties were both invited to make representations on it, and I have taken these into account in considering this appeal.
4. The two appeals relate to different proposals on the same site. I have considered both on their respective merits but for simplicity and efficiency I have dealt with both appeals in one decision letter.
5. The applications were submitted in outline with access to be considered at this stage. The remaining matters relate to appearance, scale, layout and landscaping are therefore reserved for later consideration. I have dealt with the

appeals on this basis and treated the submitted plans where pertinent as an indication of the proposed developments.

Main Issues

6. The main issues in both appeals are:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on living conditions; and
- highway safety.

Reasons

Character and Appearance

7. The appeal site lies behind residential properties that front Cheddar Road. Together with the adjacent strips of land to either side, it forms an undeveloped enclave between Cheddar Road and Cheddar reservoir. Access to the site would be via an existing driveway that provides access to Holly Tree Cottage and Kattegat. The wider area comprises of relatively low density, largely detached housing, of a variety of designs with long narrow gardens. Kattegat is a residential dwelling located behind Holly Tree Cottage.
8. The immediate area is characterised by a linear arrangement of built form to the south of the road and higher density development in the form of linear buildings and cul-de-sacs to the north. Generally, the southern side contains the large, detached housing. There are examples of built form behind the primary frontage, but, with the exception of Kattegat, this is generally small-scale ancillary buildings.
9. As the land is surrounded by private open space, the appeal site is not easily visible from many public viewpoints. The undeveloped area behind the buildings may have been apparent from Cheddar Road, however due to the narrow and off-set access to the site, this would have only been in short glimpses when travelling along the road. The relative lack of mature planting on the appeal site means there is generally no appreciation of the space behind the buildings when viewed from the surrounding area. This lack of appreciably combined with its general lack of visibility means that the appeal site has a neutral contribution to the character and appearance of the area.
10. Whilst the proposals are in outline, the location of the proposed dwellings to the rear of Kattegat combined with the lack of visibility into the site would mean that the proposals would not be prominent in the street scene. Even when viewed from directly in front of the access the proposed developments would be partially obscured by Holly Tree Cottage and Kattegat.
11. The Council are concerned that the location of the proposals, behind frontage buildings, and extending further back than nearby built development would harm the character and appearance of the area. Whilst the immediate area to the rear of frontage buildings is largely open, my attention has been drawn to two recent developments to the rear of the frontage dwellings on Cheddar Road. To the west of the appeal site, an area of land has been allocated in the Axbridge Neighbourhood Plan (2022) (NP) for three dwellings. Further to the

west again planning permission has been given for a dwelling. Whilst these may have been approved under a different policy context, they have nevertheless altered the prevailing pattern of development.

12. The proposed developments would not extend further south than the nearby examples. Additionally, given the established boundary vegetation, the site is well contained. This, combined with its grouping close to existing buildings, would ensure that the proposed developments harmonise with their surroundings and would not appear as an incongruous addition. Whilst the proposed development would represent a change to the character and appearance of the area, it would not represent a harmful change.
13. Both proposed developments would therefore comply with Policies D2, D9 and D19 of the Sedgmoor Local Plan (2019) (LP) and Policy HD3 of the NP which seek, amongst other things, to ensure that developments reflect the particular characteristics of the site and the identity of the surrounding area. The proposals would also comply with paragraphs 180 and 185 of the Framework which recognises the intrinsic character and beauty of the countryside.

Living Conditions

14. The driveway and turning area for both proposals would follow a similar route to an existing access serving Holly Tree Cottage, Kattegat and a garage to the side of the existing dwellings. Given that this is an established route for vehicles, noise and light arising from vehicle movements will already be experienced by the occupants of neighbouring properties which have gardens backing onto the appeal site. I also noted that there is a fair level of background noise in this location given its location on Cheddar Road and the proximity of the A371.
15. Taking into account the existing situation, I am of the view that the provision of up to two additional dwellings with its associated vehicle movements would not result in a significant increase in noise or light pollution at a point where it would be unduly detrimental to the living conditions of the occupants of neighbouring properties.
16. I note that the appeal site is already in use as garden and that the majority of the garden space allocated to the proposed developments would be positioned away from the boundaries with neighbouring properties.
17. I therefore conclude that both proposals would not be harmful to the living conditions of neighbouring residents with regard to noise and disturbance. It would therefore accord with LP Policies D24 and D25 which seek, amongst other things, to ensure that developments do not result in unacceptable impacts relating to loss of privacy or noise and disturbance. The proposals would comply with paragraph 191 of the Framework which seeks to ensure that developments take account of living conditions.

Highway Safety

18. The proposed development would utilise an existing access. My visit to the appeal site was a snapshot in time in regard to highway conditions but it was reasonable to conclude that levels of traffic would increase during peak hours. The crux of the matter for the Council and in regard to this main issue was that

the narrow driveway, in their view, could lead to conflict between vehicles and pedestrians.

19. Vehicles using the driveway would likely be travelling at low speeds. The driveway is straight and offers good visibility, as such, any vehicles driving along it would have good visibility of pedestrians and other users. The proposals are in outline and as such only access is considered at this stage. Nevertheless, there is sufficient land provided with each plot that sufficient space could be provided for the parking and turning of vehicles ensuring that they would not have to reverse on to the shared driveway.
20. Accordingly, I find no conflict with paragraph 111 of the National Planning Policy Framework (the Framework) which seeks to ensure that development does not have an unacceptable impact on highway safety.

Other Matters

21. The proposed developments are located close to the North Somerset and Mendip Bats Special Area of Conservation (SAC). The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European site. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposals would not adversely affect the integrity of the site.
22. The proposals have been accompanied by an Ecological Appraisal and a Bat Survey Report. The evidence indicates that low levels of lesser and greater horseshoe bat were recorded in April and May; however, neither bat was recorded in August. Lesser horseshoe bats were more frequently recorded in April whereas greater horseshoe bats were more frequently encountered in May. The reports state that the site itself does not contain opportunities for roosting and lacks sufficiently mature vegetation to support particularly large or diverse invertebrate assemblage. It concludes stating that it will not result in the loss of foraging habitat or linear features ensuring that bats will be able to continue to forage and commute along them.
23. In order to ensure that bats can move along these features it will be necessary to ensure that there is not excessive light spill to these areas. The submission includes details of a bat lighting strategy in accordance with the Bat Survey Report which can be conditioned.
24. I am required to undertake an Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations. I am satisfied that with a lighting plan secured by condition that the proposals as detailed would not adversely affect the integrity of the site with its use by bats or designated habitat sites elsewhere.

Conditions

25. The Council has provided a list of conditions for both appeals which effectively duplicate each other. I have assessed these in regard to the advice provided in the Planning Practice Guidance (PPG). I consider that conditions regarding timings of reserved matters submission and approved plans necessary in order to provide clarity. Conditions regarding construction times and contamination are necessary in order to safeguard the living conditions of nearby residents

during construction and the lifetime of the developments. Conditions regarding visibility splays are necessary in order to protect highway safety. I have included a condition in relation to the submitted lighting plan in order to safeguard the SAC.

Conclusion

26. The appeal schemes would accord with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision otherwise. Appeal A and Appeal B should therefore, subject to the conditions in the schedule below, be allowed.

Tamsin Law

INSPECTOR

Appeal A – Schedule of Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan, External Lighting Proposal, Proposed Access & Visibility Splays, 1:125 Drawing No. 106, and Proposed Access & Visibility Splays, 1:50 Drawing No. 107.
5. If, during the works contamination is encountered which has not previously been identified, then the contamination shall be fully assessed, and an appropriate remediation scheme shall be submitted to and approved in writing by the local planning authority.
6. No demolition/construction work (other than internal fitting out works) or deliveries to and from the site shall take place outside the hours of 07:00 to 18:00 Mondays to Fridays, 08:00 to 13:00 on Saturdays. No works shall take place on Sundays and Public Holidays.
7. The development hereby permitted shall not be occupied until the vehicular access, as shown on the approved Proposed Access & Visibility Splays Single Dwelling Drawing Nos. 106 and 107, has been provided. Such access shall have a properly consolidated surface (not loose stone or gravel), over at least the first 6m of its length, as measured from the edge of the adjoining carriageway, and provision made within the site for the disposal of surface water so as to prevent its discharge onto the highway. Such provision, once installed, shall be thereafter maintained at all times.
8. There shall be no obstruction to visibility greater than 900mm above the adjoining road level forward of a line drawn 2.4m back and parallel to the nearside carriageway edge over the entire site frontage. Such visibility shall be fully provided prior to the first occupation of the development hereby approved and shall be maintained at all times thereafter.
9. The dwelling hereby permitted shall be planned, built and first occupied in an accordance with the definition of "self-build and custom housebuilding" as defined in the Self-build and Custom Housebuilding Act 2015 (as amended). The dwelling hereby permitted shall be first occupied as the sole or main residence of a person on the Council's Self Build Register.
10. No external lighting, other than that detailed on the approved External Lighting Proposal, shall be installed.

Appeal B – Schedule of Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan, External Lighting Proposal, External Lighting Proposal Drawing No. 5, Proposed Access & Visibility Splays, 1:125 Drawing No. 106, and Proposed Access & Visibility Splays, 1:50 Drawing No. 107.
5. If, during the works contamination is encountered which has not previously been identified, then the contamination shall be fully assessed, and an appropriate remediation scheme shall be submitted to and approved in writing by the local planning authority.
6. No demolition/construction work (other than internal fitting out works) or deliveries to and from the site shall take place outside the hours of 07:00 to 18:00 Mondays to Fridays, 08:00 to 13:00 on Saturdays. No works shall take place on Sundays and Public Holidays.
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8. There shall be no obstruction to visibility greater than 900mm above the adjoining road level forward of a line drawn 2.4m back and parallel to the nearside carriageway edge over the entire site frontage. Such visibility shall be fully provided prior to the first occupation of the development hereby approved and shall be maintained at all times thereafter.
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10. No external lighting, other than that detailed on the approved External Lighting Proposal, shall be installed.

