

Appeal Decision

Site visit made on 3 September 2024

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 September 2024

Appeal Ref: APP/D0121/W/24/3340727

Spreyton Guest House, 72 Locking Road, Weston-super-Mare, North Somerset BS23 3EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs Taylor against the decision of North Somerset Council.
 - The application Ref 24/P/0086/FUL was approved on 12 March 2024 and planning permission was granted subject to conditions.
 - The development permitted is proposed conversion of existing guest house with managers accommodation at the rear including change of rear ground floor window to French doors to provide a self-contained dwelling with associated annexe.
 - The condition in dispute is No 10 which states that: *'The use hereby permitted shall not be occupied until measures to generate 10% (less if agreed with the local planning authority) of the energy required by the use of the development (measured in kilowatt hours – KWh) through the use of micro renewable or low carbon technologies have been installed on site and are fully operational in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved technologies shall be permanently retained unless otherwise first agreed in writing by the Local Planning Authority.'*
 - The reason given for the conditions is: *'In order to secure a high level of energy saving by reducing carbon emissions generated by the use of the building(s) in accordance with policies CS1 and CS2 of the North Somerset Core Strategy and the council's 'Creating sustainable buildings and places' Supplementary Planning Document.'*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The Council has granted planning permission for conversion of the guest house to provide a self-contained dwelling with associated annexe including changing the rear ground floor window to French doors. The planning permission was granted subject to condition number 10 requiring the provision of measures to generate 10% (or less if agreed with the local

planning authority) of the energy required by the use of the development through the use of micro renewable or low carbon technologies.

3. The appellant has confirmed that they dispute the imposition of condition 10 due to limited south facing roof slope for photovoltaics, the roof slope being dominated by the bulk of properties to the rear, lack of external space for provision of an air source heat pump, cost of the work required being too high in relation to the proposal, and a similar scheme at 2 Kewstoke Road being approved without a similar requirement.
4. On the basis of the above, the main issue is whether or not the disputed condition is reasonable and necessary in the interests of energy efficiency.

Reasons

5. Paragraph 157 of the National Planning Policy Framework (the Framework) sets out that the planning system should support the transition to a low carbon future in a changing climate and that renewable and low carbon energy should be supported. This is supported by paragraph 164 that states that 'In determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights)'.
6. Policy CS1 of the North Somerset Council Core Strategy (January 2017) (CS) states that the Council is committed to reducing carbon emissions and tackling climate change with a number of principles outlined to achieve this. These principles include that 'development should demonstrate a commitment to reducing carbon emissions, including reducing energy demand through good design, and utilising renewable energy where feasible and viable in line with standards set out in Policy CS2'.
7. Policy CS2 of the CS states that when considering proposals for development the council will, amongst other things, 'require designs that are energy efficient and designed to reduce their energy demands', and 'require the use of on-site renewable energy sources or by linking with/contributing to available local off-site renewable energy sources to meet a minimum of 10% of predicted energy use for residential development proposals involving one to nine dwellings'.
8. There is therefore clear support set out in the Framework and CS Policies CS1 and CS2 for the use of renewable and low carbon energy.
9. I have had regard to the Energy Statement within the appellant's Design and Access Statement concerning the south facing roof slope being limited in area, dominated by the dormer window and relationship to the properties to the south. Nonetheless, there are other roof slopes available to buildings within the site along with the flat roof above the dormer window. While these may not all face south, I observed at my site visit the presence of some of the solar panels to the east and west facing roof slopes to nearby properties as detailed in Appendix 1 of the Council's Appeal Statement.
10. I note that the appellant states that external space within the site is limited by reason of the provision of parking spaces and external bin areas and as

such there is a lack of space to provide an air source heat pump (ASHP) without impeding the bin and parking areas. However, given the relatively small size of an ASHP, and lack of details to support the claim that provision would impede the external bin areas and parking spaces that do not take up all of the external space, I am not convinced that all options for provision have been adequately considered and that provision is not possible.

11. With regard to viability, CS Policies CS1 and CS2 are supported by the Council's Supplementary Planning Document Revised Version 2021 Creating Sustainable Buildings and Places in North Somerset: Guidance for energy efficiency, renewable energy use and the transition towards zero carbon development. Paragraph 10.2 says that 'where an applicant states that a policy requirement has an impact on viability, the applicant is required to provide a quantified justification to demonstrate this. It is not enough to just assert that the scheme is unviable without evidence'. Paragraph 10.3 states that 'Assessing viability requires judgements which are informed by the relevant available facts.'
12. Substantive viability evidence in the form of a quantified justification informed by facts has not been provided to demonstrate that it is not possible to achieve the provision of renewable energy generation. Furthermore, condition 10 allows for the provision of less than 10% of the energy required where agreed with the local planning authority should the appellant be able to demonstrate that 10% is not achievable.
13. My attention has been drawn to a Written Ministerial Statement titled 'Planning – Local Energy Efficiency Standards Update'. However, as it mainly relates to setting local energy efficient standards for new homes in relation to plan making, it carries limited weight in relation to the consideration of this appeal. Furthermore, it states that policies should be applied flexibly where the applicant can demonstrate that meeting the standards is not technically feasible. As I have found above, this has not been adequately demonstrated in relation to this appeal.
14. My attention has also been drawn to the absence of conditions requiring the provision of renewable or low carbon energy sources in another development at 2 Kewstoke Road in the local authority area¹. As I do not have all of the specific details of the case, I cannot be sure that the proposal is directly comparable to the current appeal. Furthermore, I am required to determine the appeal on its own merits.
15. The planning policy context is clear that there is an expectation to include low-carbon or renewable energy sources in proposals, which condition 10 achieves. The condition is necessary and reasonable in the context of the support for energy efficiency and the use of renewable energy set out in the Framework and CS Policies CS1 and CS2. The condition as attached is therefore reasonable and necessary in the interests of energy efficiency.

Other Matters

16. I have had regard to the notes of the pre-application advice meeting and to the previous refusal of planning permission and associated Delegated Report

¹ 22/P/2203/FUL

on the site² being silent in relation to the need for renewable or low carbon technologies. I also note the lack of statement on the Notice of Decision regarding working in a positive and proactive manner.

17. However, the pre-application advice is non-binding, and these are not matters that go to the heart of the planning issues in the consideration of the necessity of the conditions on the planning permission. As such, they do not alter my findings above.

Conclusion

18. For the reasons given, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR

² 23/P1986/FUL