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## Appeal Decision

Site visit made on 2 December 2024

**by B Phillips BSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 January 2025**

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**Appeal Ref: APP/D0121/W/24/3344613**

**Land east of Hillview, Greenhill Lane, Sandford, North Somerset BS25 5PE**

- 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 Adrian Hunt against the decision of North Somerset Council.
  - The application Ref 23/P/2657/FUL was approved on 8 February 2024 and planning permission was granted subject to conditions.
  - The development permitted is proposed erection of 1no. dwelling with detached garage. Creation of hardstanding and landscaping alterations.
  - The condition in dispute is No 12 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order, with or without modification), no additional garage, outbuilding, shed or other structure shall be erected within the curtilage of the new dwelling hereby permitted (other than any expressly authorised by this permission).*
  - The reason given for the condition is: *The Local Planning Authority wish to retain control over additional structures in order to maintain the integrity and appearance of this development and conserve the openness of the countryside and in accordance with policy DM32 of the North Somerset Sites and Policies Plan (Part 1) and policy CS12 of the North Somerset Core Strategy.*
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### Decision

1. The appeal is allowed and the planning permission Ref 23/P/2657/FUL for proposed erection of 1no. dwelling with detached garage. Creation of hardstanding and landscaping alterations at Land east of Hillview, Greenhill Lane, Sandford, North Somerset BS25 5PE granted on 8 February 2024 by North Somerset Council, is varied by deleting condition 12.

### Background and Main Issue

2. Planning permission was granted for a new dwelling with detached garage, hardstanding and landscaping at the appeal site. This appeal is in relation to the imposition of condition 12, which removed permitted development rights for outbuildings 'or other structure'.
3. The reason given for the condition is to maintain the integrity and appearance of the development and to conserve the openness of the countryside.
4. The appellant considers that there are no justifiable reasons why the Council should have imposed and seek to retain a condition restricting these permitted development rights.
5. The main issue in this case therefore is whether or not the condition is reasonable and necessary in order to preserve the character and appearance of the development and the surrounding area.

## Reasons

6. I observed that the permitted dwelling is currently being constructed. It is located within a plot that benefits from mature boundary screening.
7. Whilst the Council refer to residential sites and ribbon development between the settlements of Sanford and Churchill, limited information is provided of these particular sites, and I observed that the appeal site is neighboured on three sides by residential and domestic use, with open land to the rear. There are a number of outbuildings visible along Greenhill Lane, which contribute to the domestic character of the surroundings, in contrast to the rural appearance of the wider agricultural land to the rear. These outbuildings do not harm the general open and verdant nature of the surroundings.
8. Paragraph 55 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances.
9. There is no evidence before me that the neighbouring properties have any similar restrictions on permitted development rights. The lack of such restrictions has not resulted in harm to the verdant and open surroundings.
10. The appeal site is visible from the highway and public footpath. However, there is also no evidence before me that permitted development outbuildings would necessarily result in an excessive number of structures or scale of built form on the appeal site, no matter the potential use of any outbuilding. This is particularly given, as the Council point out, the condition does not remove permitted development rights for extensions. It does not follow therefore that there would be an unacceptable increase in the density of buildings on this site or an adverse effect on the integrity of approved development within the surrounding area.
11. No policy or guidance is before me setting out what constitutes 'living necessity' for occupiers. That the permitted development includes space that fulfils this is not therefore substantiated. In any case, this does not represent an exceptional circumstance as set out by the PPG.
12. The imposition of a separate condition preventing residential occupation of the approved garage building is not affected by condition 12.
13. Whilst case law ensures that the Council is not required to necessarily agree with the decision of the previous inspector's decision on this site, I find therefore that no exceptional circumstances have been put forward to justify the removal of permitted development rights for '*additional garage, outbuilding, shed or other structure*'.
14. I conclude therefore that condition No 12 is not reasonable nor necessary in terms of protecting the character and appearance of the development and surrounding area. Its removal would not lead to conflict with Policy DM32 of the North Somerset Sites and Policies Plan (Part 1) and Policy CS12 of the North Somerset Core Strategy, which, amongst other matters, seek to ensure that proposals achieve high quality design and demonstrate sensitivity to the local character, and the setting.

## Other Matters

15. The appeal site is located within bat consultation zone 'B' (BCZ), as set out in the North Somerset and Mendip Bats Special Area of Conservation Guidance on Development: Supplementary Planning Document (2018) (SPD). The SPD contains guidance relating to the impact of development on the North Somerset and Mendip Bats Special Area of Conservation (SAC), one of four sites in North Somerset, designated because of its importance for Greater and Lesser Horseshoe Bats. These are protected as European Sites of Nature Conservation Importance and are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 ('the Regulations'). Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European site. I am the competent authority for the purposes of this appeal.
16. The SPD explains that whilst the BCZ's are not within the SAC, the landscape surrounding the European site is important in providing foraging habitat needed to maintain the favourable conservation status of the Horseshoe bats.
17. The ecological assessment<sup>1</sup> submitted with a previous approved planning permission concluded that no bat roosting takes place on site and that 'it is unlikely that any bat species presence was considered to be solely reliant on the grassland sward habitat present on site, given the narrow field plot and the abundance of off-site grassland habitat to the east'. It concludes that 'it is not considered that the development of a single dwelling within the existing agricultural field study site will impact any of the conservation objectives of any statutory or non-statutory site within the locality'.
18. From what is before me, existing habitats and / or features of value to bats<sup>2</sup>, including hedgerows, will not be lost nor affected. As such, I find no reason to disagree with these conclusions. The development will not therefore adversely affect the SAC, in accordance with paragraph 7.1 of the SPD.
19. In addition, there is no evidence before me that any permitted development outbuilding would result in any harm to the SAC, due to any potential loss of similar habitats/features, given the limitations in scale and siting set out in the general permitted development order.
20. As such, there would be no likely significant effect alone or in combination on the qualifying features of the SAC. There is no conflict therefore with the protection of protected species requirements of the Regulations and Framework.
21. Pool Farm, located on the opposite side of Greenhill Road is a Grade II Listed 17<sup>th</sup> century two storey farmhouse. The listing description sets out that its significance in part relates to its retained architectural qualities, such as painted rubble, thatch, brick stacks and gabled porch with pantiles. The building is not visible from the highway and its setting consist of the highway and surrounding newer residential properties of mixed character and appearance. The proposed house and any potential outbuilding would be seen in the context of the existing mixed surrounding residential form. The development and removal of condition 12 would not harm the setting and significance of this listed building. As such, there would therefore be no conflict

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<sup>1</sup> By Boon Brown Ltd

<sup>2</sup> such as those listed in paragraph 3.2 of Part B of the SPD

with the prevention of harm to heritage assets, including their setting, goals of Paragraph 213 of the Framework.

**Conclusion**

22. For the reasons given above, I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

*B Phillips*

INSPECTOR