



Appeal Decision

Site visit made on 10 June 2025

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th July 2028

Appeal Ref: APP/D0121/W/25/3361403

29 Hollis Avenue, Portishead, North Somerset BS20 6TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs. P. Williams against the decision of North Somerset Council.
- The application Ref is 24/P/1817/FUL.
- The development proposed is construction of a 2-Bedroom bungalow.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect on the character and appearance of the surrounding area;
 - the effect on the living conditions of future occupiers of the proposed bungalow, with particular regard to outlook, light and private outdoor garden space; and
 - whether the proposal would have a likely significant effect, alone or in combination with other plans and projects, on the North Somerset and Mendip Horseshoe Bats Special Area of Conservation.

Reasons

Character and appearance

3. The appeal site comprises an enclosed area of rear garden serving No 29 Hollis Avenue, a two-storey dwelling. It includes a rear outbuilding, pergola, glasshouse and shed, and has a side boundary with the Hollis Crescent cul-de-sac, beyond the rear garden of No 29A Hollis Avenue.
4. Surrounding dwellings are mainly semi-detached or terraced, although No 1A Hollis Crescent opposite is detached. The Hollis Crescent entrance feels somewhat enclosed by the proximity of the Hollis Avenue dwellings to its footways, including No 29A approved in recent years¹ attached to No 29. The wider residential area nonetheless feels spacious, despite some other obvious additions to the original layout. There are many common dwelling designs and features in the vicinity, and the overall estate layout has remained predominantly regimented in character.
5. I accept that the proposed siting and single storey scale would not dominate No 29 Hollis Avenue or other dwellings along that road. However, the proposed front elevation would be sited at substantially closer proximity to the Hollis Crescent

¹ Council Ref: 17/P/1917/FUL

highway than the other dwellings on this cul-de-sac. Clear views of the bungalow sited mostly in front of No 6 Hollis Crescent would also be possible at close proximity within the cul-de-sac, despite the decline in gradient from the highway.

6. The bungalow would therefore appear contrived and cramped in comparison to the surrounding residential plots. This development would thus fail to effectively integrate into its setting. The resultant jarring layout with its immediate surroundings would cause significant harm to the character and appearance of the area.
7. At least some of the existing boundary hedgerow would have to be removed to facilitate parking and access for the bungalow. The submitted appeal details do not explicitly clarify whether any of this hedgerow would be retained. Even if some of it were to be retained, given the proximity of the proposed Bedroom 1 facing it on lower ground, there would likely be future pressures to remove or reduce the hedgerow to provide additional light and outlook for future occupiers.
8. This existing hedgerow therefore cannot be relied upon as visual mitigation for the proposal. Use of similar external materials as the surrounding dwellings would also not mitigate the adverse visual harm that I have identified.
9. The proposal would thus significantly harm the character and appearance of the surrounding area, in conflict with Policy CS12 of the North Somerset Core Strategy (CS) (2017) and Policies DM32 and DM37 of the North Somerset Sites and Policies Plan Part 1 (SPPP1) (2016). Collectively, these policies require, amongst other things, high quality buildings designed sensitivity to the local character and setting, including in terms of siting, layout, street integration and soft landscaping.

Living conditions

10. The submitted plans indicate that the main rear garden area to serve the proposed dwelling would be enclosed by fencing to each side. In particular, "Bedroom 2", as annotated on the proposed floor plans, would face the existing closeboard fence that runs along the front garden side boundary of No 6 Hollis Crescent.
11. The officer report indicates that a 12m separation distance should be provided, with reference to paragraph 2.2 of the Residential Design Guide (RDG) Supplementary Planning Document (section 1; 2013). This specific guidance however concerns the relationship between a two-storey side wall and a main elevation of a dwelling with windows. I therefore do not find this RDG section to be relevant to the proposal.
12. Notwithstanding the above, given the proposed close proximity to the boundary and the site orientation, I envisage that Bedroom 2 would experience gloomy light conditions. Natural light provision for this room would also be poor, and the neighbouring fence would also form an oppressive feature in terms of outlook.
13. The rear garden to serve the proposed dwelling would be of shallow depth. Due to this shallowness and the site orientation, much of the space would experience significant shading impacts from the enclosing fences across much of the day, especially in wintertime. Whilst the level of sunlight would improve during summer, the garden would nonetheless be in shade for much of the time. Spaces at each side of the bungalow would be narrow and enclosed, and would thus only have a limited function as garden space.
14. I therefore conclude that the proposal would provide inadequate outlook, light and private outdoor garden space for its future occupiers. This amounts to significant

conflict with Policies DM32 and DM37 of the SPPP1. Collectively, these policies require, amongst other things, proposed design and layout to not prejudice the living conditions for occupiers through overshadowing or overbearing impact, and to provide appropriately sized gardens for the dwelling.

15. The RDG also refers to a “45 degree test” for both single and two storey structures. The bungalow would sit mostly forward of the two-storey dwelling of No 6 Hollis Crescent. However, No 6’s nearest flank elevation to the proposal is single storey. The existing built form of No 6 would therefore not lead to an oppressive impact upon future occupiers of the proposed bungalow. The proposed orientation between the respective dwellings would also avoid harmful overshadowing impacts.
16. The officer report indicates conflict with guidance published by the Building Research Establishment titled “Site layout planning for daylight and sunlight” (BR 209 2022 Edition), including its “45° approach”. However, this approach relates to house extensions and not new dwellings. There is no demonstrable evidence before me of other specific conflicts with this guidance, which in any event is not referred to in the above relevant development plan policies.
17. The Council also makes reference to Section H.2 of the National Design Model Code (MHCLG; 2021). This guidance however relates to possible contents for a design code, and there is no relevant locally published design code before me.

Somerset and Mendip Horseshoe Bats Special Area of Conservation

18. The site is within Bat Consultation Zone (BCZ) C for Greater Horseshoe bats and BCZ B for Lesser Horseshoe bats, as set out in the North Somerset and Mendip Bats Special Area of Conservation Guidance on Development Supplementary Planning Document (SPD) (2018). This SPD guidance concerns the impact of development on the North Somerset and Mendip Bats Special Area of Conservation (SAC), designated as such due to its importance for Greater and Lesser Horseshoe Bats.
19. Given its designation, the SAC is protected as a European Site of Nature Conservation Importance. The SAC’s Conservation objectives are to ensure that its integrity is maintained or restored as appropriate and that the SAC contributes to achieving the favourable conservation status of its qualifying features, which include the abovementioned bat species.
20. The SPD sets out that whilst the BCZ’s are not within the SAC, the landscape surrounding the SAC is nonetheless important for providing foraging habitat needed to maintain the favourable conservation status of Horseshoe bats. These bats also need to be able to move through the landscape between their roosts and their foraging areas, requiring linear features in the landscape such as hedgerow. Development proposals should seek to retain and enhance existing habitats and features of value to bats, including hedgerow.
21. It is put to me that there are no protective species within the appeal site. This has however not been substantiated by evidence, such as an appropriate ecological survey undertaken by a suitably qualified expert.
22. The hedgerow along the site’s frontage with Hollis Crescent is dense in form and only partially disrupted by a lower and narrow section of closeboard fencing. The hedgerow would have to be at least partially removed to facilitate access and

parking. As set out above in the first main issue, there would also likely be future pressures to further reduce the hedgerow, or remove it entirely. The site is also near to other hedgerows, and Big Weston Wood is visible at a distance on elevated land, which is an Ancient Woodland and a Site of Specific Scientific Interest (SSSI).

23. The hedge proposed for removal could therefore form part of a functionally linked foraging habitat and commuting route for bats associated with the SAC. In such circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) require that permission may only be granted after having ascertained that it will not affect the integrity of the European site. However, as I am dismissing the appeal on other grounds, I have not considered this matter further. It has therefore not been necessary for me to carry out an Appropriate Assessment as required by the Habitat Regulations.

Other Matters

24. On 12 February 2024, the provisions of the Environment Act 2021 relating to biodiversity net gain (BNG) came into force for major developments, and on 02 April 2024 this was extended to include smaller sites. Under Article 7(1A) of the Town and Country Planning (Development Management Procedure) Order 2015 (the DMPO), all applications for planning permission submitted after the above dates are required to be accompanied by certain information relating to BNG, except where one of the exemptions specified in the legislation applies.
25. Such information required includes a declaration as to whether the applicant believes the BNG provisions to apply to the application, and if not, the reasons why. Where none of the exemptions apply, the application must also be accompanied by a completed biodiversity metric calculation, showing the biodiversity value of the on-site habitat, and various other related details which are listed in full in sub-paragraph (c) of the above Article.
26. No biodiversity matrix or other biodiversity information required by DMPO Article 7(1A) is before me. On the planning application form, the appellants, through their agent, declared that that they believed the BNG requirement to be not applicable, and selected the exemption of “Development subject to the de minimis exemption (development below the threshold)”.
27. The Planning Practice Guidance² defines the de minimis exemption as including development that does not impact 5 metres of linear habitats such as hedgerows. However, as already set out above, the proposal could result in the removal of 5m or more of hedgerow. Therefore, there appears to be some doubt as to whether the de minimis exemption applies to the proposal.
28. I also note that as set out in their consultation response, the Council’s Highways Officers requested further information to demonstrate that suitable visibility splays uninterrupted by adjacent features, including hedgerow, are provided for vehicles exiting the appeal site. Such additional information is not before me.
29. However, the appeal is being dismissed on other substantive grounds. I therefore do not need to consider the above biodiversity and highway matters any further.

² Paragraph: 003 Reference ID: 74-003-20240214

Planning Balance

30. I have found significant conflict with CS Policy CS12 and SPPP1 Policies DM32 and DM37. The scheme is thus contrary to the development plan taken as a whole.
31. The officer report indicates the Council's housing land supply as 3.88 years. I view this to be a substantial under supply. Paragraph 11d)i. of the National Planning Policy Framework (the Framework) states that where policies which are most important for determining the application are out of date³, permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed.
32. Such Framework policies include Paragraph 195 concerning habitats sites such as SACs. However, as I have not carried out an Appropriate Assessment, for the purposes of this planning balance I shall set aside Framework Paragraph 195.
33. Instead, as per Framework Paragraph 11d)ii., I now consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
34. The proposed dwelling would form an efficient use of land in a sustainable location, including provision of one off-street parking space. It could be described as affordable insofar as it comprises a small two-bedroom bungalow, although the application form advises that this would be delivered as market housing. The proposal would nonetheless use a small site to make a material contribution towards the local housing supply. Small sites such as this can cumulatively provide a significant contribution to the overall housing need. This benefit is therefore afforded moderate weight.
35. The submitted Energy Statement advises that the dwelling would utilise an air source heat pump, along with water flow and energy consumption restrictions. These environmental benefits are afforded moderate weight.
36. Taking all above matters into consideration, the adverse impacts of the development would significantly and demonstrably outweigh the benefits. The material considerations before me therefore do not indicate that a decision should be made otherwise than in accordance with the development plan.

Conclusion

37. For the reasons given above, the appeal is dismissed.

R Cahalane

INSPECTOR

³ Footnote 8 to the Framework states that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites.