
Appeal Decision

Site visit made on 3 May 2016

by **Robert Gully MEng CEng MICE**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 June 2016

Appeal Ref: APP/R3325/W/16/3143255
83 Hendford Hill, Yeovil, Somerset BA20 2RE

- 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 B Oozageer against the decision of South Somerset District Council.
 - The application Ref 15/03862/FUL, dated 20 August 2015, was refused by notice dated 6 November 2015.
 - The development proposed is alterations and change of use of property to a House of Multiple Occupation (HMO).
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Decision

1. The appeal is allowed and planning permission is granted for alterations and change of use of property to a House of Multiple Occupation (HMO) at 83 Hendford Hill, Yeovil, Somerset BA20 2RE in accordance with the terms of the application, Ref 15/03862/FUL, dated 20 August 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3858/02 A and 3858/03 A.
 - 3) The development hereby permitted shall be occupied by no more than 10 people and the communal areas (the conservatory, utility and games room) as shown on drawing 3858/02 A shall remain available for all residents.
 - 4) The cycle parking shown on approved drawing 3858/02 A shall be installed before use of the development hereby permitted and thereafter retained for the storage of bicycles in association with the use hereby approved.
 - 5) The area allocated for parking and turning on approved drawing 3858/03 A shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in the location shown and in connection with the development hereby permitted.

Application for costs

2. An application for costs was made by Mr B Oozageer against South Somerset District Council. This application is the subject of a separate Decision.
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Preliminary Matter

3. The appeal property comprises a large 3 storey detached house that is already in occupation as a use class C4 HMO for 6 persons, by virtue of permitted development rights. The alterations proposed provide for an additional four bedrooms and en-suite bathrooms to all the proposed 10 bedrooms.

Main Issues

4. The main issues in this case are:
 - whether or not the proposal provides sufficient car parking, having particular regard to the effect on neighbouring roads; and
 - the effect of the proposal on highway safety.

Reasons

Planning Policy

5. The Council has not identified a 5 year supply of deliverable housing sites. Nonetheless, the planning policies under consideration are general policies seeking high quality development and satisfactory proposals with respect to transport related effects. They do not guide the location of development specifically in the context of this case. On this basis paragraph 49 of the National Planning Policy Framework (the Framework) does not apply in this respect. However, subject to my reasoning below, the presumption in favour of sustainable development would apply.

Parking Provision

6. One proposed parking space on the development would block unhindered access to a parking space in the existing carport and would also reduce the turning area available. However, the effect on the turning area would not be sufficient to discourage occupants from manoeuvring to exit the property in forward gear. Therefore, whilst the 6th parking space might compromise ease of parking slightly, I consider that it would be readily achievable and as such the parking provision would comprise 6 parking spaces.
7. The Somerset County Council Parking Strategy (2013) (the Strategy) should be applied in accordance with Policy TA6 of the South Somerset Local Plan (2006-2028) 'the Local Plan'. Although the Strategy does not address HMO specifically, I do not consider this sufficient reason to disregard it entirely. The strategy includes a helpful explanation of how figures were derived, such that a reasoned assessment can be made as to how it should be interpreted in this case.
8. Yeovil as a whole lies entirely in the Zone A category, where 1 parking space is required for each 1 bed dwelling, on the basis that 1 to 2 residents may occupy such dwellings. I also note that 2 bed dwellings in Zone A are required to have 1 space, but are assumed to accommodate up to 3 persons. On this basis, the strategy clearly makes an allowance for more than 1 resident to be served by a single space. Therefore, in light of the single occupancy of rooms in the appeal proposal, a substantial reduction should be allowed below the requirement for a single space per bedroom.

9. Furthermore, the strategy allows for variation of the optimum parking standards, including a lower requirement where sites are in a more sustainable location. The walking distances to key facilities set out in the appellant's submissions are favourable and likely to provide a substantial incentive to avoid private car use for a wide range of day-to-day needs, whether through walking or cycling. Therefore, whilst the appeal site does not lie in the centre of the town, it does lie in a particularly accessible location and should attract a further modest reduction in parking requirements as a result. Additionally, a cycle space is proposed for every resident of the proposal in accordance with the Strategy, which would support the incentive to avoid private car use.
10. The appellant has cited 3 planning applications in Yeovil, where no parking was provided. However, the full details of these applications are not before me to allow me to conclude that the schemes are comparable and hence I give them limited weight. The appeal case referenced was decided before the adoption of the recent Local Plan and refers to maximum parking standards. Hence the context of the Inspector's reasoning in that case was different and I therefore attribute the case little weight. I give the appellant's reference to other parking standards outside South Somerset district little weight, as they relate to other districts and no evidence is before me to conclude that the context is comparable to this case.
11. Although interested parties have asserted that all 5 spaces are usually in use, rather than 2 as stated by the appellant, no substantive evidence is before me to conclude either way. I therefore give existing usage figures limited weight and form my opinion on the basis of compliance with the Strategy.
12. Taking the above together, I am satisfied that the proposal's single occupancy rooms and its sustainable location would result in a significantly reduced requirement for parking, to the extent that parking need in excess of 6 spaces would be sufficiently unlikely to occur.
13. The appeal property fronts the A30 where there are double yellow lines preventing residents from parking there. The nearest off-site parking would therefore be available in Nursery Road and Southwoods, whose junctions with the A30 are just downhill of the appeal site. Although there are lengths of double yellow lines in these streets, the majority of their length is unrestricted and therefore uncontrolled parking use is available. In this context, I acknowledge local residents' and the Council's concerns regarding the consequences of excess vehicles parking in nearby roads. However, on my visit it was apparent that the majority of properties in Southwoods and Nursery Road have private driveways and garages, such that a reasonable provision of off-highway parking is available to residents there.
14. Notwithstanding my earlier findings on parking provision, I acknowledge there would remain a chance of occasional vehicles arising from the proposal seeking to park in these roads. However, the effect would not be significant in respect of the available private parking and the prevailing situation in relation to on-street parking, such that existing amenity would be materially harmed. I also note that submissions by interested parties identify that a primary cause of current issues is commuters from outside Yeovil parking in the area during business hours. The timing of their use would generally be different to that of occupants of the proposal who would reside in the area. Although the Council refer to cumulative harm, I have to consider this proposal on its own merits

against Local Plan policy and relative to the current parking environment on surrounding roads.

15. Misuse of private parking areas (e.g. the vets) by visitors from outside the area, and inappropriate parking in Nursery Road and Southwoods, are matters that fall to be addressed by other means, rather than being significant considerations in this planning appeal.
16. For the reasons set out above, I conclude that the proposal provides sufficient parking and would not result in an unacceptable effect on neighbouring roads. Policy TA5 of the Local Plan seeks, amongst other things, car parking provision in accordance with Policy TA6, and that the nature of parked vehicles should not have a detrimental impact on amenity of the area. Policy TA6 requires parking provision in accordance with the Somerset County Council Parking Strategy in South Somerset District. In light of my conclusion above, I find that the proposal would accord with these Policies.

Highway Safety

17. The appellant asserts that only 2 spaces are currently in use, yet in excess of 5 vehicles accessing the site should be considered as the existing situation. I find these matters inseparable and therefore it would be unreasonable to assume no overall increase in vehicle movements.
18. Notwithstanding this, the concerns before me relating to highway safety focus on the constraint to visibility from the wall which borders the footway and extends uphill of the appeal site entrance, and the likelihood of vehicles exiting in reverse gear. In respect of the latter, and in light of my conclusions above, I find that 6 spaces could be achieved in a manner that would not materially be likely to increase the risk of vehicles exiting the parking area in reverse gear.
19. Visibility at entrances is normally considered in both directions along the nearest highway edge. However, a pedestrian island lies on the A30 to the front of the appeal site, such that vehicles travelling downhill would be very unlikely to move into the opposing uphill lane, which is afforded less visibility. Furthermore, whilst the Council assert that existing visibility is sub-standard and should be improved, no evidence is before me as to what the Council would consider as an acceptable visibility splay in light of traffic frequency and speeds on the A30.
20. On this basis, and having observed this matter on my site visit, I am satisfied that visibility to the far side downhill lane is adequate to preserve existing safety in light of any increase in movements.
21. The boundary wall to the right when exiting the appeal site does not extend towards the highway as far as the main front wall to the left and therefore allows better visibility to the nearside lane in this direction. I also note that the Council's highway consultant did not raise a concern in respect of visibility to traffic travelling uphill on the A30.
22. I note the Council's concerns regarding the increase in traffic flows on the A30, in light of substantial housing development nearby in the town. However, it is clear that the A30 Hendford Hill is a busy route, on which flows would not be materially affected by the appeal proposal.

23. For the reasons set out above, I conclude that the proposal would not have an unacceptable effect on highway safety. Therefore, the appeal proposal would comply with Policy TA5 of the Local Plan which seeks, amongst other things, safe and convenient access by foot, cycle and private transport.

Other Matters

24. Bins associated with the development would be located near the boundary under the car port and would not be prominent when seen from the highway. The arrangement of proposed spaces avoids obstructing views of the majority of the front facade. Furthermore, the front wall abutting the footway, which the Council note as making a contribution to the Conservation Area, would be unaffected and would provide screening to parked vehicles.

25. I note that a number of planning applications in the area have been referenced by interested parties as contributing to a cumulative deterioration in character and appearance. However, each case is considered on its merits, and on the basis of my reasoning above I conclude that the proposal would preserve the character and appearance of the Conservation Area, to which I have special regard in line with my statutory duty. The proposal would therefore also be in accordance with the parts of Policies EQ2 and TA5 which seek to preserve character.

26. An interested party has raised concerns with respect to the adequacy of living and kitchen facilities. However, no evidence or policy relating to space standards is before me, sufficient to conclude that the space afforded by the retained kitchen and conservatory would be inadequate for the proposed number of occupants.

27. In light of the existing use by multiple occupants, I find no reason to conclude that noise and pollution either internally or externally would materially increase. The increase in traffic from the proposal would not be sufficient to materially increase noise in this respect.

Conditions

28. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans as this provides certainty.

29. I have included the Council's suggested conditions on occupancy, cycle parking and car parking. However, I have amended the cycle parking condition as the cycle parking comprises part of the development hereby permitted, and therefore should be tied to the use of the development by its occupants rather than commencement of the permission itself. The car parking condition also requires that the area is used as shown in the drawing. This is to ensure adequate turning and to prevent alternative parking arrangements that might detract from character and appearance when appreciated from the highway.

30. I have considered representations regarding a plan to manage issues of off-site parking, which might be covered by condition. However, I have concluded that the proposal would comply with the requirements of the Local Plan in respect of its on-site parking provision. Whilst I acknowledge concerns regarding the cumulative effect of development, I have to consider this case on its own merits. I also note that the Strategy, and the parking figures therein against which I have judged this appeal, is intended to address the effect that uncontrolled parking may have on nearby roads and properties.

Conclusions

31. I have concluded that the proposal would preserve the character and appearance of the Conservation Area. The proposal would comply with relevant development plan policy and would provide a modest contribution to the availability of accommodation in Yeovil, which weighs in its favour.
32. I therefore allow the appeal subject to conditions.

R Gully

INSPECTOR

Costs Decision

Site visit made on 3 May 2016

by **Robert Gully MEng CEng MICE**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 June 2016

Costs application in relation to Appeal Ref: APP/R3325/W/16/3143255 83 Hendford Hill, Yeovil, Somerset BA20 2RE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr B Oozageer for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of the Council to grant planning permission for alterations and change of use of property to a House of Multiple Occupation (HMO).
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Decision

1. The application for an award of costs is allowed in part in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
 4. The Council's submissions with respect to safe access and egress were not adequately justified or reasoned. Reference was made to the South Somerset highway consultant's preference for a lowered 600mm wall to the frontage and this was shown to accord with the Manual for Streets document. However, this was merely a statement of the maximum height over which visibility should be achieved in a generic case. There was no reasoned or objective discussion of what would constitute an acceptable horizontal or vertical visibility splay in this case, such that it could be concluded why the existing arrangement was unsatisfactory or needed improvement. The basis for an improvement, solely in light of increased vehicle movements, was therefore not adequately reasoned. On this basis the Council's refusal against Policy TA5 of the South Somerset Local Plan (2006 - 2028), the 'Local Plan', was not justified.
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5. Policy TA6 of the Local Plan, requires development to be compliant with the Somerset County Council Parking Strategy (the 'Parking Strategy') for proposals in South Somerset. There is no requirement within the policy to demonstrate consequential harm. Although the Parking Strategy is silent on HMO specifically, the Council chose to apply the requirement for a single bedroom property, resulting in an overall requirement of 10 spaces.
6. As stated in my appeal decision, it would be inappropriate to disregard the content of the Parking Strategy in its entirety simply because it does not consider HMO specifically. I also note that the South Somerset highway consultant originally stated their preference to the Council that the single bedroom property requirement be met. Therefore, I consider that it was reasonable of the Council to adopt the most comparable standard.
7. The Parking Strategy covers the whole of Yeovil, which has a wide range of sustainability credentials, including areas in the centre with relative increased sustainability. Whilst I concluded differently in my appeal decision, it was therefore reasonable that the Council did not amend the standards required in light of the applicant's submissions. Lastly, even if the Parking Strategy was ignored, Policy TA6 could not be completely disregarded as the applicant asserted should be the case. I therefore find the Council's application of that policy acceptable.
8. Whilst existing parking issues were highlighted, these were not evidenced substantively, other than by reference to the knowledge of Members. Even accepting the Council's argument for a 10 parking space requirement, no objective reasoning was provided as to how a relatively small increase in on-street parking would make a material change to the issues and consequent effects that are clearly already prevalent in the area. Therefore, the reasoning in respect of Policy EQ2 did not satisfactorily demonstrate how the effect of the development would cause discernable and material harm to neighbouring properties. The Council's refusal against Policy EQ2 was therefore unreasonable. Although I noted the Council's concern regarding cumulative effects, insufficient evidence was provided in respect of the merits of this case.
9. Overall, whilst the Council's refusal on the basis of Policy TA6 was justified, it was unreasonable in respect of Policies TA5 and EQ2. On this basis the applicant was required to contest and make submissions on matters relating to those policies in their appeal submissions, which would not otherwise have been the case.

Conclusion

10. I find that the unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated and a partial award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Somerset District Council shall pay to Mr B Oozageer, the costs of the appeal proceedings described in the heading of this decision limited to those

costs incurred in respect of contesting those aspects of the appeal in relation to Policies TA5 and EQ2 of the Local Plan.

12. The applicant is now invited to submit to South Somerset District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

R Gully

INSPECTOR