
Appeal Decision

Site visit made on 4 November 2014

by Roger Pritchard MA PhD MRTPI

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

Decision date: 7 November 2014

Appeal Ref: APP/R3325/A/14/2223800

Land to the South of the Red Lion Pub, Babcary, Somerton, Somerset, TA11 7ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs C Garrard against the decision of South Somerset District Council.
 - The application Ref 14/01868/FUL, dated 24 April 2014, was refused by notice dated 27 June 2014.
 - The development proposed is to erect a dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be –
 - i. Whether the proposed development is sustainable;
 - ii. Its effects on the living conditions of future occupants; and
 - iii. Its effects on the setting of the nearby listed building, the Red Lion Public House.

Reasons

Background

3. The proposed development would erect a two-storey, detached dwelling on land adjacent to the car park of a public house in the small village of Babcary. The public house, the Red Lion, is Grade II listed and has recently seen the conversion of an existing outbuilding to provide additional accommodation.
4. There is already an extant permission for a dwelling of similar scale and design on the appeal site (Ref 10/05151/FUL). That permission is subject to a condition that would tie the occupancy of the approved dwelling to persons, or their dependents, employed in the running of the public house. The condition was to be reinforced by means of an agreement between the appellant and the Council made under section 106 of the Town and Country Planning Act 1990.
5. Subsequently, despite the section 106 agreement being signed, the appellant failed to secure the finance to go ahead with the development. A letter from his Bank, submitted with the appeal, suggests that the primary reason for this failure is the conditioned tie to the public house. That tie has caused the Bank to impose more stringent terms for a loan than might be applied to an

unrestricted residential property. Essentially, the revised application and subsequent appeal therefore seek permission for a similar dwelling but without the occupancy condition.

The sustainability of the proposed development

6. The appeal site is outside the limits of any area defined for development by Policy ST3 of the adopted South Somerset Local Plan - Bab Cary not being classified as a village appropriate for development in that Plan. However, as the Council concedes, Policy ST3 is now somewhat out of date. Furthermore, it is not in complete alignment with the provisions of the Government's National Planning Policy Framework ('the Framework') which is a material consideration in all planning applications and appeals.
7. The Council is now preparing an emerging local plan, although this has not yet been adopted. The plan's Policy SS2 adopts a criteria based approach to development in rural settlements. Criteria include access to key services and the delivery of community benefits by way of additional employment opportunities, the creation or enhancement of community facilities and the meeting of an identified housing need. Whilst the emerging Local Plan is not yet adopted, Policy SS2, which has not been subject to substantial objection, is material and also seems to me to be broadly compatible with the criteria for assessing sustainable development put forward in the Framework. I therefore conclude that emerging Policy SS2 can be given significant weight.
8. The Council and the appellant disagree about the extent to which Bab Cary possesses key services. There is no dispute that the village has a church and village hall as well, of course, as the public house. However, I would dispute the appellant's claim that this represents '*...a large range...*' of local and community facilities. Bab Cary is relatively isolated, has no public transport and its inhabitants must rely on the private car for their trips to shop and to medical and educational facilities. It cannot therefore represent a location which, as recommended by Paragraph 30 of the Framework, supports a pattern of development that facilitates the use of sustainable modes of transport.
9. Notwithstanding any locational issues, Paragraph 7 of the Framework emphasises that sustainable development has three dimensions – economic, social and environmental – which are mutually dependent. However, the economic benefits of the proposed development of a single, open market dwelling are minimal in meeting the Framework's objective of supporting a prosperous rural economy, whilst I have no evidence that it would deliver any specific social benefit as, for example, by meeting a particular housing need in the village. Any minimal economic and social benefits are thereby more than outweighed by the environmental disadvantages of its location.
10. Furthermore, I come to that conclusion irrespective of the present position with regard to whether there is a five years' supply of readily available housing land in South Somerset. A review of recent evidence caused the Council to revise its previous position that there was not such a supply in the District and its current contention is that there is a five years' supply as advised by Paragraph 49 of the Framework. These matters are due to be concluded on by my colleague whose conclusions following the recently reconvened Examination in to the emerging Local Plan are awaited. In these circumstances, it would be premature for me to confirm or reject the Council's claims to have now

achieved a five year supply of available housing land as advised by the Framework.

11. However, given my conclusions as to the poor sustainability of the proposed development, I conclude that the proposed development would not meet the criteria of Policy SS2 of the emerging Local Plan and would not be sustainable in the wider terms set out by the Framework.
12. In concluding as I have above, a fundamental and critical distinction must be drawn between the previous permission, tied as it was to the continued viability of the public house, and the current appeal which has no such explicit link. I acknowledge the appellant's future intention to live in the proposed dwelling. Nevertheless, without the tie provided by the condition as imposed on the previous permission and the subsequent s.106 agreement, the link that justified the previous proposal in terms of its community benefit cannot be guaranteed. A range of circumstances – even if unforeseen at present – could lead to the proposed development being severed away from the public house. The outcome would be a dwelling that would be contrary to existing and emerging planning policy and to the principles of sustainable development as set out in the Framework.

The living conditions of future occupants

13. The Council has drawn the distinction that I have emphasised above in paragraph 12 as being relevant to the degree to which future occupants of the proposed dwelling may or may not be disturbed by the proximity of the public house car park.
14. I accept that were there to be a legal tie between the proposed dwelling and the public house complaints about disturbance would be far less likely than if the occupancy of the former were entirely separate. Nevertheless, I am reluctant to give this matter substantial weight. There could be hundreds if not thousands of residential properties adjacent to licensed premises and their car parks and anyone purchasing the proposed property would be well aware of the issues. Moreover, the dwelling now proposed would have a separate access at the far corner of the site. Therefore, whilst the appellant intends to retain a gated access to the public house car park, if the occupancy of the proposed dwelling were subsequently severed, a revised boundary treatment could significantly reduce any disturbance.
15. I therefore conclude that the effect of the proposed development on the living conditions of its future occupants would not be so severe as to warrant the dismissal of the appeal. However, neither do I conclude that this outweighs the material harm that I have identified as arising from the first main issue.

Effects on the setting of a nearby listed building

16. I take a very similar view of the suggested effects of the proposed development on the setting of the listed public house. I accept that a tied dwelling could provide some assurance as to the future business viability of the public house and that such a public benefit could outweigh less than substantial harm to the significance of this heritage asset. However, my observation was that the proposed dwelling, whose facing elevation would be some 80 metres from the public house and whose materials could be conditioned to be

compatible with the latter, would have only a minimal impact on the setting of the listed building.

17. As with the second main issue, I therefore conclude that the effect of the proposed development on the setting of the listed building would not be so severe as to warrant the dismissal of the appeal. However, again, neither do I conclude that this outweighs the material harm that I have identified as arising from the first main issue.

Conclusion

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

Roger Pritchard

INSPECTOR