



Appeal Decision

Site visit made on 31 January 2011

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

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

Decision date: 14 February 2011

Appeal Ref: APP/R3325/A/10/2140862

47 Birch Road, Martock, Somerset, TA12 6DR

- 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 S Chapman against the decision of South Somerset District Council.
 - The application Ref 10/02898/FUL, dated 8 July 2010, was refused by notice dated 29 October 2010.
 - The development proposed is the erection of 1 dwelling including the demolition of existing garage.
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Application for costs

1. An application for costs was made by Mr S Chapman against the Council. This application is the subject of a separate Decision.

Decision

2. I allow the appeal, and grant planning permission for the erection of 1 dwelling including the demolition of existing garage at 47 Birch Road, Martock, Somerset, TA12 6DR in accordance with the terms of the application, Ref 10/02898/FUL, dated 8 July 2010 subject to the conditions in the schedule at the end of this decision.

Main issues

3. The main issues are the effect of the proposal firstly, on the character and appearance of the surrounding area; and secondly, on the safety and convenience of users of the adjacent footpath and nearby highway.

Reasons

Effect on character and appearance

4. The appeal site comprises the side garden of 47 Birch Road, a semi-detached 2-storey dwelling lying at the head of a cul-de-sac. It has a detached garage in its north-eastern corner lying adjacent to a short length of footpath which links the cul-de-sac to a restricted byway known as Hills Lane. This runs along the site's northern boundary and gives access to further housing areas as well as to the Hills Lane Play Area. A conservatory, referred to in the submitted evidence, had been demolished at the time of my visit and the site had been cleared.
5. The appeal proposal seeks to demolish the garage and erect a detached 2-storey dwelling to the northern side of No 47, linked to it by a pitched-roof entrance porch. No 47 has been extended in the past with a 2-storey, flat-

roofed rear extension and the front and rear building lines of the proposed dwelling would align with the front and rear elevations of this existing dwelling. Its roof would be pitched at the front, to match the roofs of other nearby houses, but would have a hipped section to the rear with a slightly lower ridge-line. Currently, the cul-de-sac only contains 1 and 2-storey semi-detached dwellings, so in this regard the appeal proposal would clearly introduce a different building type. However, I am not persuaded that this would have such a harmful visual impact as to warrant the withholding of planning permission.

6. In coming to this view I have noted that the houses in or close to the head of the cul-de-sac already differ somewhat in appearance, as several have benefited from full-height side extensions which have disrupted any regular rhythm which might have previously existed. Moreover, the proposed dwelling would not be widely visible from within the cul-de-sac as a whole, but would only be seen in angled views from the vicinity of the turning head. Because of this, and the general similarity of appearance in terms of width and roof form, I consider that the proposed dwelling would not appear unacceptably out of keeping with other nearby dwellings.
7. Nor do I consider that the dwelling would appear 'squeezed in', as alleged by the Council and others. Whilst I accept that the site is not overly spacious, its size seems to me to be perfectly adequate to accommodate the dwelling and parking proposed, together with an acceptably-sized rear garden. In addition, the fact that open, undeveloped land in the form of the byway would lie to the dwelling's northern side would serve to reduce any undue cramped appearance.
8. I acknowledge that the dwelling would be visible from this byway which constitutes Hills Lane. However, although this would result in built form on the appeal site being closer to the byway than is currently the case, I saw at my inspection that some of the other dwellings in the area are already sited fairly close to this byway, such as 28 Hills Orchard to the north and 44 Chestnut Road to the west. In any case the byway itself is fairly wide at this point, with grassed verges either side of the main track, and users of it will be accustomed to seeing the adjacent dwellings and garage buildings. In these circumstances I see no reason why the presence of the proposed dwelling should be considered to be unacceptable in visual terms.
9. In view of all the above points I conclude that the proposed dwelling would not have an adverse impact on the character and appearance of the surrounding area. Accordingly I find no conflict with policies ST5 and ST6 of the South Somerset Local Plan which, in summary, require new development to respect the form, character and setting of the locality and preserve and complement the key characteristics of the location.

Effect on safety and convenience

10. In its second reason for refusal the Council alleges that the proposed parking arrangement would generate vehicular movements in conflict with pedestrian movements on the adjacent footpath, although no further details are given to clarify its concerns in this regard. In support of this reason for refusal the Council's appeal statement indicates that it is evident, when visiting the site in an evening, that there are significant parking issues and that there already is conflict between vehicles and people, albeit to a limited extent. In addition I have noted the significant level of local opposition to this proposal on matters relating to car parking, congestion within the cul-de-sac and pedestrian safety, especially of children using the footpath link to Hills Lane.

11. At the time of my morning site visit several vehicles were parked within and close to the turning head of this cul-de-sac, although noticeably fewer had been parked on-street at these locations when I visited the area unaccompanied, an hour or so before my accompanied visit. I realise that parking demand will vary throughout the day and week, and that more pressure is likely to arise on the available parking spaces in the evenings and at weekends. However, I also saw that the dwellings at the head of the cul-de-sac, and indeed those within Birch Road as a whole, have space available for off-street parking on driveways and on hardened-out front garden areas. In addition, it seemed to me that most if not all of the dwellings have garages. Whilst I accept that there will always be a need for some vehicles to park on-street, I see no good reason why the level of on-street parking should lead to highway safety or congestion concerns, in view of the amount of off-street parking which is clearly available to residents.
12. Two off-street parking spaces for the existing dwelling, No 47, would be provided on the hard-surfaced area to the front of the house, with a further 2 off-street spaces for the proposed dwelling to be provided on the site of the existing garage. The submitted evidence indicates that this level of parking meets the requirement of the County Highway Authority, and it seems to me to be comparable to the amount of parking provision currently available for other dwellings in the cul-de-sac. Although one of these spaces would be adjacent to the footpath link to Hills Lane, the submitted plans indicate that a 1.6m high wall would be retained to separate the parking area from users of this footpath.
13. I consider that the staggered rails on this footpath should encourage reasonably slow speeds by other pedestrians or those with bicycles, and see no reason why users of this path should not have good visibility of any vehicles manoeuvring into or out of these parking spaces. Whilst it is the case that vehicles using these 2 parking spaces would have to cross the footway around the head of the cul-de-sac to reach them, all other off-street parking spaces within Birch Road are similarly reached by crossing the footway.
14. In view of these points I am not persuaded that vehicle parking or manoeuvring associated with a single additional dwelling would materially worsen the existing situation in this road. Accordingly I conclude that the proposed development would not have an adverse impact on the safety and convenience of users of the adjacent footpath and nearby highway. As a result I find no conflict with the access and traffic considerations of Local Plan policy ST5. Nor do I consider there to be any material conflict with Policy 49 of the Somerset & Exmoor National Park Joint Structure Plan Review, which deals with the transport requirements of new development.

Other matters

15. The Council did not find against the proposal in terms of any impact on the living conditions of nearby residents, although I have noted that neighbours at 48 Birch Road and 28 Hills Orchard both contend that the proposed dwelling would have an adverse effect on their privacy. However, having visited the upstairs east-facing bedroom of No 47, I consider that views into the rear garden of No 48 from the proposed dwelling would be shielded by the roof of the existing garage at this latter property. Furthermore, any views of north-facing windows at No 48 would be from a distance and at an acute angle, such that in my opinion no unacceptable overlooking would arise.
16. A north-facing, first floor bedroom window is proposed for the new dwelling and I acknowledge that this would face towards 28 Hills Orchard. I saw, however,

that this latter property has no first floor windows on its south-facing elevation. Furthermore, having regard to the angles involved and the presence of intervening screening, I consider that any overlooking of east-facing windows or the rear garden area of this property would be limited and of a type not unduly uncommon in urban areas such as this. Residents at No 28 have also argued that the proposed dwelling would result in a loss of morning sunlight and a loss of view. There is, however, no right to a view over nearby land and I do not consider that the proposed dwelling would be so close to No 28 as to result in any overbearing impact, especially as the 2 dwellings would be separated by the intervening byway. Moreover, the separation between these properties means that, in my assessment, any loss of light would not be so severe as to justify the withholding of planning permission.

17. Recent changes to Government guidance in Planning Policy Statement 3 (PPS3): *Housing*, have resulted in residential curtilages no longer being classed as previously-developed land. However, as the Council points out in its Committee Report this does not mean that garden land cannot be used for additional housing, provided it complies with policies in the local development plan, as here. Indeed Local Plan policy ST5 specifically requires development proposals to make efficient use of land within urban areas, and this is echoed in PPS3.
18. Finally, I have noted concerns from local residents regarding likely disruption during construction. However, any such disturbance would only be relatively short-lived, and would clearly need to be undertaken in a safe and considerate manner. Hours of working could be controlled by a planning condition.
19. Having regard to all the above points, my overall conclusion is that this proposal is acceptable, subject to a number of conditions. I have considered those suggested by the Council and have amended the wording to accord with the particular circumstances of this case and the guidance in Circular 11/95 *The Use of Conditions in Planning Permissions*. I have already referred to the need for a condition controlling hours of working, to safeguard the living conditions of nearby residents. In addition, to ensure the development is of a satisfactory appearance I shall require samples of materials and details of boundary treatments to be agreed with the Council. For similar reasons, and because of the relatively compact nature of the appeal site, I share the Council's view that it would be appropriate to remove permitted development rights for additions or extensions to the dwelling.
20. I shall also require the parking areas to be properly laid out, in the interests of highway safety, but as the parking spaces would be served directly by a dropped kerb at the end of the cul-de-sac, I see no reason to specifically refer to a new access, as suggested by the Council. Finally, for the avoidance of doubt and in the interests of proper planning I shall require all development to be carried out in accordance with the approved plans. I have had regard to all other matters raised, but they are not sufficient to outweigh the considerations which have led me to my conclusion.

David Wildsmith

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4594/1, 4594/3, 4594/6 and 4594/7.
- 3) Notwithstanding condition 2, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and thereafter retained as such, in accordance with the approved details.
- 4) Notwithstanding condition 2, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The agreed boundary treatment shall be completed before the dwelling is occupied and thereafter maintained as such.
- 5) Notwithstanding condition 2, the proposed parking areas shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details which shall have been first submitted to and approved in writing by the Local Planning Authority.
- 6) The areas allocated for parking on the submitted plan shall be kept clear of obstruction at all times and shall not be used other than for the parking of vehicles in connection with No 47 Birch Road and the dwelling hereby permitted.
- 7) During construction no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the hours of 0800 to 1800 Mondays to Saturdays and not at all on Sundays, Public or Bank Holidays.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), there shall be no addition or extension to the dwelling hereby permitted unless an application for planning permission in that behalf is first submitted to and approved in writing by the Local Planning Authority.