



Appeal Decision

Site visit made on 2 July 2007

by **James Ellis LLB (Hons) Solicitor**

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

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Date: 16 July 2007

Appeal Ref: APP/R3325/A/07/2037642

Land adjacent to Hillcrest, Station Rd, Misterton TA18 8LN

- 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 Mintbrook Properties Ltd against the decision of South Somerset District Council.
- The application Ref 06/01988/FUL, dated 8 June 2006, was refused by notice dated 10 August 2006.
- The development proposed is a detached 3 bedroom house with integral single garage.

Decision

1. I dismiss the appeal.

Procedural Matter

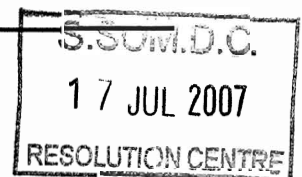
2. On 9 February 2005, an appeal against the Council's refusal to grant planning permission (Ref 04/00335/FUL) for a pair of semi-detached houses and garages on the appeal site was dismissed under Ref: APP/R3325/A/04/1156808. Again, on 16 February 2006, a further appeal against the Council's refusal to grant planning permission (Ref 05/01021/FUL) for a pair of semi-detached houses on the appeal site was dismissed under Ref: APP/R3325/A/05/1193291 (the second appeal). The previous appeal decisions are material planning considerations to which I give significant weight.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the area and the effect of the proposal on the living conditions of the occupiers of neighbouring properties in terms of overlooking and privacy, and overshadowing.

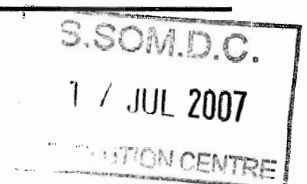
Reasons

4. The appeal site is part of the rear garden of Hillcrest. At the present time, there is a dilapidated garage on the site. Although Hillcrest fronts onto Station Road, the garden extends back along the north side of Broughtons Drive. To the east of the appeal site there are four modern detached two-storey houses and on the south side of Broughtons Drive, there are two pairs of semi-detached dormer bungalows and a terrace of three two-storey houses. All of the properties are set back from the road frontage which gives the



cul-de-sac a pleasing open character. There is an extant planning permission for a garage at Hillcrest which would be to the west of the appeal site. The proposal would be a detached two-storey house with an integral single-storey garage, which would face onto Broughtons Drive and be set back on the site to be broadly in line with Eldhrimir, the property to its immediate east.

5. Whilst the proposal would be close to the side boundaries of the appeal site, it would have a reasonable separation distance from the built form of Hillcrest. Again, the nearest part of the proposal to the single-storey western elevation of Eldhrimir would be the single-storey garage, thus giving an acceptable degree of separation between the proposal and Eldhrimir. Having regard to this, and its set back from Broughtons Drive, I do not consider that the proposal would have a cramped appearance. Again, I do not consider that it would be prominent in the street scene. In my opinion, the proposal would be in keeping with the open character of Broughtons Drive. I conclude, therefore, that the proposal would not cause harm to the character and appearance of the area and that, in this respect, the proposal would not be contrary to Policies ST5 and ST6 of the South Somerset Local Plan adopted in 2006.
6. I will now turn to the living conditions of the occupiers of neighbouring properties. In terms of overlooking, there would be a small high level window to a shower room at first floor level in the eastern elevation of the proposal. This would be fitted with obscure glass to ensure that overlooking of Eldhrimir would not take place. However, the first floor of the rear elevation of the proposal has three windows which directly face over the rear gardens of Highdene and Konli. Of the three windows, one is landing window and another is a bathroom window which could be fitted with obscure glazing. The third window is a bedroom window which would be about 7 metres from the appeal site's boundary with Highdene. It would also be the closest of the windows to that part of the garden at Highdene which is adjacent to the house and where most activity is likely to take place.
7. Given the proximity of the proposal to the garden of Highdene and the direct nature of the overlooking which could take place from the bedroom window, I consider that the proposal would result in an unacceptable loss of privacy to the occupiers of that property, but not to the occupiers of Konli because the garden to that property is further away from the proposal. Although the Inspector who determined second appeal found that the proposal before him would not have an unacceptable impact on neighbours in terms of overlooking, I have not been provided with the details of the layout of the second appeal scheme. Moreover, the proposal before me is closer to the appeal site's boundary with Highdene than the second appeal scheme.
8. The proposal would also have an effect on the sunlight received by the neighbouring properties, including Edhrimir where there is a west facing sun lounge. However, the Inspector who determined the second appeal found that the scheme before him would not have an unacceptable impact on neighbours in terms of overshadowing. I consider that, in terms of its effect on overshadowing, the scheme before me is not significantly different from that before the previous Inspector. Consequently, I consider that the proposal would be acceptable in terms of overshadowing. However, having regard to my findings in the previous paragraph, I conclude that the proposal would result in harm to the living conditions of the occupiers of a neighbouring



property in terms of loss of privacy and that the proposal would be contrary to Policy ST6 of the Local Plan.

9. In arriving at my decision, I have been mindful that national planning guidance, in Planning Policy Statement 1: Delivering Sustainable Development (PPS1) and Planning Policy Statement 3: Housing (PPS3), encourages the redevelopment of previously developed land in sustainable locations such as the appeal site. However, PPS1 and PPS3 also stress the importance of good design. Whilst the principle of redeveloping the appeal site is acceptable, this does not outweigh the cogent harm to planning objectives that I have found.
10. Other issues raised by third parties include additional traffic movements and highway safety, parking, drainage, access to a sewer pipeline, and precedent. However, none of these issues has been material to my decision making.
11. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

James Ellis

INSPECTOR

