



Appeal Decisions

Site visit made on 10 June 2008

by **K D Barton** BA(Hons) Dip Arch DipArb
RIBA FCI Arb

an Inspector appointed by the Secretary of State for
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Decision date:
16 June 2008

Appeal A: APP/R3325/A/08/2065940

Appeal B: APP/R3325/E/08/2065938

Nimmer Mill, Chard, Somerset TA20 3AD

- Appeal A is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant planning permission.
- Appeal B is made under section 20 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* against a refusal to grant listed building consent.
- The appeals are made by Chris Black against the decisions of South Somerset District Council.
- The applications Ref 07/00858/FUL and 07/01278/LBC, both dated 8 March 2007, were refused by notices dated 6 November 2007 and 11 October 2007 respectively.
- The development proposed is "modification of approved plans for stair tower and variation of window and door designs".
- The works proposed are the "variation of the design of the stair tower – cladding and top to include wind turbine also variation of window designs".

Decision

1. I dismiss the appeals.

Effect on the Architectural and Historic Interest of the Listed Mill

2. Nimmer Mill, which is listed Grade II, dates from about 1800 and is mostly built of stone and partly rendered. In my view, the fenestration gives a horizontal emphasis to the elevations. Planning permission and listed building consent were granted in July 2002 for the continued use of the mill for manufacturing purposes, the creation of a dwelling and workshop in the southern section, the creation of a dwelling in the northern section and the rebuilding of a storage shed. This included a tower with a horizontal level of glazing at ground floor, a band of corrugated metal cladding above and a glazed cupola on the top. I consider that this elevational arrangement complemented the horizontal emphasis of the mill.
3. The tower that has been constructed on site is open at the top, has vertical bands of clear corrugated pvc sheeting instead of glass, vertical bands of corrugated metal sheeting, and windows with a vertical emphasis. In my view the elevational treatment and materials do not 'lighten the impact of the mass' but jars with the horizontality and permanence of the listed mill. Previous owners of the mill might have used 'cheap and cheerful' materials of their time, the stair structure on site replaces an asbestos shed, but in my opinion, the clear corrugated vinyl appears more out of keeping in this rural location than the approved glazing. I do not consider that planting Virginia creeper would lessen the visual impact and add to the 'romance' as the planting might not cling to and fully clad the structure.
4. I accept that the tower stands in the lowest part of the valley but this does not outweigh the detrimental impact it would have on the architectural and historic interest of the listed mill that would be readily apparent from the public footpath

that runs close by. The proposal would therefore be contrary to the aims of national policy as set out in Planning Policy Guidance Note 15: Planning and the Historic Environment and Policies EH3 and EH 5 of the *South Somerset Local Plan* (LP) adopted in April 2006.

Effect on the Living Conditions of the Occupiers of Neighbouring Buildings in terms of Noise and Overlooking

5. Although the tower now has an open top, the approved design had a fully glazed cupola. I do not, therefore, consider that there would be any greater overlooking from the tower as constructed. In any event, mature trees prevent any overlooking of the nearest properties and the house at Nimmer Farm lies between the tower and the external areas associated with the farmhouse.
6. Although noise would travel further than would be the case from an enclosed tower top I do not consider that noise from use of the tower top would be any more disturbing than the noise from neighbours in an adjoining garden.
7. The proposed wind turbine has not been installed and is only shown on the sketch elevations. No details have been submitted of its size or technical specification and it is not mentioned in the submissions from the two main parties. I am therefore unable to consider what impact it might have visually or in terms of noise generated. Consequently I could not allow the application in respect of the wind turbine.

Other Matters

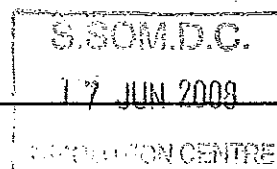
8. I note the support of the new occupiers of Nimmer Farnhouse and the references to a proposed extension to the Tate Modern and a new project at Langport Somerset next to historic warehouses. However, these matters do not outweigh my conclusions set out above, which are based on the planning merits of the appeal proposals.
9. I note the suggestion that it might be interesting to evaluate the lifespan of the pvc cladding and that a temporary permission might be a solution. However, paragraph 109 of *Circular 11/95: The Use of Conditions in Planning Permissions* states that it is undesirable to impose a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent, which I consider to be the case here. It also states that the material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one. The tower would, in my view, be detrimental to the character of the mill whether temporary or permanent.

Conclusion

10. Notwithstanding my conclusion on the matter of overlooking I consider the detrimental effect the proposal would have on the listed mill to be the determining issue in this case.

K D Barton

INSPECTOR





Appeal Decision

Site visit made on 12 May 2008

by **Gareth Symons** BSc(Hons) DipTP
MRTPI

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Decision date:
30 May 2008

Appeal Ref: APP/R3325/A/08/2066324 49 & 50 Hitchen, Merriott, Somerset, TA16 5QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Leslie Thomas against the decision of South Somerset District Council.
- The application Ref: 07/04188/OUT, dated 3 September 2007, was refused by notice dated 31 October 2007.
- The development proposed is the erection of two 2 bedroom starter homes with off road parking and gardens (semi-detached).

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area, the living conditions of neighbours with regard to privacy, and highway safety.

Reasons

3. This is an outline application with all matters reserved for later approval.

Character and Appearance

4. Tree preservation order consent has apparently been granted to reduce the tree on the site and the Council's arboriculture officer is happy with the plot layout proposed. However, I do not have the level of evidence required to substantiate this or a copy of the consent, or a plan, confirming the extent to which the tree would be cut back. I shall therefore consider the impact of the proposal on the tree's current state.
5. This is a substantial tree with a significant spread that incurs well into the appeal site. I acknowledge that the layout of the houses has been reserved for later approval but, bearing in mind the site's restrictions, the houses would probably go, more or less, where indicated. I note the various measurements shown on the illustrative plan. Nevertheless, from what I saw, the existing branches would come very close to the houses. In my view this would lead to pressure to cut back branches for amenity reasons. I am also concerned that building works could incur into the tree's root system.

S.SOM.D.C.

02 JUN 2008

RESOLUTION CENTRE

6. In the absence of more substantive details showing how the houses could be sited to avoid the concerns above, which may include approved tree works, I consider that the contribution the tree makes to the visual amenity of the area would be undermined. The health of the tree may also be at risk. Therefore the proposal would fail to accord with the aims of policies ST5 and ST6 from the South Somerset Local Plan as they relate to development respecting the setting of the locality and avoiding harm to the natural environment. This reason is, by itself, sufficient for the appeal to fail.
7. Houses on this site would relate well to the line of other buildings that include the garages next to the appeal site and the more recent houses built at the end of The Piece. Also their siting behind frontage properties means that they would not impact on the street scene. I acknowledge that the properties would be built in back gardens. However I am not convinced that the layout proposed would be so out of place that this would unduly harm the character and appearance of the area. Each case should be considered on its merits and so I give little weight to concerns about setting a precedent.

Living Conditions

8. The distance between the host properties and the proposed houses shown on the illustrative plan is relatively restricted, but not unduly so. Also, the final design of the houses, and how this could take account of overlooking between these properties and neighbours, could be assessed and controlled at the reserved matters stage. I accept that views from neighbours' houses would change. However, having certain views and devaluation of property are not material planning considerations.
9. With these points in mind I consider that neighbours living conditions would not be materially harmed. Therefore, subject to final details, the amenity aims of policy ST6 from the local plan would be met.

Highway Safety

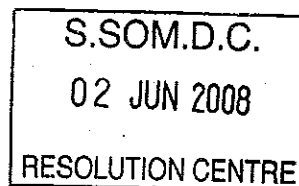
10. I note the concerns about access. However the access already serves a garage court. In my view the vehicle movements associated with two dwellings would not be a significant increase in traffic. It is on this basis that the local highway authority did not object to the application. Against this background I consider that the proposal would not materially increase the risk to highway safety. Therefore the highway safety aim of local plan policy ST5 would be met.

Conclusion

11. I have considered all other matters for and against the scheme. None cause me to dismiss the appeal for other reasons but none persuade me from concluding that planning permission should be denied. Therefore the appeal does not succeed.

Gareth Symons

INSPECTOR





Appeal Decision

Site visit made on 24 June 2008

by **Gareth Symons** BSc(Hons) DipTP
MRTPI

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Decision date:
8 July 2008

Appeal Ref: APP/R3325/A/08/2068897

Greenhill, Combe St Nicholas, Somerset, TA20 3LT

- 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 Mrs P Brake against the decision of South Somerset District Council.
- The application Ref: 07/03595/FUL, dated 26 July 2007, was refused by notice dated 13 September 2007.
- The development proposed is to erect a detached dwelling.

Decision

1. I allow the appeal and grant planning permission to erect a detached dwelling at Greenhill, Combe St Nicholas, Somerset, TA20 3LT in accordance with the terms of the application, Ref: 07/03595/FUL, dated 26 July 2007, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 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 in accordance with the approved details.
 - 3) No development shall take place until full details of soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall show the locations of all existing trees and hedgerows on the land including those to be retained together with measures for their protection in the course of construction, details of any proposed changes in existing ground levels, all planting, seeding and turf. All soft landscape works shall be carried out in accordance with the approved details prior to the occupation of the hereby permitted dwelling or in accordance with a programme to be agreed in writing by the local planning authority.
 - 4) No development shall take place until a schedule of landscape maintenance for a minimum period of five years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

S.SOM.D.C.

09 JUL 2008

RESOLUTION CENTRE

- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification) no first floor windows, rooflights or dormer windows, other than those expressly authorised by this permission, shall be constructed or inserted within the north and west walls and roof slopes.
- 6) No development shall take place until details of the proposed internal ground floor levels, in relation to a fixed datum point, of the hereby permitted dwelling have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until details of proposed boundary enclosures have been submitted to and approved in writing by the local planning authority. The enclosures shall be erected in accordance with the approved details before the hereby permitted dwelling is first occupied and they shall be retained as such thereafter.
- 8) The proposed access over the first 4.5m of its length from the edge of the adjoining carriageway shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details that have been submitted to and approved in writing by the local planning authority before any development takes place. Development shall be carried out in accordance with the approved details before the hereby permitted dwelling is first occupied and retained as such thereafter.
- 9) Before the hereby permitted dwelling is first occupied the areas allocated for parking and turning shown on plan 5670/1 shall be provided. They shall be retained and used for no other purposes thereafter.
- 10) There shall be no obstruction to visibility greater than 900mm above the adjoining road level from a point set back 2.0m from the edge of the highway, along the centre of the access, to points at the extremities of the appeal site frontage to the west and the front garden of Greenhill to the east. Such visibility shall be fully provided before works commence on the erection of the dwelling hereby permitted and retained as such thereafter.

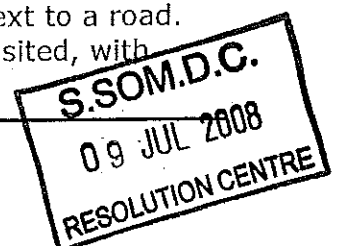
Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the area, highway safety and the living conditions of neighbours with regard to noise, disturbance and privacy.

Reasons

Character and Appearance

3. The proposed dwelling would be behind existing development but this would not be unusual to the character of the area. Next to the appeal site there is a dwelling (no 4 on the submitted site location plan) and its garden which are behind three of the properties in the lane that leads to the appeal site. No 4 is also closer to the rear of existing properties than would be the case with the appeal proposal. I accept that the new property would not be next to a road. However it would be tucked behind the host property, discretely sited, with

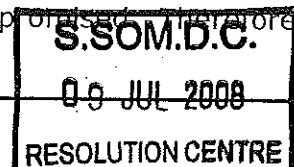


restricted views of it down the driveway. Therefore, the new dwelling's lack of road frontage alone would not make it unduly discordant with the pattern of development in the area.

4. Furthermore I consider that the proposed chalet bungalow appearance with rooms in the roof would relate well to the styles of other existing properties nearby. As such it would be appropriate to its design context. Despite concerns about overdevelopment the Council considers that the plot would be large enough to accommodate what is proposed. I agree.
5. The Council has not drawn my attention to specific evidence of pressure, such as refused planning applications, for this type of development elsewhere, although it is suggested that nearby large gardens could come forward for development if this appeal was allowed. Each application and appeal must, however, be determined on its individual merits and I do not consider that what appears to be a generalised fear about precedent should strongly influence my decision.
6. In view of the above the proposal would meet the design aims of policy STR1 from the Somerset and Exmoor National Park Joint Structure Plan Review and policies ST5 and ST6 from the South Somerset Local Plan.

Highway Safety

7. I accept that the driveway to the existing and appeal dwellings would not be wide enough for two vehicles to pass. However, drivers wishing to turn in would have good views of vehicles coming out of the host property's parking spaces and down the length of the driveway. Therefore conflicting movements would be unlikely, although it may mean vehicles having to wait momentarily on the lane for an exiting driver. That said, bearing in mind the minor status of the road, it's lightly trafficked nature, slow vehicle speeds and the limited number of occasions this is likely to occur, I do not see that this would pose a significant risk to highway safety.
8. It is the case that recommended visibility at the appeal site entrance could not be achieved in one direction. However, given the road conditions described above, this would not be a significant failing. Furthermore, from what I saw several existing entrances also do not meet modern day standards. In this context the proposal would not worsen highway safety unduly.
9. Looking at the junction where the lane meets the main road through the village visibility here would also be below recommended sight lines. Nevertheless the junction already serves, not only the seven properties referred to by the Council, but also other uses including one of the access routes to the nearby recreation ground. It maybe that some traffic is dispersed along other lanes but I very much doubt that the increased use of the junction would be anywhere near what the local highway authority suggests. In the absence of evidence to the contrary I am satisfied that one more dwelling would not cause the harm to highway safety suggested.
10. Although it has been alleged that highway conditions are dangerous I have no evidence, such as traffic accident data, to support these assertions. Even though certain sight lines would not be achieved, I find the background to this case means that highway safety would not be unduly compromised.



the proposal would meet the highway safety aims of structure plan policy 49 and local plan policy ST5.

Living Conditions

11. In my view a small number of slow moving vehicles behind the appeal site boundaries would not unduly affect the amenity of neighbours by virtue of noise and disturbance. Car headlights may be a distraction at certain times of the year or in the night, but this would be a relatively limited interference to living conditions and not sufficient to find the scheme materially harmful. Such disturbances could also be further minimised by requiring appropriate fences or walls. I have therefore imposed a condition to this effect as suggested by the appellant. This also seems sensible in order to safeguard amenity between the host property and the new dwelling.
12. I agree with the Council that due to the appeal dwelling's orientation and use of rooflights, then the proposal would not cause an overlooking problem. Conditions suggested by the Council would be added safeguards in this respect. I accept that neighbours would be able to see the new dwelling. However, because of its distance away from the properties concerned and its limited height, the chalet bungalow would not be overbearing. Maintaining uninterrupted views, in this case, is not a material planning consideration.

Conditions

13. I have looked at the suggested conditions in the light of circular 11/95 and the comments made by the appellant. I have made adjustments to the conditions where I consider it appropriate. Conditions relating to external materials and landscaping are required to safeguard the character and appearance of the area. Those to do with removing certain permitted development rights, floor levels and boundary enclosures are necessary to protect residential amenity. All the others are needed for highway safety reasons.
14. I note the appellant's view that the existing access would be used and, as such, a condition to do with surfacing would not be applicable. This may be so, but the existing access is in this case also the proposed access. Although this is already hard surfaced, I wish to ensure that it remains so in the future and to take account of any changes to the surface that may arise because of this development. Therefore the suggested condition is necessary.

Conclusion

15. I have considered all other matters including a previous refusal of planning permission and the Council's references to Government policy. However, none of these, or any other points made in opposition to the scheme, outweigh what I have found above. Therefore I conclude that the appeal should succeed.

Gareth Symons

INSPECTOR