



# Appeal Decision

Site visit made on 27 April 2009

by **Andrew J Seaman BA (Hons) MA**  
**MRTPI**

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

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Decision date:  
**19 May 2009**

**Appeal Ref: APP/R3325/A/09/2097280**  
**2, Cedar Close, Chard, Somerset, TA20 1DB**

- 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 T J Day against the decision of South Somerset District Council.
- The application Ref 08/03755/FUL, dated 26 August 2009, was refused by notice dated 14 October 2009.
- The development proposed is to erect a three-bed detached dwelling.

## Decision

1. I dismiss the appeal.

## Main issues

2. The main issues to be considered in determining this appeal are as follows:
  - A) the effect of the development upon the character and appearance of the area;
  - B) the effect of the development upon the living conditions of the occupants of both nearby dwellings and the proposed house; and
  - C) the effect of the development upon highway safety.

## Reasons

### *Character and Appearance*

3. The appeal site is located in a residential area of Chard to the south of the estate road of Glynswood. The properties to the north of Glynswood follow a regular linear pattern and are predominantly detached two storey dwellings, set back from the highway and fronted by generally open plan gardens of reasonable depth. The properties to the south are dwellings with a greater degree of detachment, a fact which enhances the generally spacious characteristic of the locality. When viewed from along Glynswood it is evident that a number of the southern dwellings occupy corner plots and front onto side streets such as Cedar Close and Larch Avenue. Their more varied form, which includes the use of dormer windows, distinguishes them from the northerly properties.
4. The appeal site sits between No 2 Cedar Close and No 1 Larch Avenue. The proposal would erect a two storey dwelling upon a significant proportion of the rear garden of No 2. The form of the dwelling would present a front gable towards Glynswood, dissimilar to the side elevations of its adjacent

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neighbours. Whilst the proposed use of brick facings and concrete tiles would reflect its surroundings, the gable itself would be dominated by the unbroken appearance of the large garage door behind a rather incongruous overhanging roof feature. The size of the door and its relationship to the remaining fenestration would, in my judgement, create an unbalanced front to the house that would appear odd within the more regular pattern of dwellings which characterise the Glynswood street scene.

5. The proposed plot would, in the context of the surrounding development, be uncharacteristically narrow and small in area. As a consequence, circulation space around the dwelling would be severely limited and the dwelling would be uncharacteristically close to the highway with only a limited degree of set-back. Indeed, the characteristic spaciousness between the corner properties of No 1 Larch Avenue and No 2 Cedar Close would be eroded. In my view, the property would appear rather uncomfortably shoe horned into the available space and would consequently appear cramped in its context.
6. I therefore conclude that the proposed dwelling would not relate positively to the pattern of development which is established within this part of Chard. I appreciate that the site is previously developed land yet I am conscious that Planning Policy Statement 3 'Housing' (PPS3) seeks development appropriate to its context. In this instance, I consider that the scheme would not meet the objectives of PPS3 and would fall short of the good design sought by Planning Policy Statement 1 'Delivering Sustainable Development'. The appeal scheme would harm the character and appearance of the area. As such, the scheme would be contrary to the design aims of the development plan, particularly as expressed by Policies ST5 and ST6 of the South Somerset Local Plan 1991-2011 and Policy STR1 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011 (SP).

*Living Conditions*

7. The rear gable wall of the proposal would be within approximately 6m of the shared garden boundary with No 4 Cedar Close and, as a consequence, the scale and mass of the proposed house would be visually evident to the occupants of No 4. Whilst its northerly location would not unduly reduce natural light or sunlight to the residents of No 4, such a relationship would erode the quality of this neighbour's outlook.
8. I am mindful that the proposal would contain only one obscure glazed first floor window facing south toward the rear garden of No 4 and thereby the scheme would not substantively increase the overlooking of this property; however, in my view the living conditions for the occupants of the proposed bedroom would be unacceptably impaired by the presence of only one obscure glazed window which would provide natural light but no reasonable outlook.
9. Neither of these concerns when considered in isolation would warrant dismissal of the appeal scheme. In combination, however, they support my view that the proposal would be an unacceptable form of development.
10. I am satisfied that the separation distance between the proposal and the dwellings to the north of the Glynswood road would be sufficient to avoid any undue overlooking between the occupants of the respective properties.

*Highway Safety*

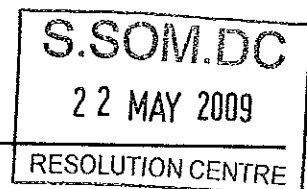
11. The proposal would provide at least two car parking spaces for vehicles associated with No 2 Cedar Close. I am not persuaded that the size or alignment of such spaces, particularly given the existing parking use of the proposed area, would prohibit their effective use. The new dwelling itself would contain a large garage which would be capable of accommodating at least one, if not two, moderate sized vehicles. I consider that such a level of provision, in an urban area where unrestricted on-street car parking exists, would also be adequate.
12. The extent of on-street manoeuvring resulting from the proposal would not be unusual in a residential area and upon an unclassified road where vehicles generally cannot manoeuvre within their plots. In such a context, I am not persuaded that the free flow of traffic would be interrupted to the extent that would be hazardous to road users thereby justifying dismissal of the appeal. I consequently conclude, with due regard to the provisions of the SP and Policy 49, that the scheme would provide adequate parking for both the occupants of the proposal and No 2 Cedar Close and would not harm highway safety.

*Summary*

13. Whilst the proposal would not harm highway safety, it would harm unacceptably the character and appearance of the area. Such harm warrants dismissal of the appeal. The unacceptability of the scheme is supported by the effect of the development upon the living conditions of No 4 Cedar Close and by the poor detailing of the upper bedroom which would be served only by an obscure glazed window.
14. I have noted that the property proposed is intended for occupation by the appellants' son but I have little information relating to his specific personal needs. Consequently this is a consideration that carries little weight in support of the appeal. I have considered all other matters raised, including the limited information regarding other new development elsewhere in Chard and the representations of nearby residents. However, with regard to all matters relevant to the appeal site itself, nothing leads me to a different decision.

*A J Seaman*

Inspector





# Appeal Decision

Site visit made on 24 April 2009

by **Andy Harwood** CMS MSc MRTPI

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Decision date:  
**19 May 2009**

## Appeal A) Ref:APP/R3325/A/08/2092830

### Manor Farm, Mill Lane, Whitestaunton, Nr Chard, Somerset, TA20 3DL

- 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 A Culley against the decision of South Somerset District Council.
- The application Ref 08/02338/COU, dated 16 May 2008, was refused by notice dated 24 July 2008.
- The development proposed is the retention of garden for Manor Farm.

## Appeal B) Ref:APP/R3325/A/09/2096173

### Manor Farm, Mill Lane, Whitestaunton, Nr Chard, Somerset, TA20 3DL

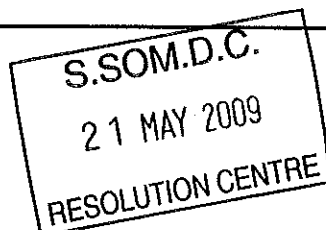
- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice, within the prescribed period, of a decision on an application for planning permission.
- The appeal is made by Mr A Culley against South Somerset District Council.
- The application Ref 08/04930/COU, is dated 14 November 2008.
- The development proposed is the retention of garden for Manor Farm.

### Appeal A) Decision

1. I dismiss the appeal.

### Appeal B) Decision

2. I allow the appeal and grant planning permission for the retention of garden at Manor Farm, Mill Lane, Whitestaunton, Nr Chard, Somerset, TA20 3DL in accordance with the terms of the application, Ref 08/04930/COU and the plans submitted therewith, subject to the conditions set out below:
  - i) The use hereby permitted shall cease within 1 month of the date of failure to meet any one of the requirements set out in (a) to (d) below:-
    - a) within 2 months of the date of this decision a scheme of landscaping and boundary treatment (which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
    - b) within 9 months of the date of this decision the scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.



- c) if an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

### **Procedural Matters and Main Issue**

- 3. The terracing of the land, construction of a circular grassed mount, the planting of some trees and the construction of the pond have already taken place and the whole of appeal site A is being used as a garden area with site B being a smaller part of this. Terraces have also been formed on the area of the existing garden which is not within either of the appeal sites. Appeal site B is almost entirely within the village Conservation Area. The larger site for appeal A extends northwards of the Conservation Area boundary. Both sites are within the Blackdown Hills Area of Outstanding Natural Beauty (AONB).
- 4. The location plans for these appeals show two property names although it is confirmed by the appellant that his property is now entirely known as Manor Farm. It is clarified within the appeal representations that drawing "twelve rev 3" was submitted subsequent to the submission of the planning application being considered in appeal B. It was submitted after many of the consultation responses were received by the Council. I will therefore consider the appeal on the basis of drawing "twelve rev1" dated 13 August 08 which was subject to the consultation process. Of the two location plans submitted with appeal B, neither shows a site boundary that coincides precisely with this plan. I will deal with the site boundary as defined on "twelve rev1" which is at a larger, more detailed scale.
- 5. The main issue common to both appeals is the effect of the garden areas on the character and appearance of the area. In relation to this, it is necessary to consider whether the developments preserve or enhance the character or appearance of the Conservation Area as well as its setting and whether the natural beauty of the AONB would be at least conserved.

### **Reasons**

- 6. Whitestaunton is an attractive rural settlement which nestles in the base of a valley. There is a core to the settlement around the Old School House and St Andrew's Church but the general pattern of settlement is irregular, including a number of dwellings of varying designs and sizes.
- 7. I am not told when the Conservation Area was defined but the boundary cuts through the site close to where the land level rises to the north. The adjoining Rectory has a large garden area mainly on level land rather than the rising land. This is within the Conservation Area. However, it seems to me that apart from the large landscaped grounds of the Manor House, the tradition in this settlement is for domestic gardens to be contained within the lower areas between adjoining buildings and not extending towards the open countryside, up the valley sides.
- 8. It is clear that prior to the landscaping works and construction of the pond,

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both appeal sites were formerly part of a grassed paddock or field. It is also accepted that they were historically an orchard. Photographic information provided shows that before the current developments, the sites were free of most fruit trees, laid to grass which had been disturbed by wheels and was being used for storing agricultural implements. At times the sites were clearly untidy. The sites were not in active agricultural production at the time of those photographs and were different in character from surrounding fields. However, they do not appear to have been in domestic use. It appears that Manor Farm previously had an intimate garden area not extending beyond the various outbuildings.

9. Dwellings and other buildings such as the large agricultural structures to the east, the rising land to the north along with the hedges and trees on the field boundaries, help to limit views into the sites. This degree of enclosure appears to have arisen in recent times and it is clear from the historic map provided that the field would at one time have originally related much more to the open countryside rather than the settlement. Although there is no physical boundary to the Conservation Area on the ground, its limit broadly coincides with the increase in ground levels to the north and east of the site. The higher parts of the site in appeal A, appear to me to relate more to the surrounding countryside than the lower areas which relate more to the the settlement.
10. The Council has an objection to the principle of extending the domestic garden to the extent of appeal site A because they consider it is within the open countryside. A suite of policies has been referred to which emphasise restrictions upon developing in the countryside and Conservation Areas. Those of the South Somerset Local Plan, as adopted in April 2006 (LP), are decisive in both appeals. LP policy EH1 requires development in or affecting the setting of Conservation Areas to preserve or enhance the character or appearance of those areas. LP policy EC2 relates to developments in AONBs and requires the conservation of the natural beauty of the landscape. LP policy ST3 limits developments outside of defined development areas to those which, amongst other things, benefit economic activity.

#### Appeal A

11. I have not been given a map showing adopted development areas but in my judgement this appeal site clearly extends beyond the current limits of this settlement and much of it is in the countryside for planning policy purposes. There would be little economic advantage to this development that I have been made aware of and so LP policy ST3 would not be complied with. However LP policy EC3 clarifies that outside of development areas proposals that would not cause unacceptable harm to the distinctive character and quality of the local landscape can be permitted.
12. The terracing of the land in the manner carried out is not obviously traditional in the area and much of it has taken place on this rising land which is adjoining rather than within the settlement. The character of this land would be very different from the rougher more rural appearance the paddock previously possessed. The mount at the northern end of the site would also be easily seen from the public footpath and is an unusual, incongruous feature in the nearby landscape and in this settlement. Although there may be examples of

similar features elsewhere, this is not a characteristic of the area surrounding this appeal site. The higher parts of this site would be difficult to entirely screen by any additional landscaping and are visible from the adjoining public footpath to the north as well as adjoining land to the south.

13. The terraces would be substantially softened by allowing the grass to grow into a wild meadow as proposed and the trees also help in this regard, although the mound would still be an obvious, alien feature even if this could be ensured. However, the domestic use is likely bring with it activities which would further change the character of the site if they are allowed to continue. Domestic use brings with it the potential for being used regularly as a play space for children including the siting of play-equipment, for the parking of vehicles as well as the positioning of garden furniture, barbeques, washing lines and similar items. These matters would all add materially to a distinct change in character of the land. This would be particularly sensitive on the higher part of the site on the fringe between the historically significant settlement and the nationally important landscape.
14. I have considered, bearing in mind the advice within Circular 11/95 "The Use of Conditions in Planning Permissions", whether conditions could be used to overcome my concerns. It would be possible to prevent the construction of buildings and other structures which would not normally require planning permission within the curtilage of a dwelling<sup>1</sup>. However, it would not be reasonable to overly restrict domestic activities within a garden which could effectively nullify the benefit of a planning permission. Neither would it be reasonable or enforceable to ensure that the grass is not neatly manicured in a clearly domestic manner, as it has been on the lower part of the site closer to the appellant's dwelling.
15. The construction of the pond with yellow Ham stone although currently bright compared to the prevailing stone in the landscape and nearby buildings, this is likely to tone down as it has where used (albeit sparingly) within the quoins on the appellant's dwelling. Furthermore, the viewpoints of this are very limited given that it is located on the lower part of the site close to the dwelling. I could see the pond from the lane running passed the front of the dwelling but this view is across the historic garden area as well as appeal site B, in a domestic context. It may be seen from adjoining private land as well as the farm complex to the north east of the site but only fleetingly through the existing boundary walls and landscaping. It is on land well related to the dwelling and other nearby buildings. Domestic activities taking place on these lower parts of the site, such as those described above, along with the terracing would have a limited impact on upon the character and appearance of the Conservation Area and wider landscape.
16. Although my concerns therefore relate primarily to the use and features on the higher parts of the site, I do not consider that it would be possible in this decision to make the development acceptable. There is no physical separation on site to which I could refer to in making a partly allowed, split decision or by way of planning condition.

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<sup>1</sup> developments permitted by reason of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

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17. Overall therefore, in relation to the main issue, the proposed retention of the garden on appeal site A would cause unacceptable harm to the character and appearance of the area. In particular, the retention of the use would not preserve the character or appearance of the Conservation Area and its setting, contrary to LP policy EH1. The development has a harmful impact upon the natural beauty as well as the landscape and scenic quality of the AONB. This is contrary to the requirements of LP policy EC2 and the advice in Planning Policy Statement 7 "Sustainable Development in Rural Areas" (PPS7). PPS7 states that the conservation of the natural beauty of the landscape and countryside should be given great weight in planning policies and development control decisions. Furthermore, due to these harmful impacts, LP policy EC3 would not be complied with.

#### Appeal B

18. The Council considers that the principle of domestic use of the smaller site is acceptable. This site is entirely on lower land which relates well to the core of the settlement and how it appears to have developed historically. This appeal site does not extend into the open countryside as it is well contained within the buildings on the site and by the surrounding rising land. The domestic use and existing landscaping features on this site would not have a substantial impact upon the surrounding countryside or upon the settlement of Whitestaunton.

19. It is necessary to consider whether conditions should be imposed with respect to the advice in circular 11/95. Any time-limit for implementation is unnecessary as the development has already been partially undertaken. The Council has suggested conditions requiring the submission of boundary and landscaping details. I consider similar conditions are necessary to ensure that the garden area is delineated in a manner appropriate in this sensitive location. These matters can be combined into one condition. Due to the retrospective nature of the planning permission, the condition is worded in a complex manner different from that suggested to me. It provides the Council with control over the submission of details whilst allowing for the possibility of a continued dispute or the failure to implement an agreed scheme.

20. In relation to the main issue in appeal B, the proposed retention of the garden would not be harmful to the character and appearance of the area. In particular, the retention of the use would preserve the character and appearance of the Conservation Area and its setting, and would therefore comply with LP policy EH1. The development conserves the natural beauty of the AONB and therefore complies with LP policy EC2 and the advice within PPS7. There is no conflict with LP policy EC3.

#### Overall Conclusion

21. For the reasons given above and having regard to all other matters raised, I conclude that appeal A) should be dismissed but that appeal B) should be allowed.

*Andy Harwood*

INSPECTOR

