



Appeal Decision

Site visit made on 6 September 2010

by **Nicholas Hammans** FRSA FRTPI
FRGS PPBEng

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

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Decision date:
21 September 2010

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22 SEP 2010

RESOLUTION CENTRE

Appeal Ref: APP/R3325/A/10/2129943

Red Barn Farm, Hare Lane, Broadway, Ilminster TA19 9LN.

- 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 Christopher Weatherill against the decision of South Somerset District Council.
- The application Ref 09/02872/FUL, dated 24 July 2009, was refused by notice dated 9 February 2010.
- The development proposed is erection of a general purpose agricultural building and cover for yard.

Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the amenity value of trees subject to a Tree Preservation Order; whether the location of the proposed development would cause unacceptable harm to the trees, and whether it is justified having regard to the reasons put forward to support it.

Reasons

3. The appeal site adjoins a group of farm buildings in the open countryside, fronting onto a country lane. The farm is active and the existing buildings are in use to house cattle. The farm is expanding and there is a recognised need for bigger buildings. The proposed buildings would be comparable in scale and appearance with the existing group. A few untidy structures would be demolished to make way for them. There is no objection to the resultant appearance of the development. There is no proposal to construct a new access onto the lane. The main issue arises from the proposed location of the new buildings.
4. Among the relevant criteria applied to new development which is otherwise acceptable in principle, Policy ST6 of the South Somerset Local Plan precludes harm to the natural environment of the locality and the broader landscape. Policy EC3 similarly requires respect for the character pattern and features of the surrounding landscape. These policies have been saved for the purposes of the Planning and Compulsory Purchase Act 2004. The Government's Guide to Tree Preservation Orders explains that trees may be worthy of preservation for their intrinsic beauty, for their contribution to the landscape or because they serve as a screen. The Local Plan includes a statement of intent regarding Tree Preservation Orders which is in step with Government guidance.

5. The existing buildings, and the proposed extension site, are partially screened by a roadside hedgerow which includes some large mature trees. On 9 October 2009, soon after the application was submitted, the Local Planning Authority made a Tree Preservation Order (Broadway 1 2009) to protect two groups of trees and 23 specimens on the farm. And on 5 January 2010, shortly before the application was refused, the Order was confirmed. That is the context in which this appeal is to be considered.
6. The proposed development would be close to protected trees in the roadside hedge. Some of the trees have canopies which spread across the lane as well as the appeal site. All have amenity value because of their prominence in the landscape and their appearance by the laneside.
7. I can see that they do not fully represent the typical characteristics of their species. An overhead power line passes through them. One particular oak T3, anciently pollarded, has regenerated huge lateral limbs which spread far and wide. It has high arboricultural, ecological and landscape value. A scots pine T4 has advanced decay in the trunk, which affects the structure of the tree. Nevertheless it is said to have special ecological value. Another tree T5 is a sturdy oak. I conclude that the laneside trees have such a high amenity value that they ought to be conserved. Moreover, their continued preservation would soften and screen the outline of the existing and proposed buildings
8. The proposed development, including an extended hardstanding, would encroach on the root protection areas of preserved trees. The roots of the oak T3 are estimated to extend about 9 metres. Any effective, precautionary buffer-zone should extend to about 14 metres. The proposed building would be within the buffer zone; about 9 metres from the tree. In my opinion the root system of this old pollarded oak is under stress, because of the lane beside it, the hedgebank it stands on, and the compaction of the farmyard. The proposed development would be likely to cause unacceptable harm to this tree and other protected trees in the laneside hedgerow.
9. In principle the appellant has good and sufficient agricultural reasons to extend his buildings and hardstandings. In the course of negotiations, the Council has suggested an adjustment to the siting of the nearest proposed building: to set it further back about 4.6 metres from the established line of the existing buildings. If the development were then to be carried out under supervision, I think such an adjustment would mitigate the arboricultural harm to an acceptable degree. I have considered whether it would be reasonable to grant planning permission and impose conditions to that effect.
10. However, in his recently submitted grounds of appeal the appellant emphasises his reasons, given in a letter dated 14 December 2009, for not changing the site of the new structures. He says setting back would be less (not more) efficient for working the farm, lorry access, frequent machinery and cattle movements; it would be considerably more attractive to the environment than the alternative; and for the sake of security the farm yard would be in one line rather than having a variety of differing access to buildings. Dilapidated buildings would be replaced; and the selected site would utilise ground which already accommodates animals and storage.

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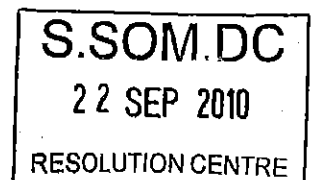
22 SEP 2010

RESOLUTION CENTRE

11. I have some sympathy with the security aspect of the grounds of appeal, because a straight line of buildings could very easily be scanned by CCTV. The other grounds of appeal carry less weight in my decision, because a minor relocation of the buildings would not restrict access for lorries, machinery or animals; and would make little difference to appearance. In his final submissions, the appellant's stance is to cut down the three protected trees at issue, or else to remove their branches and cut trenches as necessary to carry out development in accordance with his submitted plans. So I must determine the appeal on that basis; and I conclude on balance that there is insufficient justification to override the unacceptable risk of harm to the protected trees.
12. I have taken account of the appellant's obvious and constructive commitment to the beauty of the countryside, ecology and good husbandry. And I have also taken account of the views of Broadway Parish Council, the views of the Council's Ward member and all other matters raised in the written representations. For the above reasons I conclude on balance that the appeal should be dismissed.

Nicholas Hammans

Inspector.





Appeal Decision

Site visit made on 1 October 2010

by **C J Tipping** MA(Cantab)

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

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Decision date:
7 October 2010

Appeal Ref: APP/R3325/D/10/2134529

3 Highfield, West Chinnock, Crewkerne TA18 7QE

- 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 Roger Bailey against the decision of South Somerset District Council.
- The application, 10/01503/FUL dated 26 April 2010, was refused by notice dated 20 July 2010.
- The development proposed is the installation of an air source heat pump.

Procedural matters

1. Although the appeal is made by Mr Roger Bailey, it is clear from the application and other submitted documents that he does so in a representative capacity on behalf of the Yarlington Housing Group, owners of the appeal property.

Decision

2. The appeal is dismissed.

Main issue

3. The main issue in this case is the impact of the proposal on the living conditions of occupiers of adjoining properties by reason of noise.

Reasons

4. The appellant proposes the installation of an air source heat pump near the foot of the rear wall of the appeal property. The Council noted that West Chinnock is a rural community where ambient noise levels are very low. That this is the case is not disputed by the Appellant, and my brief observations in the course of my site visit also confirmed it.
 5. Experience with air source heat pumps in other locations led the Council to conclude that installation of such a pump at the appeal property would result in a loss of amenity at neighbouring properties. This would be contrary to development plan policy: Policy EP2 of the South Somerset Local Plan, adopted in April 2006, states that development potentially generating noise will be permitted only where it would not be detrimental to the amenity of noise sensitive developments in the vicinity. Policy ST6 provides that development will be permitted where it does not unacceptably harm the residential amenity of the occupiers of adjacent properties. These Policies were saved by direction of the Secretary of State made on 24 April 2009.
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6. The rear of the appeal property is surrounded by other properties, including 1, 2 and 2a Highfield, 27 and 29 Ridgway and "Aurore" and "Toronga" in Duckpool Lane. The nearest facades of some of these properties lie within about 25 metres of the location proposed for the pump. The occupiers of five of these properties object to the proposal on grounds of noise. Objection to the proposal has also been made by West Chinnock Parish Council.
7. While no ambient noise measurements have been submitted, the appeal property is in a village surrounded by open countryside and ambient noise levels are generally low, as noted by the Council. There is little evidence before me as to the noise output levels of the proposed pump. However, the Council's concern, as expressed by its environmental protection department, based on experience of such pumps elsewhere, is that operation of the pump would generate significant noise. This does not appear to be disputed on behalf of the Appellant.
8. I have taken account of the Appellant's comments as to the siting of the proposed pump at the rear of the appeal property, where the ground level is a metre or so below that of the immediately surrounding area. There is, however, no evidence from which I could conclude that this would sufficiently attenuate the noise generated by the pump.
9. I have also considered whether the concerns of the Council and of local residents might be met by imposition of a condition requiring sound insulation to be installed before the proposed pump is brought into use. There is, however, no evidence before me as to the likely effectiveness of such insulation and therefore as to whether such a condition might provide sufficient attenuation.
10. I therefore conclude that the noise generated by the proposed pump would have a material adverse impact on the living conditions of the occupiers of adjoining properties, contrary to development plan policy. I have had regard to the Appellant's aspiration as a registered social landlord to identify and install cheaper and more effective heating systems for its tenants. In my view, however, this is a consideration which does not outweigh the conclusion I have reached as to the main issue. The appeal therefore falls to be dismissed.

CJ Tipping

Inspector



Appeal Decision

Site visit made on 8 September 2010

by **Nicholas Hammans** FRSA FRTPI
FRGS PPBEng

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

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Decision date:
9 September 2010

Appeal Ref: APP/R3325/D/10/2132764
Danetree, Touchstone Lane, Chard TA20 1RB.

- 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 William Reeves against the decision of South Somerset District Council.
- The application Ref 10/01420/FUL, dated 21 April 2010 was refused by notice dated 27 May 2010.
- The development proposed is a loft conversion and dormer windows to north and south elevation.

Decision

1. I allow the appeal, and grant planning permission for a loft conversion and dormer windows at Danetree, Touchstone Lane, Chard in accordance with the terms of the application, Ref 10/01420/FUL, dated 21 April 2010, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 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 extension 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) The development hereby permitted shall be carried out in accordance with the approved plan 316.001 Revision 1.

Main issue

2. The design and appearance of the proposed dormer windows.

Reasons

3. The appeal relates to a two-bedroom semi-detached bungalow in a suburban neighbourhood which includes a wide variety of residential development. The bungalow has a pitched roof with attic floorspace. The proposed extensions would provide two more bedrooms in the roof, enlarging the building into a two-storey property. Residential development is acceptable here in principle, subject to the criteria of Policy ST6 and ST5 in the South Somerset Local Plan, 2006. Relevant criteria require the architectural design to respect the form and character of the setting; and to do no unacceptable harm to residential amenity by disturbance or overlooking.
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4. The design amounts to two large dormers, front and rear. Both would have virtually flat roofs, rising almost to the ridge height of the building, but not above it. The proposed dormer at the rear, clad in brown uPVC, would look quite disproportionate to the existing elevation, with a very large central window. It would rise above an existing conservatory. However, it would only be visible from the long back gardens of the dwellings on either side and would not be seen from any place open to the public. Its windows would not affect the privacy of nearby properties or do any significant harm to residential amenity.
5. The proposed dormer on the front elevation would be clearly visible from the street. It would extend along most of the frontage of the building. Four dormer windows would be spaced reasonably in proportion to the existing ground floor fenestration and openings, interspersed with uPVC panels and dormer cheeks. A neighbour suggests it would be out of character. I have considered the character of the setting.
6. The appearance of the street is neat and pleasant, with a wide variety of domestic buildings of one or two stories, together with one commercial building on a larger scale. Danetree is one of a small cluster of similar bungalows, on an irregular building line. None of the others have dormers in the front elevation. But they do not establish any distinctive form and character which is recognisable in the neighbourhood at large. So a front dormer would not create a harmful precedent. And they do not share any established symmetry which would be spoiled by the proposed extension. So the relevant Local Plan criteria would not justify a refusal of this proposed residential extension either on grounds of design or appearance.
7. I have taken account of the recommendation of approval from Chard Town Council and all other matters raised in the written representations. For the reasons given above I conclude that the development would comply with the Development Plan and the appeal should be allowed.

Nicholas Hammans

Inspector