



Appeal Decision

Site visit made on 14 January 2014

by **Kathrine Haddrell BA(Hons) BTP MRTPI**

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

Decision date: 27 February 2014

Appeal Ref: APP/R3325/H/13/2204851

Hand Car Wash, Stewley Cross Filling Station, Wood Road, Ashill, Ilminster, Somerset TA19 9NP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mrs Inga Marcinkoniene against the decision of South Somerset District Council.
 - The application Ref 13/02697/ADV, dated 21 June 2013, was refused by notice dated 19 August 2013.
 - The advertisement proposed is described as the display of 2 no free standing signs.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was described on the application form as 'just basic hand car wash' but was more accurately given by the Council in its decision notice and so that is the description that I have used.
3. At my site visit I noted one "sandwich board" advertisement on a trailer relating to the hand car wash in the vicinity of the appeal sites, but that is not what was applied for, and I have determined the appeal on the basis of the application as submitted.

Main Issues

4. The effect of the advertisements on the character and appearance of the area and on highway safety.

Reasons

Character and appearance

5. The National Planning Policy Framework states, amongst other matters, that only those advertisements which will clearly have an appreciable impact on a building or their surroundings should be subject to the local planning authority's detailed assessment and should be subject to control in only the interests of amenity and public safety, taking account of cumulative effects.
6. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the Regulations to control advertisements may be

exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

7. The proposed advertisements would relate to a hand car wash operation situated within a former petrol filling station on the edge of Ashill, a small village located off the A358. This is a National Primary Route to which the national speed limit applies. The proposed advertisements are intended to be placed on each side of the carriageway, which is surrounded by open countryside.
8. Given the general lack of advertisements in the vicinity of the appeal site, I consider that the proposed advertisements would cause a level of visual clutter that would not be appropriate within open countryside. Although the appellant has referred to other advertisements on the A358, I am not aware of the precise circumstances of those advertisements. In any event, those advertisements are not before me and I have determined this appeal on its planning merits.
9. On this matter, I conclude that the proposed advertisements would cause harm to the character and appearance of the area by introducing a level of visual clutter that is uncharacteristic of the countryside.

Highway Safety

10. The Highway Authority has submitted evidence to show a number of road traffic accidents in the vicinity of the appeal site, including one fatality, two serious and 16 slight accidents. The proposed advertisements would not interfere with any directional or traffic signs. Whilst I do not consider that the advertisements themselves would detrimentally affect highway safety, I consider that the daily placing and removal of the advertisements along the verge of a road with fast moving traffic and a history of road traffic accidents would be detrimental to highway safety for the person moving the advertisements. I therefore conclude that the proposed advertisements would have a detrimental effect on highway safety.

Conclusion

11. I have had regard to all matters raised, including the appellant's dissatisfaction with the Council's lack of support for her business, the fact that appellant has invested money in having the advertisements manufactured, the daily removal of the proposed advertisements and the benefit that the proposed advertisements would have in attracting business for the car wash. However, I find nothing to alter my conclusion that the appeal should fail.

Kathrine Haddrell

INSPECTOR

Appeal Decision

Site visit made on 11 February 2014

by **J J Evans BA (Hons) MA MRTPI**

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

Decision date: 5 March 2014

Appeal Ref: APP/R3325/A/13/2209821

57 and 58 Linkhay Orchard, South Chard, Chard TA20 2QS

- 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 Rob Stone (Stonevalley Homes Ltd) against the decision of South Somerset District Council.
 - The application Ref 13/03391/FUL, dated 19 August 2013, was refused by notice dated 9 October 2013.
 - The development proposed is for the erection of a new 2 bed detached bungalow and provision of off street parking for both the new dwelling and the existing dwellings Nos 57 and 58 Linkhay Orchard.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new 2 bed detached bungalow and provision of off street parking for both the new dwelling and the existing dwellings Nos 57 and 58 Linkhay Orchard at 57 and 58 Linkhay Orchard, South Chard, Chard TA20 2QS in accordance with the terms of the application, Ref 13/03391/FUL, dated 19 August 2013, and the plans submitted with it, subject to the conditions listed in the schedule attached to this decision.

Procedural Matters

2. The site address has been referred to by the appellant as being for 57 Linkhay Orchard. The decision notice of the Council, the appeal form, and all subsequent correspondence concerning the appeal with the appellant, has referred to the site address as being 57 and 58 Linkhay Orchard. As this is consistent with the submitted drawings and more accurately reflects the site address, the appeal is determined on this basis.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the surrounding area; and the effect on the living conditions of the future occupiers of the proposed dwelling with particular regard to privacy.

Reasons

Character and Appearance

4. The appeal site lies within a predominantly residential area comprising a mix of houses and bungalows that occupy a variety of different plot sizes. Nos 57 and 58 are semi-detached bungalows that lie at the end of a residential cul-de-sac.

The driveways and garages are to the sides of the bungalows, positioned together. Due to their location at the end of the cul-de-sac, Nos 57 and 58 have larger side gardens than many of the properties surrounding them.

5. The cul-de-sac comprises a mix of detached and semi-detached bungalows. Although detached, the proposed bungalow would be of a similar size, height and design to the adjoining properties, and would be constructed of similar materials. It would be positioned to have similar front and rear building lines to that of No 57, whilst the size of its rear garden and that of No 58, would be comparable with others nearby. The spacing between the proposed bungalow and its side boundary fence would be similar to that found elsewhere in the area.
6. The garages of many of the nearby properties are set well back within their plots. The pairing of long driveways is a characteristic of the surrounding area. The existing access and driveways to Nos 57 and 58 would be largely retained, and would lead into a parking and turning area for these properties and the new bungalow. Although this would increase the width of the area of hard landscaping, the majority of it would be set back from the highway, and due to the level nature of the gardens, would not be harmfully dominant.
7. Although located to the side of No 57, the proposed dwelling would be positioned in line with this pair of semi-detached bungalows. This and the positioning of the proposed dwelling to face the parking area would allow it to be seen from the cul-de-sac, and provide it with an active frontage that would relate well to the development in the locality.
8. There are a few trees and bushes within the rear garden of No 57 that would need to be removed to allow the development. Notwithstanding this, due to their small size and location they do not significantly add to the character and appearance of the area.
9. I therefore find that the proposed dwelling would not harm the character and appearance of the surrounding area and would be in accordance with Policies ST5 and ST6 of the South Somerset Local Plan (2006) (LP), and an objective of the National Planning Policy Framework (the Framework), that seeks good design which reflects local distinctiveness.

Living Conditions

10. Many of the houses and bungalows backing onto the appeal site have shallow rear gardens. However, the modest proportions and single storey nature of the proposed dwelling, combined with the provision of a high fence around the garden, would prevent any significant overlooking into neighbouring properties.
11. Due to its size and the close knit pattern of the houses and bungalows in the area with shallow back gardens, the large rear dormer to No 40 has extensive views into most of the neighbouring properties. The proposed bungalow would have a blank gable end facing this dormer window. This, combined with the boundary fence, would not result in any greater overlooking over the proposed property from No 40 than is experienced by its neighbours.
12. The position of the proposed bungalow on the site would provide sufficient separation between it and the surrounding properties to prevent any harmful overshadowing and loss of daylight.

13. The appellant considers the Council have incorrectly applied LP Policy ST6, which seeks, amongst other things, to protect the living conditions of the occupiers of adjacent properties. However, the Council has also referred to the Core Planning Principles of the Framework, in which there is a requirement to provide for both high quality design and a good standard of amenity for all existing and future occupants. As such I am satisfied that the Council have adequately considered the impact of the proposal on the living conditions of both existing and future occupiers.
14. I therefore find that the proposed bungalow would not unacceptably harm the living conditions of the future occupiers of the proposed dwelling with particular regard to privacy. It would be in accordance with LP Policy ST6, and the Framework.

Other Matters

15. I note that the garage for No 57 has already been demolished, and there is concern that this, and the proposed bungalow, would set a precedent for similar developments. However, each application and appeal is considered on its own individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
16. Local residents are concerned that the proposed bungalow would exacerbate traffic congestion and parking problems, and have an unsuitable access. The proposed bungalow would be positioned at the end of a residential cul-de-sac, where most properties have off-road parking provision. The scheme would provide sufficient parking for both the new dwelling and Nos 57 and 58, and utilise much of the existing access to the properties. In the absence of any technical evidence to support the concerns of the local residents, and noting the absence of objections from the highway authority, I am not persuaded that there would be an unacceptable impact on highway safety within the area.
17. Concern has also been raised that the bungalow would result in noise and disturbance. Although some disturbance would be inevitable, it would in any event, be subject to other legislative controls.
18. I also note the concern that the proposed dwelling would harm wildlife. However, I have no firm evidence before me that the proposed bungalow would significantly compromise any wildlife value that the site may have.
19. Although I acknowledge the fears that the proposed bungalow would reduce property values, this is not a planning matter. The planning system is not concerned with financial loss, but with whether a proposal would unacceptably affect matters that ought to be protected in the public interest.
20. I therefore find that none of these matters outweighs my findings on the main issues.

Conditions

21. The conditions suggested by the Council have been considered against the requirements of Circular 11/95 – *The Use of Conditions in Planning Permissions*. Where necessary and in the interests of clarity and precision they have been altered to better reflect the guidance in Circular 11/95. The standard time limit condition has been imposed, as has one requiring the

development to be carried out in accordance with the approved plans, so as to avoid doubt and in the interests of proper planning.

22. To protect the character and appearance of the area and to allow the use of materials that would harmonise with the neighbouring properties, a condition has been imposed requiring the submission of samples for external surfaces.
23. I have also imposed a condition requiring further details of the parking and turning areas and satisfactory surface water drainage provision, in the interests of highway safety and to protect the character and appearance of the area.
24. The material change of use of the garage to a purpose not ancillary to the domestic use of the bungalow would require express planning permission. A condition to guard against such use is not therefore necessary, although I have removed permitted development rights to prevent the garage being used for further residential accommodation, so as to protect the living conditions of the neighbouring property from overlooking.

Conclusion

25. For all the reasons given above, I conclude that the appeal should be allowed.

J J Evans

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans (except where directed otherwise by the conditions below): P-100, P-110, P-200, P-201, P300, and P-301.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the parking layout and turning area, including details of the surfacing, have been submitted to and approved in writing by the local planning authority. Such details shall be implemented prior to the first occupation of the dwelling hereby approved and shall thereafter be kept clear of obstruction at all times and not used other than for the parking or turning of vehicles in connection with the development hereby approved.
- 5) No development shall commence until a scheme for the discharge of surface water from the site (including surface water from the parking and turning areas), has been submitted to and approved in writing by the local planning authority. The approved details shall be completed and be fully operational before the development hereby permitted is first brought into use.

- 6) 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), the garage hereby permitted shall not be used other than for the parking of domestic vehicles and not for ancillary residential accommodation without the prior express granting of planning permission from the local planning authority.