



Appeal Decision

Site visit made on 3 January 2023

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/R3325/W/22/3304608

Shepherd's Copse, Wambrook, Chard TA20 3DF

- 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 Stephen Haines against the decision of South Somerset District Council.
 - The application Ref 21/01903/FUL, dated 11 June 2021, was refused by notice dated 16 February 2022.
 - The development proposed is described in the application as new two-storey dwelling and ancillary garage/workshop.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the site is a suitable location for the proposed development having regard to the provisions of local and national policy and the accessibility of services and facilities; (ii) the effect of the proposal on the character and appearance of the area; (iii) highway safety; and (iv) biodiversity.

Reasons

Location of development

3. The dwellings that are positioned within large plots on the three sides surrounding the site represent a loosely defined ribbon of existing development on the periphery of the small hamlet of Higher Wambrook, rather than being an intrinsic part of it. Although the site is not isolated, it covers a wide and naturally vegetated area where the gap between properties either side of it is substantial, and therefore it could not reasonably be considered to be within any defined settlement.
4. The settlement strategy of the South Somerset Local Plan (2015) (SSLP) is to focus development on the main towns, with Chard being the nearest to the site. Outside the market towns and rural centres, rural settlements are considered to be part of the countryside where development is strictly controlled. Policy SS2 of the SSLP limits housing development to that meeting an identified need, particularly affordable housing. Furthermore, it maintains a presumption against housing development unless these settlements have access to two or more key services.
5. The proposal would not deliver affordable housing as set out in the National Planning Policy Framework (the Framework). Despite not being a bungalow or two bed accommodation that might be suited to particular occupants, it would nevertheless provide two storey family accommodation of a relatively modest scale, commensurate with nearby properties. Furthermore, I have not been

provided with any substantive evidence to demonstrate there is no need for this particular form of development.

6. However, even if I were to consider the site to be part of a rural settlement, the faith facility, pub and farm shop are not clustered together and are some considerable distance away from the site. They would be accessed via unlit country lanes with no pavement. This would not be an inviting route for pedestrians or cyclists to have to navigate, particularly in the dark. Consequently, future occupants would be likely to be largely dependent on private vehicles for access to these limited facilities and beyond to Chard or other service centres to meet their day-to-day needs.
7. Therefore, I conclude on this main issue that the site is not a suitable location for the proposed development having regard to the provisions of local and national policy and the accessibility of services and facilities. For the above reasons, the development would be in conflict with Policies SD1, SS1 and SS2 of the SSLP, which together in this respect direct new housing towards locations that have access to key services. There would be conflict with chapter 9 of the Framework which amongst other things gives priority to pedestrian and cycle movements, and so far as possible, facilitating access to public transport.

Character and appearance of the area

8. The appeal site is within a large and naturally vegetated field on a steep slope where views across the valley and into the open countryside are available. Although there are several properties in the vicinity, the immediate area surrounding the site is primarily rural where the slopes and woodland trees of varying maturity form a strong characteristic of the area that is designated as being within the Blackdown Hills Area of Outstanding Natural Beauty (AONB).
9. The proposed design, scale and spacing, and use of render would reflect that of other properties in the wider area. The proposed position of the property would be below the ridge line and against a backdrop of mature/semi mature trees. However, even if local stone were to form an external material finish, the elevated siting of the proposed property some distance from the access lane would not reflect the layout of properties either side and would introduce a prominent and imposing addition of built form into the rural landscape.
10. Whilst part of the site may be within an area of ancient woodland, it is largely within a clearing and would not require the removal of any trees. Furthermore, the suggested ground protection measures are reasonable, and I have not been provided with any substantive evidence that demonstrates they would be ineffective at maintaining the landscape features of trees within the site. Despite the appellants' additional planting of new species near the site, the introduction of buildings with associated residential activities would permanently disturb the natural landscape character that provides a buffer to the core area of woodland nearby. For the above reasons, the proposal would fail to conserve and enhance the landscape and scenic beauty of the AONB, to which the Framework attaches great weight.
11. Therefore, I conclude on this main issue that the proposal would cause significant harm to the character and appearance of the area. As such, the proposed development would be in conflict with Policies EQ2, EQ4, EQ5 and EQ6 of the SSLP which in this respect seek to conserve and enhance the landscape character of the area and maximise opportunities for enhancement of natural habitats. The proposal would conflict with chapter 15 of the Framework which amongst other things attaches great weight to the protection and enhancement of valued landscapes.

Highway safety

12. Access to the site from the highway is on a steep gradient, with clear views available in both directions. Based on my observations on site, the provision of visibility splays could be secured by means of a planning condition if I were minded to allow the appeal. The appellant advises that the parking would be at the foot of the slope to avoid substantial earthwork higher up the site and that they do not intend to substantially alter the existing access. However, the submitted plans show a narrow access arrangement surrounded by retained trees and their root protection areas. It does not annotate parking spaces and does not demonstrate how vehicles would be able to turn within the site to exit in a forward gear. As a result, it is likely that vehicles would be required to reverse onto the highway or attempt to park on a narrow verge. Accordingly, the proposed layout would not provide sufficient parking and turning to allow vehicles to enter/exit the site in a safe and suitable manner.
13. I therefore conclude on this main issue that the proposal would have a harmful effect on highway safety. As such, the proposal would be in conflict with Policies TA5 and TA6 of the SSLP which amongst other things seek to deliver car parking at levels appropriate to the development and its location. There would also be conflict with chapter 9 of the Framework which seeks to ensure that a suitable access to the site can be achieved for all users.

Biodiversity

14. The submitted ecology report recommends that a static bat detector survey is required owing to the high value habitat surrounding the site. No such survey has been provided.
15. The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. Without any survey of the relevant features, it is simply not known whether protected species are present and, if there are, whether mitigation measures would be appropriate. There is a further question concerning the implementation of any such measures. Given this degree of uncertainty, the use of conditions would not be reasonable in this case.
16. The absence of sufficient information means I cannot rule out potentially significant harm to biodiversity. As such, the proposed development would be contrary to Policy EQ4 of the SSLP which seeks to promote biodiversity through an assessment of existing nature conservation assets on a site. It would also fail to accord with paragraph 180 of the Framework where it states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other Matters

17. The Council has confirmed that, since the refusal of the planning application and the submission of the appeal, Natural England has raised a potential further issue in respect of phosphate mitigation in connection with new housing within the River Axe catchment.
18. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated site falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me

to examine this matter further, and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the European designated site.

19. However, as the main issues regarding the suitability of the location for housing, character and appearance, highway safety and biodiversity provide clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision, since any findings on this issue would not change the appeal outcome.

Planning Balance

20. I acknowledge that the Council cannot demonstrate a 5-year land supply. However, in accordance with footnote 7 of the Framework, as I have found the scheme would neither preserve nor enhance the character or appearance of the AONB, a designated area, it is the case that the policies in the Framework provide a clear reason for dismissing the appeal.
21. In the context of the development plan, I have found that the proposal would be in conflict with Policies SD1, SS1, SS2, EQ2, EQ4, EQ5, EQ6, TA5 and TA6 of the SSLP. In this respect, I have found these policies to be generally consistent with the relevant aims of the Framework, where it says decisions should provide a safe and suitable access and give priority to pedestrian and cycle movements, conserve and enhance landscape and scenic beauty and avoid developments that would cause significant harm to biodiversity. Therefore, I give the conflict to these policies substantial weight.
22. The proposed new property would make a modest yet meaningful contribution towards a shortfall in housing supply and would provide a family home that would generate short term employment opportunities during its construction, which weighs moderately in favour. Given the lack of information regarding the effects of the scheme on biodiversity and the effect on the AONB, the environmental benefits would be limited. For the above reasons, the proposal would not accord with the development plan when considered as a whole.

Conclusion

23. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed and planning permission is refused.

J Hills

INSPECTOR