



## Appeal Decision

Site visit made on 16 July 2019

by **Mike Robins MSc BSc(Hons) MRTPI**

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

Decision date: 5<sup>th</sup> September 2019

---

**Appeal Ref: APP/R3325/W/18/3217769**

**Former Telephone Exchange, High Street, Milborne Port,  
Sherborne DT9 5AG**

- 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 Heather Turner against the decision of South Somerset District Council.
  - The application Ref 18/01879/FUL, dated 12 June 2018, was refused by notice dated 7 November 2018.
  - The development proposed is the demolition of the two former telephone exchange buildings, and the erection of a new two-bedroomed dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider that there are two main issues in this case:
  - The effect of the proposed development on the character and appearance of the Milborne Port Conservation Area (CA) and the setting of nearby listed buildings; and
  - The effect on the living conditions of future residents, with particular regard to light.

### Reasons

3. The appeal site is a small plot of land currently occupied by former telephone exchange buildings, which are reported to have been used previously for commercial purposes. The plot lies to the rear of an area of open land, referred to as The Clump, on which there are a number of mature trees and the base of a medieval cross, moved to this site in the 1950s and listed at Grade II. A short distance along Bathwell Lane lies the Grade 1 listed St John the Evangelist's Church, although it is separated from the site by the Church House. The proposal would demolish the existing buildings, replacing them with a two-storey dwelling on a slightly larger footprint.

### *Heritage Assets*

4. The CA covers the heart of the village where traditional stone cottages and terraces line High Street, but also includes the more extensive open areas around the church. Its significance derives from its range of vernacular buildings, street patterns and relationship with the church and associated religious buildings. The Clump lies in a prominent position on approach to the

main part of the village providing an important component of the setting of the church and of the CA, including the transition between these two areas. The mature trees, open aspect and historical connections with the cross contribute to its significance to this setting.

5. There are listed buildings surrounding the site, of which the principle buildings of relevance are the base of the cross and the nearby church. While the church is clearly an important building, there would be no direct visual links with the site. Nonetheless, the Clump forms a part of its setting as well as the principal component of the setting of the base of the cross, and one that would be regularly passed by the majority of those seeking to enjoy the seating on the Clump or reach the church on foot or by car.
6. The existing buildings are relatively low key and while they do little to enhance the CA or the setting of the listed buildings, they are recessive and relatively well screened by existing tree canopies and the walls to either side. The proposed dwelling would be a narrow building with a very steeply sloping roof. While I consider that the introduction of a residential property, effectively extending the presence of such properties along High Street, would not, on its own, be harmful, the design and particularly the potential effects on the nearby trees would be.
7. The site is constrained, and the tall narrow house proposed would appear squeezed into the plot in a contrived way, which is neither reflective of the traditional terraced properties, nor the rather more spacious infill developments that are found nearby. It is a design that responds not to the character and appearance of the CA, but to the constraints of the narrow plot and overhanging vegetation.
8. Included with the application was an arboricultural report that suggested that the trees could be preserved during the development through the use of extensive no-dig construction techniques and a 5-metre crown uplift.
9. My own observations show the large and mature lime and beech lying in very close proximity to either side of the plot, on land outside of the control of the appellant; they significantly overhang and dominate the site. Even the crown of the substantial turkey oak near to the cross base extends towards the site and increases the level of enclosure engendered by these important trees.
10. Substantial branches cross the site at the level of the current ridge and the trunk of the beech lies immediately adjacent to the low wall dividing the site from the Clump.
11. While I note the findings of the arboricultural report, I have very grave concerns over the effect that replacing the small, single storey buildings with a far more substantial two-storey dwelling would have. It would be set in very close proximity to the trees themselves and would include a large proportion of their root protection areas (RPAs), particularly the mature beech, which has a low tolerance for development.
12. The arboricultural report itself notes<sup>1</sup>, in repeating aspects of BS 5837<sup>2</sup>, that ideally the RPA should be undisturbed and that the ability of a tree to tolerate disturbance is dependent on a number of conditions, including its maturity,

---

<sup>1</sup> Appendix 5

<sup>2</sup> BS 5837:2012 - Trees in relation to design, demolition and construction.

with older trees less successful in adapting to new conditions. In addition, it sets out that site specific and specialist advice regarding foundation design in such circumstances need to be sought. However, despite references to a structural engineer's plans, no such plans have been provided, and the report provides only a generic response. In relation to a lightly used driveway or a smaller percentage of a RPA this may have been acceptable. In this case, I consider there remain significant questions over whether there would be harm to the important trees immediately adjacent to the site.

13. Furthermore, I note that a minimum suggested response is for a crown lift on all the trees to 5 metres. The existing crowns are at approximately 2 metres, providing a coherent and relatively dense crown spread across the site, and in part screening the existing buildings at the rear. A crown lift would both unbalance the trees, introducing a more managed and less natural form, and open up views towards the built form on the site. In addition, the very close relationship between the site and the trees, which are all deciduous, would lead to effects on living conditions, which I address below, as well as pressure to prune, continually lift or even remove trees.
14. Overall, I consider that there is insufficient evidence to demonstrate that harm would not arise to the trees from both construction and longer-term pressures upon them. I note the appellant suggests that such pressures would occur if a continued commercial use was made of the existing buildings; I disagree. In residential circumstances the sensitivity to such impacts is inevitably higher. These trees are an important part of the CA, contributing directly to its significance. Harm to these would result in a diminution of the quality of the Clump and impacts on the settings of the listed buildings and on the CA itself, whose character and appearance would fail to be preserved.
15. The proposal would conflict, in terms of its design and its effect on the trees with Policies EQ2 and EQ3 of the South Somerset Local Plan (the LP), which seeks development that would conserve and enhance the landscape character of an area, respecting the local context and safeguarding the historic environment.
16. In terms of national policy under the National Planning Policy Framework (the Framework), I consider that this harm should be considered as less than substantial, it nonetheless must be given considerable importance and weight.

#### *Living conditions*

17. I have set out above the circumstances in relation to the existing trees. Even were a crown lift to be carried out, the kitchen, which would form the larger of the two areas proposed on the ground floor, would be heavily shaded with very limited outlook. Rooms on the first floor with small windows to the road or over the small garden would be reliant on skylights, which would have heavy foliage shading for much of the year.
18. To my mind, the heavy and persistent shading that would be associated with the existing trees would not be conducive to a quality living environment and reemphasises my concerns regarding the pressure to lift, prune or even fell the trees. As set out in BS 5837, the relationship of buildings to large trees can result in apprehension and future pressure for removal. The introduction of a residential use here would not lead to acceptable conditions for future occupants in terms of light. The proposal would conflict with LP Policy EQ2 in

this regard, which seeks the creation of quality spaces, and with the Framework, which seeks places that provide a high standard of amenity for existing and future users.

### **Planning Balance and Conclusion**

19. The appellant suggests that the existing buildings, particularly if left to degrade further through neglect or vandalism, are a continuing impact on the Clump and the CA. However, while I accept that this is a risk, they are currently well screened and relatively low-key, and allowing a development that would lead to harm is not an appropriate route to address this matter; I can give limited weight to the public benefit of removing the existing buildings in this way.
20. Limited other public benefits are identified by the appellant to set against the significant weight that I have given to the less than substantial harm to the heritage assets and to the harm to living conditions of future residents.
21. I note the appellant also refers in their application documents to the lack of a five-year housing land supply and the presumption in favour of sustainable development. I have limited further arguments on this matter, but consider that the harm to the heritage assets is of particular importance and addressed by policies in the Framework that provide a clear reason for refusing the development proposed.
22. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Mike Robins*

INSPECTOR