

APPEAL DECISIONS**PLANNING COMMITTEE WEST****TUESDAY 23 JANUARY 2024**

Application No: 44/22/0012

Address: BEACON LANE FARM, BEACON LANE, VOXMOOR,
WELLINGTON TA21 9NX

Description: Variation of Condition No. 08 (occupancy restriction, to vary the wording of the condition) of application 44/21/0003 at Beacon Lane Farm, Beacon Lane, Voxmoor, Wellington

Application Decision: Delegated Decision

Appeal Decision: Allowed



Appeal Decision

Site visit made on 19 September 2023

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023

Appeal Ref: **APP/E3335/W/23/3320366**

Beacon Lane Farm, Beacon Lane, Voxmoor, Wellington TA21 9NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs J Coate against the decision of Somerset Council.
 - The application Ref 44/22/0012, dated 28 October 2022, was refused by notice dated 18 January 2023.
 - The application sought planning permission for conversion of dog breeding kennels to 2 No. self contained holiday accommodation units with change of use of dog washing/grooming/prep building to laundry and drying room and use of ancillary residential accommodation as managers dwelling at Beacon Lane Farm, Beacon Lane, Voxmoor, Wellington without complying with a condition attached to planning permission Ref 44/21/0003 dated 4 October 2022.
 - The condition in dispute is No 8 which states that: *The occupation of the residential floor space identified as 'Dwelling' on DrNo 376L/1A, shall be limited to a person solely or mainly working, within the buildings identified as 'Unit 1 and Unit 2' on Dr No. 376/L1A at Beacon Lane Farm, and to any resident dependants.*
 - The reason given for the condition is: *The site lies in area where new residential development is generally restricted to that for which there is a proven functional need. As a bespoke use the Local Planning Authority wish to ensure that the occupation of the residential floor space (Dwelling) at Beacon Lane Farm continues to be occupied in conjunction with the business use at the site (holiday lets identified as Unit 1 and Unit 2 of Dr No 376/L1 A) in accordance with Taunton Deane Core Strategy policy DM2.*
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Decision

1. The appeal is allowed and planning permission is granted for conversion of dog breeding kennels to 2 No. self contained holiday accommodation units with change of use of dog washing/grooming/prep building to laundry and drying room and use of ancillary residential accommodation as managers dwelling at Beacon Land Farm, Beacon Lane, Voxmoor, Wellington TA21 9NX in accordance with the application Ref 44/22/0012 dated 28 October 2022, without compliance with condition number 8 previously imposed on planning permission Ref 44/21/0003 dated 4 October 2022 and subject to the conditions in the attached schedule.

Preliminary Matter

2. The appeal was submitted against the decision of Somerset West and Taunton Council. Since the submission of the appeal, Somerset West and Taunton Council have merged with other Councils to form Somerset Council. As a result, I have referred to Somerset Council in the banner heading above.

Background and Main Issue

3. Planning permission was granted on the site on the 17 January 2012 (reference 44/11/0020) for change of use of land and conversion of redundant agricultural buildings to form a dog breeding enterprise with ancillary residential space. This included Condition number 7 that restricted the residential floorspace forming 'Range A' to 'a person solely or mainly working within the buildings identified as Range B and Range C on drawing number 201/GB1 at Beacon Lane Farm and to any resident dependents'.
4. During the conversion works for that consent, the building comprising Range B partially collapsed. As a result, on the 23 May 2017, planning application 44/15/0024 was granted. As it was determined that Condition number 7 to the previous consent would no longer cover the replacement building, its occupancy was restricted by a Section 106 Legal Agreement. This agreement restricted occupation to a person solely or mainly or last working within the employment units, or, in the event that person dies whilst residing at the residential accommodation, a widow or widower of such a person. The Agreement also allowed any resident dependents provided this is at the same time as the person working or last working within the units or dies whilst residing in the residential accommodation.
5. Following this, on the 4 October 2022, planning permission under reference 44/21/0003 ("the original permission") was granted. This was subject to 9 conditions including Condition 8 the subject of this current appeal that restricted the occupation of the residential floorspace to a person solely or mainly working within the holiday accommodation identified as Unit 1 and Unit 2. The planning permission has not been implemented.
6. The appellant seeks to vary Condition 8 to allow occupation of the residential accommodation by persons employed in the holiday accommodation (removing the requirement that they be solely or mainly working within the holiday accommodation), a person last employed in the holiday accommodation or a widow or widower or dependant.
7. The main issue is therefore whether the condition is reasonable and necessary to justify the location of the dwelling in the countryside.

Reasons

8. The original planning permission was granted for two self-contained holiday units with associated managers residential accommodation. This follows the previous planning permissions on the site for commercial units with an associated residential space for a person working within the commercial buildings. There is therefore a history of residential accommodation on the site associated with commercial use of the other buildings.
9. In light of the S.106 Agreement referenced above, at present the residential accommodation on the site can be occupied by a person solely or mainly or last working within the employment units and any resident dependents, or, in the event that person dies whilst residing at the residential accommodation, a widow or widower of such a person and any dependents.
10. Condition 8 of the original permission the subject of this appeal, is more restrictive as it does not allow for occupancy of the residential accommodation

by a person last employed in the associated holiday accommodation or a widow or widower or dependant.

11. I have had regard to the evidence from the council that occupation of the residential accommodation by a person last employed in association with the holiday accommodation or widow/widower or dependent, would result in the occupation of the residential accommodation being unrelated to the holiday accommodation. The Council's state that the planning history of the site and link to the holiday accommodation formed part of the justification for allowing the associated residential accommodation in a location that they deem would not usually be supported by Policies DM2 and CP8 the of the Adopted Taunton Deane Core Strategy 2011-2028 Development Plan Document September 2012 (CS).
12. Whilst acknowledging the Council's evidence, the S.106 agreement on the site already allows for a situation similar to that proposed by the appellant. Moreover, the inclusion of the words 'last employed' in the appellants proposed condition would prevent occupation of the residential accommodation by a person who now works solely on a permanent basis elsewhere. The link between the residential accommodation and holiday units would therefore remain under the amended wording to condition 8 as suggested by the appellant. I see no reason why the lack of need to be within 'site and sound' of the holiday accommodation justifies a more restrictive wording.
13. It is also common practice and reasonable with proposals involving rural accommodation associated with commercial enterprises, such as agricultural workers dwellings, for a person to remain in the accommodation when they retire or for the accommodation to be occupied by that persons' widow, widower or dependent. Again, the S.106 Agreement in relation to application 44/15/0024 already allows this with the wording of the condition to the first related application 44/11/0020 not in itself justifying the use of the same wording. As a result, the wording to condition 8 is overly restrictive.
14. I now turn to the matter of removal of the requirement in Condition 8 of the original permission for the occupier of the residential accommodation to be solely or mainly working within the holiday accommodation. In light of the residential accommodation only serving two holiday units, it seems to me that this would be unlikely to generate enough work to occupy somebody full-time over a working week. As a result, it would be unreasonable to prevent the person employed in association with the two holiday units from seeking other employment elsewhere to supplement their income should they wish to do so. The wording of the appellant's proposed condition is such that they would still need to be employed in association with the holiday accommodation retaining the link between the residential accommodation and holiday units.
15. The Council reference conflict with Policy DM2 of the CS in their decision notice in relation to the appellant's alternative wording. However, the proposal would retain a suitable tie between the residential and holiday accommodation, and I note that this policy supports the conversion of relevant existing buildings to holiday and tourism uses following business uses and ultimately allows other residential uses in exceptional circumstances. The history of allowing residential floorspace at the site associated with other uses, and proposal to link the residential accommodation to the two holiday units, provides an exceptional circumstance to allow residential accommodation associated with

the two holiday units. A totally unrestricted dwelling would not comply with Policy DM2 and as a result a suitably worded condition is necessary and reasonable linking the dwelling to the holiday accommodation. As the proposal is supported by Policy DM2 of the CS, there is no conflict with Policy CP8 that allows development outside of settlement boundaries where in accordance with a local policy for development.

16. Accordingly, in light of the above, and although a condition is necessary to justify the location of the dwelling in the countryside, the wording is unreasonable. However, I find the appellant's alternative wording to be reasonable. As a result, the appeal proposal accords with Policy DM2 of the CS that, amongst other things, supports holiday and tourism uses in the countryside, and other residential uses in the countryside in exceptional circumstances.

Other Matters

17. The lack of objection to the wording of the related condition to application 44/11/0020 does not justify the imposition of a similar condition to a subsequent proposal on the site that must be considered on its merits. I therefore give this little weight.
18. The Council's evidence raises concern regarding the amended wording of the condition resulting in harm to the Blackdown Hills Area of Outstanding Natural Beauty (AONB). However, given that the proposal would not change the external appearance of the buildings, or be likely to result in any increased activity, noise, or disturbance over and above the existing use of the site, it would not be out of character with, and would conserve and enhance the landscape and scenic beauty of the AONB.

Conditions

19. The Planning Practice Guidance (the PPG) makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. I note that the Council and appellant do not suggest any changes to those conditions originally imposed.
20. For the avoidance of doubt, other than amending Condition 8 to reflect my findings above and amending the time limit condition to reflect the date of the original permission, I have not made any alterations to the remaining conditions within the 2022 consent for which no change is sought.

Conclusion

21. For the reasons given above, and having regard to all relevant material considerations, the amended wording to Condition 8 is reasonable and necessary and the proposal would accord with the development plan. As a result, the appeal is allowed and planning permission granted without compliance with condition number 8 previously imposed and subject to the conditions in the attached schedule.

C Rose

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the 4 October 2022.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - (A2) DrNo ARPC1 Location Plan
 - (A2) DrNo ARPC 2 Self Catering Holiday Cottage Accommodation
 - (A3) DrNo 376/L1A Block & Location Plans
 - (A3) DrNo 376/S2 Elevations as Existing Sheet 1
 - (A3) DrNo 376/S3 Elevations as Existing Sheet 2
 - (A3) DrNo 376/S1A Floor Plans as Existing
 - (A3) DrNo 376/P1A Floor Plans as Proposed
 - (A3) DrNo 376/P2 Elevations as Proposed Sheet 1
 - (A3) DrNo 376/P3 Elevations as Proposed Sheet 2
 - (A3) DrNo 376/P4 Plans & Section Living Accommodation
 - (A3) DrNo 376/P5A Elevations Living Accommodation
 - Foul Drainage / Change of use and the likely significant effect on nutrient neutrality at Beacon Lane Farmhouse Voxmoor Wellington Somerset - additional data 4th Reply as submitted by agent on 1st July 2021.
3. The approved development shall only be carried out in accordance with the following approved documents and maintained thereafter:
Foul Drainage / Change of use and the likely significant effect on nutrient neutrality at Beacon Lane Farmhouse Voxmoor Wellington Somerset – additional data 4th reply by Ecological initiatives
4. Prior to occupation, a 'lighting design for bats', following Guidance note 8 – bats and artificial lighting (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The design should accord with Step 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
5. The following shall be integrated into the design of the proposal 1x Schwegler 1B conservation Bat Box and 1x Schwegler 2H bird boxes will be installed on retained trees at the boundary and maintained thereafter. A Conservation bat box or similar will be built into the structure at least four metres above ground level and away from windows of the west or south facing elevation and maintained thereafter.
Plans and photographs of the installed features will be submitted to and agreed in writing by the Local Planning Authority prior to first use.

6. The development hereby approved shall not be occupied or the use commenced until space has been laid out, drained and surfaced within the site in accordance with the approved plan(s) for the parking of vehicles, and such area(s) shall not thereafter be used for any purpose other than the parking of vehicles associated with the development.
7. The two holiday lets shall be occupied for tourism purposes only.
The two holiday lets shall not be occupied as a person's sole or main residence.
The site operator or owner shall maintain an up to date register of the names of all owners/occupiers of individual holiday lets on the site and of their main home addresses, and the duration of their stay and shall make this information available at all reasonable times to the Local Planning Authority.
8. The occupation of the dwelling identified on Drawing No. 376/L1A shall be limited to a person employed, or last employed in the buildings identified as 'Unit 1 and Unit 2' on Drawing No. 376/L1A, or a dependant of such a person residing with him or her, or a widow or widower of such a person.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting the 2015 Order with or without modification), no extensions, alterations, outbuildings, gates, walls, fences or other means of enclosure, shall be erected on the site other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

*****END OF SCHEDULE*****

Application No: 14/22/0056/CQ

Address: Brickyard Farm, Bull Street, Creech St Michael, Taunton
TA3 5PW

Description: **The development proposed is prior approval for proposed change of use from agricultural building to 1 No. dwelling house (Class C3) and associated building operations**

Application Decision: Delegated Decision

Appeal Decision: Dismissed

Appeal Decision

Site visit made on 31 October 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal Ref: APP/W3330/W/23/3315615

Brickyard Farm, Bull Street, Creech St Michael, Taunton TA3 5PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
- The appeal is made by Mr J Peilow against the decision of Somerset West and Taunton Council.
- The application Ref 14/22/0056/CQ, dated 10 November 2022, was refused by notice dated 5 January 2023.
- The development proposed is prior approval for proposed change of use from agricultural building to 1 No. dwelling house (Class C3) and associated building operations.

Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Background and Main Issues

3. Under Class Q of Part 3 of Schedule 2 of the GPDO, planning permission is granted for agricultural buildings to dwellinghouses, subject to limitations and conditions. It is common ground between the main parties that the proposed development meets the requirements of Q.1 of Part 3, and I have no evidence to indicate otherwise.

4. The Council however refused the prior approval application, making reference to Article 3(5) of the GPDO and paragraph Q.2(1)(e) of Class Q. Therefore, the main issues are whether prior approval should be granted under Class Q of Part 3 of Schedule 2 of the GPDO, in relation to:

- whether the building is contrary to Article 3(5) of the GPDO; and
- whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use, with particular regard to noise and disturbance.

Reasons

Article 3(5) of the GPDO

5. The building, the subject of this appeal (the Class Q building), is located within Brickyard Farm. The Council considers that certain building operations involved <https://www.gov.uk/planning-inspectorate> Appeal Decision APP/W3330/W/23/3315615 in the construction of the building are unlawful, contrary to Article 3(5) of the GPDO.

6. These building operations comprise the replacement of cladding on the southern side of the building with black metal cladding. The previous cladding consisted of an older metal, which was weathered due to its age.

7. The Council has accepted that the replacement cladding is a similar material to the one it replaced in so far as it is a metal cladding, and I have no evidence to indicate otherwise.

Therefore, the only change that could possibly be of any significance is the colour of the cladding, which was previously silver / rust, and is now black.

8. In this regard, whilst the shade of colour of the cladding has changed, this has occurred only on one side of the building, and the overall form and shape of the building has remained unchanged.

Additionally, the change in the shade of colour is not significantly different from the previous shade. Moreover, the building still has the appearance of a typical agricultural building. In other words, the external appearance of the building, when considered as a whole, has not been materially affected by the replacement cladding.

9. On this basis, I consider that the building operations referred to fall within the ambit of s55(2)(a)(ii) of the Town and Country Planning Act 1990 (as amended) (the Act) which provides that the carrying out for the maintenance, improvement or other alteration of any building or works which do not materially affect the external appearance of the building shall not be taken for the purposes of the Act to involve development of the land.

10. I have had regard to appeal decision Ref APP/J1915/W/21/3267689, where like-for-like repairs not altering the appearance of the building were found to not constitute development within the terms of the accepted definition. However, as no plans have been provided the circumstances of that appeal are unclear, and in any event I am required to apply the definition given in s55(2)(a)(ii) of the Act, which has been considered above. Appeal decision Ref APP/J1915/W/21/3267689 therefore does not change my findings.

11. As the replacement cladding does not involve development, it follows that no building operations in the terms of Article 3(5) of the GPDO have taken place. I therefore find that the building is not contrary to Article 3(5) of the GPDO.

Living conditions

12. The Class Q building is located directly adjacent to an existing agricultural building. This adjacent building is subject to a restrictive planning condition¹ limiting its usage for dry storage only, and not for accommodating livestock or for silage storage.

13. The appellant has stated that Brickyard Farm does not operate with unusually high intensity and neither are the vehicles or machinery used on the farm unusually large or loud. However, few details have been provided to substantiate these assertions. Nor have details been provided to illustrate the nature and scale of the operations undertaken across Brickyard Farm. In these circumstances, given the large size of the adjacent agricultural building, and the consequent potential for excessive noise and disturbance arising from its¹ Condition 6 of Local Planning Authority decision Ref 14/20/0007/CQ storage usage in close proximity to the Class Q building, it is necessary to take a precautionary approach.

14. This means that, in the absence of any detailed technical evidence (such as a Noise Impact Assessment, for example), I find that it has not been demonstrated that the adjacent agricultural building would not result in an unacceptable level of noise and disturbance which would unduly undermine the reasonable expectations of peace and quiet for the future occupiers of the proposed dwelling, thereby harming their living conditions.

15. Although dry storage is not explicitly listed as a type of unacceptable storage usage in the relevant section of the PPG2, the PPG does not provide an exhaustive list of examples of what is meant by impractical or undesirable. Nor does it provide a definitive list of acceptable uses. The advice given in the PPG must be applied to the particular circumstances at hand, and as explained above, in this case it has not been demonstrated that the potential harmful impacts of the proposed development could be mitigated, which the PPG recognises can occur in some circumstances.

16. The fact that other Class Q prior approval applications may involve buildings that are located in, or within close proximity to, working and operational farms, does not alter the fact that the Class Q building involved in this appeal is located in a particularly sensitive position, given the existing agricultural building sited adjacent to it.

17. The appellant has suggested that a planning condition that imposes a time restriction on when vehicular movements can take place to and from the existing agricultural building could be imposed. In this regard, Article 3(1) of the GPDO grants planning permission for the classes of development described as permitted development in Schedule 2 of the GPDO, including Class Q of Part 3 of Schedule 2. Paragraph W.(13) of Part 3 of Schedule 2 of the GPDO provides that conditions may be imposed which are reasonably related to the subject matter of the prior approval.

18. However, in this case, the subject matter in question is paragraph Q.2(1)(e), which relates solely to the location or siting of the building. The building referred to in paragraph Q.2(1)(e) is the Class Q building. As the proposed condition would not relate to the Class Q building, it would not relate to the subject matter of paragraph Q.2(1)(e), and hence would not be reasonably related to that subject matter. On this basis, I consider that the proposed condition does not fall within the ambit of paragraph W.(13).

19. Nor would the proposed condition be related to the development permitted by Article 3(1) of the GPDO, as that development relates only to the Class Q building. Additionally, as the proposed condition would attempt to restrict operations on a site not functionally associated with the appeal site, the proposed condition would not be reasonably related to the development permitted. I therefore consider that the proposed condition cannot be imposed.

20. I recognise that the Council previously saw fit to impose a planning condition 3 relating to a different building than the building under consideration in a Class Q prior approval application. Nevertheless, I am not bound to fall in line with any previous decision of the Council, and as the Officer's Report for that prior

² Paragraph 13-109-20150305

³ Condition 6 of Local Planning Authority decision Ref 14/20/0007/CQ

<https://www.gov.uk/planning-inspectorate> 3
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approval application has not been provided it has not been possible to scrutinise the logic applied by the Council in that case. The dwelling permitted by that decision is detached from its nearest agricultural building and that building is less substantial in size when compared with the existing agricultural building which is located adjacent to the Class Q building, meaning that this decision is not directly comparable with the appeal proposal. For these reasons, Local Planning Authority decision Ref 14/20/0007/CQ does not change my findings.

21. In any event, as I have not been provided with any specific proposed hours of operation, it is unclear if any hours of operation imposed would unduly restrict the operation of the adjacent existing agricultural building in commercial or operational terms. It is not my role to speculate as to what hours of operation might be feasible in these respects. For these reasons, it would not be reasonable for the proposed condition to be imposed in the present circumstances.

22. The appellant has highlighted that within the terms of the GPDO, 'building' includes any part of a building. Even so, any application under Class Q relating to residential and agricultural use under one roof would still be subject to the requirements of paragraph Q.2(1)(e). Any grant of prior approval would only be given following an assessment of the facts on the ground, in relation to the requirements of paragraph Q.2(1)(e). As explained above, based on the evidence before me, it has not been demonstrated that the requirements of paragraph Q.2(1)(e) have been fulfilled.

23. I therefore find that the siting of the Class Q building makes it undesirable for the building to change use, with particular regard to noise and disturbance. The proposed development would not comply with paragraph Q.2(1)(e) of Class Q of Part 3 of Schedule 2 of the GPDO.

Conclusion

24. Although I have found that the building is not contrary to Article 3(5) of the GPDO, as the proposed development would not comply with the requirements of paragraph Q.2(1)(e) of Class Q of Part 3 of Schedule 2 of the GPDO, prior approval cannot be given for the proposed development. Therefore, for the reasons given above, having considered all relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty
INSPECTOR

Application No: 10/21/0029

Address: LAND AT MUNTY COTTAGE, MUNTY LANE,
CHURCHSTANTON, TAUNTON, TA3 7RH

Description: Demolition of outbuilding and erection of 1 No. dwelling with associated works on land at Munty Cottage, Munty Lane, Churchstanton

Application Decision: Chair Decision

Appeal Decision: Dismissed



The Planning Inspectorate

Appeal Decision

Site visit made on 31 October 2023 by **Alexander**

O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th November 2023

Appeal Ref: APP/W3330/W/22/3313793 Land at Munty Cottage, Churchstanton TA3 7RH

- 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 Messrs Jones & Clark against the decision of Somerset West and Taunton Council.
 - The application Ref 10/21/0029, dated 3 November 2021, was refused by notice dated 23 November 2022.
 - The development proposed is described on the application form as, "Single self-build dwelling".
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellants made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. Although the application form refers to Lower Munty, the postal address is Churchstanton, which has been used in the banner header above.
4. Differing to the description of development in the banner header above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Demolition of outbuilding and erection of 1 No. dwelling with associated works". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.

Main Issues

5. The main issues are:

- whether the appeal site would be a suitable location for new housing, with particular regard to the settlement strategy for the area and the accessibility of services and facilities; and
- the effect of the proposed development on the character and appearance of the area, having particular regard to the appeal site's location within the Blackdown Hills Area of Outstanding Natural Beauty (AONB).

Reasons

Location

6. The appeal site is a parcel of land located opposite and associated with Munty Cottage. Part of the site is occupied by a large corrugated / wooden-clad shed and a static caravan, with much of the remainder of the site comprising hardcore and green space.
7. The site is located outside of any of the settlements identified in Policy SP1 of the Adopted Taunton Deane Core Strategy 2011 – 2028: Development Plan Document (adopted 2012) (Core Strategy) and accordingly for the purposes of planning policy the site is to be treated as being within the open countryside.
8. Policy SB1 of the Taunton Deane Adopted Site Allocations and Development Management Plan (adopted 2016) (DMP) provides that, amongst other things, proposals in such areas must be assessed against Core Strategy Policies CP1, CP8, and DM2, unless 2 criteria apply. It has not been suggested that either of these 2 criteria apply and accordingly the proposal falls to be assessed against the above-mentioned policies.
9. In this regard, Policy DM2 of the Core Strategy, which relates to development in the countryside, lists the uses for which development outside of the defined settlement limits will be supported. The proposed development does not fall within any of the uses listed within Policy DM2. The proposal's conflict with Policy DM2 would undermine the delivery of the Council's settlement strategy for the area. Bearing in mind that paragraph 15 of the National Planning Policy Framework (the Framework) provides that, amongst other things, the planning system should be genuinely plan-led, this conflict is a matter of critical importance which weighs heavily against the proposed development.

10. Reference has been made to Blackdown Farm Services, but few details have been provided to illustrate the type and amount of any employment opportunities which this business might offer to the future occupiers of the proposed new dwelling. The site is situated within walking distance of the Alternative Education Centre and Churchstanton Primary School. However, the route to the Primary School involves walking on roads with no footway or street lighting, likely making journeys to and from the school unattractive, particularly for journeys undertaken with young children.
11. It is clear, then, that there are very limited services and facilities nearby to serve the day-to-day needs of the future occupiers of the proposed new dwelling, and that the local highway conditions are far from ideal with respect to accessing Churchstanton Primary School on foot. In other words, there are limited local services available for the proposed new dwelling to support, with respect to paragraph 79 of the Framework, which provides that, amongst other things, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
12. Thus, to access even basic services and facilities, such as shopping and mainstream secondary education (for example), the future occupiers of the proposed new dwelling would be required to travel further afield. In this respect, the main parties have focussed on Churchinford, which is said to be approximately 2km away from the site. Whilst the route to Churchinford is likely trafficked, it too involves walking along roads without the benefit of footways or street lighting, which would likely make walking or cycling an unattractive prospect particularly in the winter and during the hours of darkness. Moreover, I have not been referred to bus services which might enable Churchinford to be accessed by public transport from near the site.
13. The evidence therefore indicates that Churchinford is not easily accessible by sustainable modes of transport, meaning that in all likelihood it would be accessed by the future occupiers of the proposed new dwelling by private vehicles.
14. I have had regard to appeal decision Ref APP/X1925/W/22/3290692. Whilst I note that the circumstances involved in that appeal decision bears some similarities with the appeal proposal, the key difference is that in paragraph 7 of that decision the Inspector stated that the nearest village would provide the necessary services for day-to-day living. This is not the case with respect to Churchinford, as whilst the appellants have highlighted that Churchinford benefits from a community shop with a Post Office and a café, a village hall, a Public House, and a monthly produce market, I note that more substantial shopping facilities suitable for regular weekly or bi-monthly food shopping have not been identified, nor have any healthcare, education, or employment destinations been identified at Churchinford.
15. Hence, the available services in Churchinford, as a 'village nearby' in the terms of paragraph 79 of the Framework, are limited. I have not been provided with information which might demonstrate that the services available in the relevant village considered in appeal decision Ref APP/X1925/W/22/3290692 are

comparable with those in Churchinford. That appeal decision therefore does not change my findings.

16. Hence, the future occupiers of the proposed new dwelling would likely be required to travel further afield to access the required services and facilities for day-to-day living. Again, given the lack of public transport options identified, travel to destinations beyond Churchinford would likely be undertaken by private vehicle.
17. Taking all of the above into account, the future occupiers of the proposed new dwelling would in all likelihood be required to undertake multiple journeys beyond Churchinford by private vehicle in a typical week, in order to access the required services. I have taken account of paragraph 105 of the Framework which provides that, amongst other things, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, but in this case the availability of such solutions for the future occupiers of the proposed new dwelling would be very limited in scope, considering their likely daily needs.
18. Accordingly, considering *Braintree*¹, whilst due to its location near to a cluster of buildings in residential use the site is not isolated in the terms of paragraph 80 of the Framework, and the regional settlement pattern is dispersed with sporadic development, given my findings above the proposal would not comply with part a. of Policy CP1 of the Core Strategy which provides that, amongst other things, development proposals will be required to demonstrate that the issue of climate change has been addressed by reducing the need to travel through locational decisions.
19. In the context of this appeal it is not my role to provide a formal determination as to whether the site comprises previously developed land. Nevertheless, the evidence indicates that the buildings on site could not be considered to be in agricultural or forestry use, and that this has been the case for several years. As these are not agricultural or forestry buildings, for the purposes of this appeal decision I consider that the site does constitute previously developed land in the terms of the definition given in the Glossary to the Framework.
20. Even so, although Policy SP1 provides that, amongst other things, proposals should maximise opportunities to make best use of previously developed land, equally Policy SP1 provides that, amongst other things, proposals should make efficient use of land and follow a sequential approach, prioritising the most accessible and sustainable locations. Considering this in the light of my findings above, the proposed development would not comply with Policy SP1 when considered as a whole.
21. I therefore find that the appeal site would not be a suitable location for new housing, with particular regard to the settlement strategy for the area and the accessibility of services and facilities. It would conflict with Policy SP1 of the Core Strategy which provides that, amongst other things, proposals should make efficient use of land and follow a sequential approach, prioritising the most accessible and sustainable locations and maximising opportunities to make best use of previously developed land where possible, and with part a. of Policy CP1 of

¹ *Braintree DC v SSCLG & Ors* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

the Core Strategy which provides that, amongst other things, development proposals should result in a sustainable environment, and will be required to demonstrate that the issue of climate change has been addressed by reducing the need to travel through locational decisions.

22. The proposal would conflict with Policy DM2 of the Core Strategy which lists the uses which will be supported outside of defined settlement limits. The proposal would also conflict with Policy SB1 of the DMP which seeks to, amongst other things, maintain the quality of the rural environment and ensure a sustainable approach to development.

Character and appearance

23. The wider area is rural and many of the buildings near the site reflect this character. In addition to the dwellings found on the opposite side of the road and an area in residential use at North Munty Farm to the north-west of the site, a scrapyard and the Alternative Education Centre lie to the west of the site. The buildings at the Alternative Education Centre, as far as can be seen from public vantage points, commonly have an agricultural appearance and the group of dwellings opposite the site exhibit a mix of stone and render, with mostly tiled roofs, and uncluttered elevations, resulting in a charming rustic appearance, reflective of farmhouses.
24. I observed that, at the time of my site visit, many of the roadside trees and areas of hedges shown on the left of the photograph of Viewpoint 02² given in the submitted Landscape and Visual Impact Assessment³, were no longer present, meaning that quite clear views of the front of the site were visible from some distance to the west of the site. Indeed, I observed that the existing shed on site was visible from the road near the entrance to the Alternative Education Centre. Hence, the proposed new dwelling, which would be sited partly on the footprint of the existing shed, would occupy a prominent position in the street scene in views from the west of the site.
25. Whilst the contemporary design ethos is noted, and I have taken account of section 3.3 of the Council's Design Guide⁴ which provides that, amongst other things, sensitive design solutions can be innovative and do not necessarily replicate the existing, the proposed new dwelling would incorporate large areas of timber cladding which would visually reflect the appearance of utilitarian structures, such as agricultural buildings. Furthermore, the proposed zinc roof, even though it would somewhat replicate the colour of the materials present on the roofs of nearby dwellings, would nevertheless serve to reinforce the utilitarian aesthetic of the dwelling.
26. Although the Council's Landscape and Green Infrastructure Officer stated that they had no objection in principle to the proposed development, I share their concerns that the glazed first floor balconies would conflict with the character of the context. However, as these balconies would not be visible from the road, this

² Viewpoint 02: Munty Lane, West of Development Site

³ Landscape and Visual Impact Assessment (Steele Landscape Design) (2021)

⁴ Design Guide: For a zero carbon, healthy, resilient and distinctive environment (adopted 2021)

aspect of the proposed development would have a limited impact on the appearance of the local area. Even so, the proposed new dwelling would contain an assortment of windows and dormers of varying sizes and styles on its southern elevation, which would undermine the coherence of the design as a whole.

27. Taking all of the above into account, although the proposed new dwelling would replace the aging shed and static caravan on site which presently offer little in the way of aesthetic appeal, and a landscaped garden would be introduced, the proposed new dwelling would starkly contrast with, and thereby serve to noticeably and unduly distract from, the traditional appearance of the nearby dwellings which make a highly positive contribution to local distinctiveness. It would likely take several years for maturing trees and hedgerows to adequately screen the proposed new dwelling. As a result, I consider that the proposed new dwelling would not respond sensitively to the appearance of the character area in which it is located, in conflict with the advice given in section 3.3 of the Design Guide.
28. The conclusions of the LVIA are based on the presumption that the proposed new dwelling would constitute high quality design, which as explained above, would not be the case. Accordingly, the LVIA does not change my findings.
29. The Blackdown Hills Area of Outstanding Natural Beauty Management Plan 2019 – 2024 (Management Plan) highlights that the landscape pattern of the AONB is punctuated by a wealth of small villages, hamlets and isolated farmsteads of architectural value and distinctive character.
30. Whilst, as demonstrated in the LVIA, the visual impact of the proposed development would be localised, it is important to note that, as stressed in the Management Plan, villages, hamlets, individual buildings and their settings form a vital element of the character of the Blackdown Hills. In this regard, given the adverse impacts identified above, the proposed development would not reinforce local distinctiveness, as required by Policy PD2 of the Management Plan. As a result, the natural beauty of the AONB would not be conserved, in conflict with the statutory purpose of the AONB⁵.
31. Few details have been provided to illustrate the prevailing context in relation to planning application Ref 18/1867/FUL (East Devon District Council). As it has not been demonstrated that this example is directly comparable with the circumstances of the appeal proposal, it does not change my findings.
32. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area, and that it would not conserve the natural beauty of the AONB. It would conflict with part d. of Policy DM1 of the Core Strategy which provides that, amongst other things, proposals for development, taking account of any mitigation measures proposed, will be required to ensure that the appearance and character of any affected landscape, settlement, building or street scene would not be unacceptably harmed by the development, and with Policy DM4 of the Core Strategy which provides that,

⁵ As set out in s85 of the Countryside and Rights of Way Act 2000 (as amended).

amongst other things, a sense of place will be encouraged by addressing design at a range of spatial scales.

33. The proposal would conflict with Policy CP8 of the Core Strategy which provides that, amongst other things, the Borough Council will conserve and enhance the natural environment, and with part A. of Policy D7 of the DMP which provides that, amongst other things, new housing shall create a high standard of design quality and sense of place by creating places with locally inspired or otherwise distinctive characteristics and materials.
34. The proposed development would also conflict with paragraph 130 c) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Other Matters and Planning Balance

35. Paragraphs 84 and 85 of the Framework relate to local business and community needs, rather than housing, and accordingly do not provide support for the proposed development.
36. I have had due regard to the aims of the Public Sector Equality Duty contained in the Equality Act 2010 (as amended), with respect to the protected characteristics of age and disability (in relation to the requirement for specific provision for a family member with mobility concerns). However, as these relate to personal circumstances which can change over time, and it has not been demonstrated that a less harmful scheme could not meet the needs of the applicants' family, these matters have been given limited weight in support of the proposed development.
37. The proposed new dwelling would contribute to the Government's objective of significantly boosting the supply of homes, and would in principle contribute to housing choice and mix in the local area, albeit it has been stated that the purpose of the proposed new dwelling is for the appellants to live in themselves, with additional accommodation for a family member.
38. The proposed development would provide work for construction professionals. The future occupiers of the proposed new dwelling would likely contribute to the local economy (including to services and facilities found further afield beyond Churchinford and via Council tax payments) and to the local community.
39. The submitted Ecological Appraisal⁶ provides broad recommendations for enhancement to increase biodiversity value post-development, in relation to a proposed barn conversion on site, but as few details have been provided to quantify the scale of any net gains for biodiversity, this matter has been given limited weight in support of the proposed development.
40. Photovoltaic panels would be fitted to the roof of the proposed new dwelling, and it would be insulated to passive standards and heated via an air source heat pump,

⁶ Ecological Appraisal (Quantock Ecology Ltd) (May 2021)

with mechanical ventilation and heat recovery systems also in operation. A rainwater harvesting system would aim to reuse 'grey' water. Hence, once built, the proposed new dwelling would minimise the draw on local and national resources.

41. The above-mentioned considerations would be in compliance with a number of the Council's development plan policies, and relevant paragraphs of the Framework. In particular, paragraph 69 of the Framework provides that, amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. In terms of the design of the dwelling itself, the proposed new dwelling would accord with section 5.2 of the Design Guide, which refers to the Council's declaration of a Climate Emergency and its commitment to work towards carbon neutrality by 2030, and with section 5.3 of the Design Guide, which advocates Lifetime Homes standards.
42. However, although I have found on the first main issue above, that for the purposes of this appeal decision the site does constitute previously developed land, part a. of Policy DM1 of the Core Strategy requires that proposals for development should be in sustainable locations. Following my findings on the first main issue above, that the appeal site would not be a suitable location for new housing, part a. of Policy DM1 does not provide support for the proposed development. Similarly, as the site is not suitably located for new housing, paragraph 120 c) of the Framework, which relates to the value of using suitable brownfield land within settlements for homes, does not provide support for the proposed development, nor does paragraph 69 c) of the Framework, which relates to the development of windfall sites, as both subparagraphs refer to 'suitable' sites / land.
43. Although Policy SP4 of the Core Strategy seeks to deliver at least 1,500 net additional dwellings in the rural areas, Policy SP4 makes clear that the focus in the first instance is on the Major Rural Centres and secondly on Minor Rural Centres. The site does not fall within the settlement boundary of any of these areas (including Churchinford). Similarly, Policy CP4 of the Core Strategy provides that, amongst other things, new housing should be delivered consistent with the settlement hierarchy established in Policy SP1, whereas, as explained above, the site is located outside of any of the settlements identified in Policy SP1. Accordingly, these policies provide limited support for the proposed development.
44. Moreover, the 'sustainability trap' issue referred to by the appellants is a matter which relates to wider forward-planning considerations at the strategic plan-making scale, which are not directly before me, and in any event the proposal's contribution of one new dwelling would have a limited impact in resolving this issue. Few details have been provided to illustrate to what degree the proposed development would support digital sustainability. Furthermore, although reference has been made to the proposed new dwelling being a selfbuild project (which is supported by paragraph 62 of the Framework), no mechanism is before me to secure this. The collective benefits of the proposed development have therefore been given no more than moderate weight in favour of the scheme.

45. The proposed development would cause adverse impacts with respect to the matters considered on both main issues above. These matters relate to the fundamentals of the planning and development process. I am also mindful that paragraph 176 of the Framework provides that, amongst other things, great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues.
46. Considering the great weight given to the adverse impacts of the proposed development when set against the moderate weight given to its collective benefits, as a matter of planning judgement I find that the matters advanced in support of the proposed development, do not, either individually or collectively, outweigh the adverse impacts identified, nor the conflict with the development plan identified. It follows that the proposed development would conflict with the development plan when considered as a whole, including Policy SD1 of the Core Strategy which seeks to, amongst other things, secure development that improves the economic, social and environmental conditions in the area.
47. The appellants' have drawn attention to the 5-year housing land supply figure of 4.04 years, found in the submitted SHELAA⁷. However, the Council has confirmed that a subsequent SHELAA⁸ has now been produced, which gives a figure of 5.16 years for the former Taunton Deane Local Planning Authority Area. This latter figure has not been disputed by the appellants. On this basis, I consider that the Council can demonstrate a 5-year supply of deliverable housing sites. This matter therefore does not provide additional support for the proposed development.
48. Overall, I find that none of the other considerations, which include the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

49. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty
INSPECTOR

⁷ Somerset West and Taunton Strategic Housing Employment Land Availability Assessment (2022)

⁸ Strategic Housing & Employment Land Availability Assessment Somerset West And Taunton Area (2023)



Costs Decision

Site visit made on 31 October 2023 by **Alexander**

O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th November 2023

Costs application in relation to Appeal Ref: APP/W3330/W/22/3313793 Land at Munty Cottage, Churchstanton TA3 7RH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Messrs Jones & Clark for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal of planning permission for a proposed development described on the application form as, "Single self-build dwelling".
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

Housing Land Supply

3. The PPG details 2 ways in which a 5-year supply of deliverable housing sites can be demonstrated¹. Similarly, paragraph 75 of the National Planning Policy Framework (the Framework) details 2 methods to demonstrate the same.
4. The Council's Officer's Report refers to a Proof of Evidence² which was previously submitted as part of the evidence in relation to appeal decision Ref APP/W3330/W/22/3304839. The Council have not disputed the applicants' claim that this Proof of Evidence does not conform to the above-mentioned methods for demonstrating a 5-year supply of deliverable housing sites.
5. On this basis, although it has not been established that the figure given in the Proof of Evidence is inaccurate or without foundation, its usage at application stage to support the Council's stance that it could demonstrate a 5-year supply of deliverable housing sites was clearly at odds with the advice given in both the PPG and the Framework.

6. Moreover, the Inspector, in determining appeal decision Ref APP/W3330/W/22/3304839 did not issue a clear statement regarding the 5-year supply of deliverable housing sites position, meaning that this appeal decision does not lend support for the Council's use of the Proof of Evidence in determining the planning application for land at Munty Cottage.
7. Taking account of the case law referred to by the applicants⁹, although I follow the logic that the Council's behaviour could potentially have implications for consistency of decision-making, no substantive evidence has been provided to demonstrate that such implications have arisen in fact. Nevertheless, by not following the advice given in the PPG and the Framework referred to above, I consider that the Council acted unreasonably by not following the clear requirements of national planning policy with respect to how a 5-year supply of deliverable housing sites can be established.
8. However, as explained in detail in the associated appeal decision, the appeal site would not be a suitable location for new housing, with particular regard to the settlement strategy for the area and the accessibility of services and facilities, and the proposed development would have an unacceptable and harmful effect on the character and appearance of the area, and would not conserve the natural beauty of the Blackdown Hills Area of Outstanding Natural Beauty (AONB). The Framework provides at paragraph 176 that, amongst other things, great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.
9. Considering this, even if the Council had considered at application stage that it lacked a 5-year supply of deliverable housing sites to the extent suggested by the applicants, given the harm identified to the AONB and the limited benefits of the proposed development, it would have been reasonable for the Council to find that either paragraph 11 d) i. of the Framework applied, or alternatively that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, as per paragraph 11 d) ii. of the Framework.
10. It follows that, even if the unreasonable behaviour identified above had not occurred, the Council would have had clear grounds to refuse the planning application in any event. An appeal and its associated costs (including seeking additional professional assistance) would then have been necessary for the applicants to seek a resolution to the dispute. Hence, no unnecessary or wasted expense in the appeal process has occurred.

¹ Paragraph 68-004-20190722

² Proof of Evidence of Ann Rhodes, BA Hons, PG Dip Arch Con., Senior Planning Policy Officer, Somerset West and Taunton Council. On Housing Need and Housing Land Supply.

⁹ *North Wiltshire DC v SSE* (1993) 65 P&CR 137, *R (Midcounties Co-Operative Limited) v Forest of Dean DC* [2017] EWHC 2050, *Baroness Cumberlege v SSCLG* [2017] EWHC 2057, *North Wiltshire DC v SSE & Clover* (1993) 65 P&CR 137

Design Guide

11. The Council referred to its Design Guide¹⁰ under the heading ‘Design of the proposal and impact on the character and appearance of the locality’ in its Officer’s Report, and provided reasoning which related to the key themes of that Design Guide. As such, I do not consider that the Council disregarded their own Design Guide. The Council’s behaviour was not unreasonable in relation to this ground.

AONB

12. Whilst the Council’s Landscape and Green Infrastructure Officer provided an opinion which stated ‘No objection in principle’, this Officer also stated that the proposal would conflict with the local plan. Their full opinion is repeated in the Council’s Officer’s Report with similar concerns being cited in the main body of that report. Furthermore, although the Council did not explicitly refer to the submitted Landscape and Visual Impact Assessment¹¹, the reasoning in the Council’s Officer’s Report with respect to the impact of the proposal on the AONB is cogent and is backed-up by descriptions of the landscape and built character of the AONB. I therefore consider that the Council did not make vague, generalised or inaccurate assertions about the proposal’s impact, which were unsupported by any objective analysis. The Council’s behaviour was not unreasonable in relation to this ground.

Conclusion

13. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not occurred and an award of costs is not warranted.

Alexander O’Doherty
Inspector

¹⁰ Design Guide: For a zero carbon, healthy, resilient and distinctive environment (adopted 2021)

¹¹ Landscape and Visual Impact Assessment (Steele Landscape Design) (2021)

Application No: 14/22/0035

Address: LAND OFF DILLONS ROAD, CREECH ST MICHAEL

Description: Application for Outline Planning with all matters reserved, except for access, for the erection of 7 No. dwellings with associated works on land off Dillons Road, Creech St Michael

Application Decision: Delegated Decision

Appeal Decision: Allowed



The Planning Inspectorate

Appeal Decision

Site visit made on 31 October 2023 by **Alexander**

O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/W3330/W/22/3312150 Land at Dillons Road, Creech St Michael TA3 5DS

- 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 outline planning permission.
 - The appeal is made by Huntworth Properties against Somerset Council.
 - The application Ref 14/22/0035, is dated 19 July 2022.
 - The development proposed is residential development of up to 7 bungalows and associated works.
-

Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 7 bungalows and associated works at land at Dillons Road, Creech St Michael, TA3 5DS in accordance with the terms of the application, Ref 14/22/0035, dated 19 July 2022, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appeal was submitted against the failure of Somerset West and Taunton Council to give notice of its decision within the appropriate period. Somerset Council has now taken over the functions of Somerset West and Taunton Council. Somerset Council has therefore been named in the banner header, above.
3. This appeal follows an outline application, where the only matter to be considered is access. Matters of appearance, landscaping, layout, and scale are reserved for later consideration. I have treated the details on the Proposed Site Plan¹ relating to appearance, landscaping, layout, and scale, as indicative only.
4. Access is defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) as, amongst other things, the accessibility to and within the site. As access is being considered in detail at this stage, this appeal decision relates to both access to the site and the internal circulation routes. For the purposes of this appeal decision, this does not however include the individual driveways to the proposed dwellings, nor the proposed pathway to the east of the appeal site shown on the Proposed Site Plan. In this regard, the Council will consider the submitted details relating to the layout of the scheme at reserved matters stage.
5. The Council submitted representations subsequent to the appellant's Final Comments. The matters referred to in those representations are not covered in evidence already received, and are directly relevant and necessary to this decision. Hence, taking account of the advice in the Procedural Guide: Planning appeals – England, the appellant was provided with an opportunity to comment on these representations, and I have taken the Council's representations, and the appellant's comments on these, into account in my determination of this appeal.
6. Since the appeal responds to the Council not having determined the application, there is no decision notice. Nonetheless, they have stated it would have been refused. The reasons for which have informed the main issues of the appeal. Specifically, the Council has confirmed that, had the appeal not occurred, planning permission would have been refused on the grounds of a lack of a mechanism for the delivery of financial contributions towards affordable housing, public open space, a monitoring fee, and the implementation of and the appropriate management measures for the proposed nutrient neutrality scheme.
7. A planning obligation (deed dated 7 March 2023) was submitted during the appeal process. The Council have stated that the amounts proposed in a draft planning obligation relating to affordable housing and public open space are acceptable to the Council. The Council do however consider that they are unable to conclude that there will not be an adverse impact on the Somerset Levels and Moors Ramsar site (the Ramsar site) by way of an increase in nutrients resulting from the development. Additionally, the appellant has queried whether the requested off-site affordable housing contribution is justified in planning policy terms.

Main Issues

8. Considering the above, the main issues in this appeal therefore are:

- whether the proposed development is subject to affordable housing and public open space contributions, and if so, whether these contributions have been secured; and
- the effect of the proposed development on habitats sites, with particular regard to nutrient neutrality for the Ramsar site.

Reasons

Affordable housing & public open space

9. Paragraph 64 of the National Planning Policy Framework (the Framework) provides that, amongst other things, provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). Designated rural areas are defined in the Framework, and encompass, in addition to National Parks and Areas of Outstanding Natural Beauty¹² which the site does not fall within, areas designated as 'rural' under s157 of the Housing Act 1985. Similar advice is given in the Planning Practice Guidance³ (PPG).
10. The evidence before me does not confirm that the site has been designated as a rural area under the Housing Act 1985. The Council have pointed to a 'TDBC Council Decision June 2016' document, which the Council says states that in Designated Rural Areas (including Creech St Michael) a financial contribution in lieu of affordable housing will be sought for developments of 6 - 10 units, but no copy of that document has been provided.
11. Nevertheless, Policy CP4 of the Adopted Taunton Deane Core Strategy 2011 – 2028: Development Plan Document (adopted 2012) (Core Strategy) provides that, amongst other things, affordable housing contributions will be sought on sites of 5 or more dwellings. Similarly, the Affordable Housing Supplementary Planning Document (SPD) provides that, amongst other things, affordable housing will be sought on sites of 5 or more net additional dwellings, and that affordable housing may be secured via on-site or off-site affordable housing provision, whether provided in-kind or an equivalent financial contribution.
12. Paragraphs 3.62 to 3.66 of the Core Strategy sets out a clear rationale for the required number of affordable housing units over the plan period in order to achieve tenure balance, which, as required by Policy CP4, helps to contribute towards the creation of sustainable, mixed communities. Given the stated aims of Policy CP4, and the rationale provided in its supporting text, the provision of affordable housing is clearly required across the district.
13. Moreover, the SPD is an adopted document, and the SPD highlights that the affordable housing contribution would be used by the Council for (amongst other things) funding the provision of new affordable housing through Registered Providers and purchasing land for new affordable housing schemes.

¹² Since 22 November 2023 Areas of Outstanding Natural Beauty are known as National Landscapes.

³ Paragraph 23b-023-20190901

14. Taking all of the above into account, based on the evidence before me, the Framework and the PPG, whilst being material considerations, do not outweigh the requirements of the development plan. In this regard, it is common ground between the main parties that the relevant measures contained in the submitted planning obligation provide the necessary amount of financial contribution for affordable housing and public open space, and I have no substantive evidence to indicate otherwise.
15. I therefore consider that these measures in this unilateral undertaking relating to affordable housing and public open space are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development and that they would comply with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), so far as is relevant to this unilateral undertaking, and the tests for planning obligations set out in the Framework.
16. For the reasons given above, the proposed development would comply with Policies CP4, CP5 and CP7 of the Core Strategy, which collectively provide that, amongst other things, new housing should help to contribute towards the creation of sustainable, mixed communities, and with Policy C2 of the Taunton Deane Adopted Site Allocations and Development Management Plan (adopted 2016) which provides that, amongst other things, the Council will seek to ensure that increased demand for recreational open space arising from new residential development responds to the relevant standards.

Nutrient neutrality

17. The Council has raised concerns that the proposed development would adversely impact upon the Ramsar site, by adding to the concentration of phosphates in the area, which are already excessive. In this regard, the appellant has put forward a mechanism for securing the implementation of, and management measures for, a proposed nutrient neutrality scheme. It is proposed to offset the phosphate surplus arising from the proposed development by installing a Klargester Biodisc Package Treatment Plant with phosphate dosing at the site.
18. I am required to undertake an Appropriate Assessment in line with the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). Regulation 63(3) of the Habitats Regulations provides that the competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.
19. Accordingly, in relation to nutrient neutrality, and considering the submitted letter from RMA Environmental (dated 22 February 2023) and the submitted planning obligation, Natural England's advice was sought as to whether or not their concerns (set out in Natural England's correspondence of October 2022) have been overcome. A response from Natural England was received, confirming that Natural England is content that the concerns previously raised have been addressed and that Natural England has no objections, subject to the mitigation being secured.

20. The main parties were provided with an opportunity to comment on Natural England's representations. No comments were received from either main party. I have not been provided with substantive evidence which might cast doubt on Natural England's assurances that the proposed nutrient neutrality scheme would achieve its aims. The evidence therefore shows that the proposed development would achieve nutrient neutrality, thereby avoiding adverse effects on the Ramsar site.
21. In concluding this Appropriate Assessment, I therefore find that there would not be adverse effects on the Ramsar site with particular regard to the concentration of phosphates in the area arising from the proposed development when considered in combination with other development. It follows that the proposal would comply with the Habitats Regulations and s40 of the Natural Environment and Rural Communities Act 2006 (as amended).
22. I therefore consider that these measures in this unilateral undertaking relating to nutrient neutrality are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development and that they would comply with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), so far as is relevant to this unilateral undertaking, and the tests for planning obligations set out in the Framework.
23. For the reasons given above, the proposed development would comply with Policies CP8 and DM1 of the Core Strategy which collectively provide that, amongst other things, the Council will conserve and enhance the natural environment. It would also comply with chapter 15 of the Framework, which seeks to conserve and enhance the natural environment.

Other Matters

24. The site is located outside of the settlement boundary for Creech St Michael. Policy DM2 of the Core Strategy, which relates to development in the countryside, provides a list of uses which will be supported in such areas. Whilst housing development is not listed amongst the uses listed in Policy DM2, equally that policy does not mandate that housing development in the countryside should be refused.
25. Rather, Policy CP8 of the Core Strategy, which also does not prohibit suitable development in the countryside, provides that, amongst other things, development within such areas will be strictly controlled in order to conserve the environmental assets and open character of the area. Policy CP8 sets out a number of criteria which must be met for development outside of settlement boundaries to be permitted.
26. In other words, despite the fact that the site is outside of the settlement boundary, none of the above-mentioned policies direct that planning permission should be refused as a matter of course. This was illustrated in appeal decision Ref APP/D3315/W/17/3179264, where the Inspector found that, although the site was situated outside the settlement boundary, this factor did not weigh against the proposal where no actual conflict was found with Policies DM2 and CP8 of the Core Strategy.

27. With respect to the 1st and 7th bullet point of Policy CP8, which together refer to Ramsar sites and any necessary mitigation measures, following my findings on the second main issue above, I consider that the combination of planning conditions and the submitted planning obligation would be sufficient to ensure that the natural environment (including relevant protected species and habitats) are safeguarded.
28. With respect to the 2nd bullet point of Policy CP8, which requires development to be appropriate in terms of scale, siting and design, and the 4th bullet point of Policy CP8 which requires development to protect, conserve or enhance the interests of natural and historic assets, as layout and scale are reserved matters, the Council would have scope to ensure that any issues relating to the living conditions of nearby residents with respect to overlooking and loss of privacy are minimised, including for residents on Dillons Road and Ryesland Way. The Council would also be able to ensure that the barn owl nesting box, present on the garage gable end of 36 Dillons Road, would not be obstructed, if required.
29. With respect to the 3rd bullet point of Policy CP8, which requires development to protect, conserve or enhance landscape and townscape character whilst maintaining green wedges and open breaks between settlements, given the limited quantum of dwellings proposed and the size of the site in comparison to this amount of dwellings, and that the proposed development would not meaningfully reduce the break between Dillons Road and settlements further afield, I do not doubt that a successful scheme could be put forward at reserved matters stage in relation to these matters. Although it has been stated that local services and facilities are presently oversubscribed, as the proposed development relates to up to 7 dwellings only, any impact in this regard would be limited.
30. The proposed dwellings would have direct access from Dillons Road for vehicles and pedestrians. Hence, although the length of the existing cul-de-sac would be extended, a private estate would not be created. Given the limited number of dwellings proposed and the location of the site being directly to the east of existing residential development, the character of the local area would not be significantly altered.
31. The appeal scheme would not alter the fact that Dillons Road does not have street lighting. As appearance is a reserved matter, the presence of lighting within the proposed development site would be a matter for the Council to consider at reserved matters stage.
32. A condition could be imposed requiring a Construction Method Statement to be approved in writing, thereby ensuring that the Council would be able to ensure that the living conditions of the occupiers of nearby properties would be safeguarded with respect to noise and disturbance during the construction period for the proposed development. Similarly, as layout is a reserved matter, the Council would be able to ensure that the proposed dwellings are appropriately sited to minimise disturbance in these respects over the lifetime of the proposed development.

33. With respect to the 5th bullet point of Policy CP8, which requires development to not exacerbate, and where possible improve the quality, quantity and availability of the water resource, reduce flood risk (fluvial and surface water), the site is situated within Flood Zone 1, and accordingly has a low probability of river or sea flooding. The Flood Risk Assessment and Drainage Strategy¹³ proposes that an attenuation basin could be installed, which would discharge into the watercourse to the north of the site. Although the location put forward in that strategy is outside the red line boundary of the site, it lies within an area of land which is within the ownership of the appellant. Hence, a planning condition could be imposed requiring details of a surface water drainage scheme to be approved in writing by the Local Planning Authority.
34. With respect to the 6th bullet point of Policy CP8, which requires development to protect habitats and species, including those listed in UK and Local Biodiversity Action Plans, and conserve and expand the biodiversity of the Plan Area, although mention has been made of the site being home to or frequented by various wildlife (including deer, hedgehogs, field mice, sheep, horses, birds of prey, and foxes) few details have been provided from interested parties to demonstrate the amount and frequency for which the site is used by the same.
35. In these circumstances, given the evidence before me which includes a detailed survey of the site (undertaken as part of the Ecological Impact Assessment⁵), it would be appropriate for a condition to be imposed requiring a Landscape and Ecological Management Plan (LEMP) to be approved in writing by the Local Planning Authority. As this would include a detailed species list, I am satisfied that the concerns raised by Creech St Michael Parish Council in relation to the timing of the site walkover mentioned in the Ecological Impact Assessment, which was conducted during the month of September, would be addressed. As the proposed dwellings would be located away from the stream to the north of the site, the safety and well-being of any otters near that area could be secured by their inclusion in a species list within any LEMP.
36. As Dillons Road is a cul-de-sac, to gain access to the site vehicles will need to use the existing junction between St Michael Road / North End and Dillons Road. St Michael Road / North End is subject to a 20mph speed limit near to Dillons Road, and several traffic calming measures are present along it near the junction with Dillons Road. Visibility is constrained when exiting Dillons Road onto St Michael Road / North End and looking towards the right, due to the presence of a wall and hedge pertaining to Dillons House. Nevertheless, the Transport Statement¹⁴ demonstrates that adequate visibility displays are achievable at this junction, and that no recorded personal injury collisions have been recorded between 1999 to 2021 (inclusive).
37. I observed that the footpath between 22 and 24 Dillons Road is signposted as being private with no public right of way. Hence, this footpath would not be available for use by the future residents of the proposed development.

¹³ Flood Risk Assessment and Drainage Strategy (RMA Environmental Limited) (July 2022) ⁵ Ecological Impact Assessment (GE Consulting) (August 2022)

¹⁴ Transport Statement (Bellamy Transport Consultancy Ltd) (June 2022)

38. To access the centre of the village on foot the future residents would be required to cross St Michael Road / North End to use the footway on the west side of St Michael Road / North End. As mentioned above, visibility is somewhat restricted at this junction due to the presence of a wall and hedge pertaining to Dillons House. Nevertheless, considering the 20mph speed limit in place, the presence of traffic calming measures in the vicinity, and that the proposed development would not be restricted to occupation by older people only, I am satisfied that the proposed development would not cause undue risks with respect to pedestrian safety.
39. The Vehicle Swept Path Analysis¹⁵ provided in the Transport Statement shows that a large refuse vehicle would need to pass onto the opposite side of the road when arriving and departing the main part of the field. Even so, based on this illustrative layout, this manoeuvre would only be required over a brief part of the route, and given that in all likelihood refuse vehicles would only be accessing the site once per week, an unacceptable impact on highway safety (including in relation to pedestrians and cyclists) would not arise. In any event, as layout is a reserved matter and further details of the access arrangements can be confirmed at reserved matters stage, the Council would have scope to ensure that any adverse impacts in this regard are minimised as far as possible.
40. In these circumstances, and taking account of the fact that the proposed development of up to 7 houses would be unlikely to result in a significant uplift in vehicle movements or pedestrians traversing the existing junction between St Michael Road / North End and Dillons Road, I consider that the proposed development would not be likely to result in an unacceptable impact on highway safety, which paragraph 111 of the Framework sets as the threshold for development to be prevented or refused on highways grounds.
41. Moreover, whilst I note the reference to a recent traffic study which highlights that there are on average 5,500 vehicles a day passing through the village, the maximum amount of 7 new dwellings proposed would not be likely to result in such a significant uplift in terms of traffic generation that the proposed development would result in severe residual cumulative impacts on the road network, with respect to paragraph 111 of the Framework, nor any undue noise and disturbance arising from the presence of this limited number of new dwellings, even taking account of the likelihood of a minimum of 2 cars per dwelling.

Planning Balance

42. I have found the proposal to be acceptable in relation to both of the main issues. It follows from my reasoning in relation to the other matters above that none of the other considerations, which include the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan. In these circumstances, where the development plan is upto-date, paragraph 11 c) of the Framework advises that planning permission should be granted without delay.

¹⁵ Vehicle Swept Path Analysis of a Large 3-Axle Refuse Vehicle (Drawing No. SPA-01) (Rev. P2)

43. The main parties are in dispute as to whether the Council can demonstrate a 5-year supply of deliverable housing sites. However, I have found above that the proposed development would comply with the adopted development plan. If it were the case that the Council could not demonstrate a 5-year supply of deliverable housing sites, this would be a positive factor which would provide additional support for the proposed development.
44. Reference has been made to various brownfield development sites located within defined settlement boundaries in the Local Planning Authority's area. This is noted, but I must determine this appeal on the basis of the scheme before me, which for the reasons given above has been found to be acceptable. Furthermore, any future planning applications would be decided on their own merits. Therefore, the proposed development would not set a precedent.

Conditions

45. I have had regard to the conditions suggested by the Council and other interested parties, including Creech St Michael Parish Council and local residents. I have considered them against the advice on conditions set out in the Framework and the PPG.

Conditions imposed

46. As the application was made in outline, it is necessary for details of the reserved matters to be submitted to and approved in writing by the Local Planning Authority (condition 1). Given the scope of access under consideration in this appeal decision, described at paragraph 4 above, it is necessary for a condition to be imposed specifying that the details relating to the reserved matter of layout shall include the individual driveways and car parking provision for each dwelling hereby permitted (condition 2). As the Crime Prevention Design Advisor has recommended that the proposed pathway to the east of the site should be excluded from the proposed scheme, I have not imposed a mandatory requirement that it should be included as part of the details to be submitted at reserved matters stage.
47. To provide a time limit for the commencement of development, it is necessary for conditions to be imposed specifying that the application for approval of the reserved matters shall be made not later than 3 years from the date of the permission (condition 3), and that the development shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved (condition 4). In relation to these conditions, I have adopted the relevant timescales as set out in s92 of the Town and Country Planning Act 1990 (as amended).
48. A condition is necessary, in the interests of clarity and enforceability, setting out the approved plans (condition 5).
49. A condition is necessary, restricting the number of dwellings which may be built on site to a maximum of 7, to ensure that the as-built development reflects the quantum of development proposed (condition 6).

50. The Highways Authority have requested further details of the proposed access, including in relation to access for agricultural / maintenance vehicles and further swept path analysis drawings to demonstrate that the largest refuse vehicles will be able to enter, turn and leave the site in forward gear. As the approval of these details by the Local Planning Authority will assist in ensuring that the proposed development has an acceptable effect on highway safety, I have imposed a condition relating to this matter (condition 7).
51. A condition is necessary, requiring details of a surface water drainage scheme to be approved in writing by the Local Planning Authority, to ensure that flood risk is not increased off-site (condition 8).
52. A condition is necessary, requiring a Construction Method Statement to be approved in writing by the Local Planning Authority, to protect the living conditions of nearby residents (including in relation to noise and disturbance arising from the construction period), and in the interests of highway safety (condition 9).
53. The details to be provided within the Construction Method Statement would be sufficient to limit noise and vibration levels to that appropriate to the residential area. In accordance with section 5.1 of the submitted Ecological Impact Assessment, the Construction Method Statement also requires details of construction-period airborne and waterborne pollution prevention measures to be specified. The Construction Method Statement will specify details of the parking arrangements for vehicles of site operatives and others, but given that large-scale construction works will not take place for this proposed development of up to 7 dwellings only, it is not necessary for the parking areas for construction vehicles to be patrolled.
54. A condition is necessary, requiring a survey of the condition of the adopted highway to be approved by the Local Planning Authority, to ensure that any damage during the construction period is remedied by the developer (condition 10).
55. A condition is necessary, requiring a Landscape and Ecological Management Plan to be approved in writing by the Local Planning Authority, to ensure that the proposed development achieves a net gain for biodiversity and that appropriate measures to manage relevant species (including otters) are evaluated, to ensure that the proposed development contributes to the enhancement of the natural environment in accordance with Policy CP8 of the Core Strategy (condition 11).
56. A condition is necessary, requiring a survey for badger setts, to ensure that badgers are not harmed by the proposed development (condition 12).
57. To cover the eventuality that the proposed development could involve the removal of hedgerow on site, it is necessary for a condition to be imposed setting out the procedures for vegetative clearance, to avoid harm to any dormice which might be present within the hedgerow (condition 13).
58. A condition is necessary, controlling the removal of trees and vegetation, to protect nesting wild birds which may be present on site (condition 14).

59. A condition is necessary, requiring any vegetation in the construction area to be cut to a specified height, in the interests of avoiding harm to protected species (condition 15).
60. A condition is necessary, restricting the timings for construction works and requiring that a lighting design for bats be submitted to and approved in writing by the Local Planning Authority, to minimise the impact of the proposed development on commuting and foraging habitat for bats (condition 16).
61. A condition is necessary, detailing the provision of covered cycle and electric vehicle charging points to be submitted to the Local Planning Authority, in the interests of promoting sustainable transport (condition 17).
62. A condition is necessary, requiring that the proposed roads shall be constructed to ensure that the dwellings shall be served by a properly consolidated and surfaced footpath and carriageway, in the interests of highway and pedestrian safety (condition 18).

Conditions not imposed

63. As scale is a reserved matter, the Council will consider the height of the proposed dwellings, including in relation to nearby properties on Ryesland Way and Dillons Road, at reserved matters stage. Therefore, a condition is not necessary regarding this matter. Similarly, as appearance and scale are reserved matters, the Council will have the option of considering at reserved matters stage whether permitted development rights would need to be withdrawn with respect to the proposed dwellings.
64. Given my findings above with respect to highway safety, there is no requirement for a planning condition to be imposed in relation to the provision of a speed table for nearby roads, or improvements to the junction between St Michael Road / North End and Dillons Road, or for a crossing point on St Michael Road.
65. I note the aspiration that the proposed development would provide dwellings which would be particularly suitable for older people, including those wishing to down-size. However, I have not been referred to any particular planning policy which might indicate that the proposed development would be objectionable if it were permitted on an unconstrained basis. Hence, it is not necessary for a condition to be imposed restricting the occupancy of the proposed bungalows to a particular age group, or that local retired residents are given first preference of purchase. Similarly, as scale is to be considered at reserved matters stage, the size of the proposed bungalows is reserved for later consideration by the Council.
66. The Council's Rights of Way Officer has suggested wording for an informative note relating to the public right of way which runs adjacent to the site. However, the PPG advises that informative notes do not carry any legal weight and cannot be used in lieu of planning conditions or a legal obligation to try and ensure adequate means of control for planning purposes¹⁶. Given the scope of access under consideration in this appeal decision, described at paragraph 4 above, it is

¹⁶ Paragraph 21a-026-20140306

not necessary for a condition to be imposed either in relation to removing the proposed pathway to the east of the site, or in relation any adoption agreement in relation to public footpath T 10/9.

Conclusion

67. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

Alexander O'Doherty
INSPECTOR

Conditions Schedule

Reserved matters & time limit for commencement of development

1) Details of the appearance, landscaping, layout, and scale (hereinafter called

"the reserved matters") shall be submitted to, and approved in writing by, the Local Planning Authority before any development takes place and the development shall be carried out as approved.

- 2) The details relating to the reserved matter of layout shall include the individual driveways and car parking provision for each dwelling hereby permitted.
- 3) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Details & drawings subject to which the outline planning permission is granted

- 5) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they relate to access only: Existing Location Plan (Drawing No. 001), Proposed Site Plan (Drawing No. 100 (Rev. B)), except in respect of the individual driveways to each dwelling hereby permitted and the pathway to the east of the site shown on the Proposed Site Plan (Drawing No. 100 (Rev. B)).
- 6) No more than 7 bungalows and associated works are hereby permitted on site.

Pre-commencement conditions

- 7) The details of the proposed access, as indicated on the Proposed Site Plan (Drawing No. 100 (Rev. B)), shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. The access shall be constructed in accordance with the agreed details and shall be available for use prior to the first occupation of any dwelling hereby permitted on site.
- 8) No development shall be commenced until details of a surface water drainage scheme based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been submitted to, and approved in writing by, the Local Planning Authority. The drainage strategy shall ensure that surface water runoff post-development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The Construction Method Statement shall provide for:
 - a. 24 hour emergency contact number;
 - b. construction operation hours;

- c. expected number of construction vehicles per day;
- d. construction vehicle movements;
- e. construction vehicular routes to and from the site;
- f. arrangements for turning vehicles;
- g. construction delivery hours;
- h. locations for loading / unloading and storage of plant, waste and construction materials;
- i. arrangements to receive abnormal loads or unusually large vehicles;
- j. measures to protect vulnerable road users (including cyclists and pedestrians);
- k. parking for vehicles of site operatives, visitors, and contractors (including measures taken to ensure satisfactory access and movement for existing occupiers of nearby properties during the construction period for the development);
- l. any necessary temporary traffic management measures;
- m. methods to limit noise and vibration to levels appropriate to the residential context;
- n. methods to ensure compliance with the noise and vibration levels specified;
- o. methods of preventing mud from being carried onto the highway;
- p. methods of cleaning the highway in the event that mud / dirt from construction operations congregates on the highway;
- q. methods of communicating the Construction Method Statement to staff, visitors and nearby residents and businesses;
- r. specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice (including construction-period airborne and waterborne pollution prevention measures);
- s. a scheme to encourage the use of public transport and car sharing amongst site operatives and contractors; and
- t. measures to avoid traffic congestion impacting upon the Strategic Road Network.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 10) No development shall take place (including investigation work, demolition, or siting of site compound / welfare facilities) until a survey of the condition of the adopted highway has been submitted to, and approved in writing by, the Local Planning Authority. The extent of the area to be surveyed must be agreed by the Highways Authority prior to the survey being undertaken. The survey must consist of:
- a. A plan to a scale of 1:1000 showing the location of all defects identified; and
 - b. A written and photographic record of all defects with corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of the survey.

Any damage to the highway occurring as a result of this development is to be remedied by the developer to the satisfaction of the Highway Authority once all works have been completed on site.

- 11) A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. The LEMP shall detail the delivery of enhancements to deliver biodiversity net gain as proposed in section 7 of the Ecological Impact Assessment (GE Consulting) (August 2022) and shall include the following:
- a. Description and evaluation of features to be managed, including a detailed species list (including, amongst others, otters);
 - b. Ecological trends and constraints on site that might influence management;
 - c. Aims and objectives of management;
 - d. Appropriate management options for achieving aims and objectives;
 - e. Prescriptions for management actions;
 - f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period);
 - g. Details of the body or organisation responsible for implementation of the plan;
 - h. Details of refuge type, hibernacula design and location of all enhancements; and
 - i. On-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan shall be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and / or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved LEMP shall be implemented in accordance with the approved details.

Photographs of the installed features shall also be submitted to the Local Planning Authority prior to the first occupation of any dwelling hereby permitted on site, which shall include: One integrated bird box per building; One integrated bat box per building; One bee brick per building; 2 hibernacula should be created within suitable areas of long grassland around the retained and enhanced margins to enhance the site for reptiles, invertebrates and amphibians.

Pre-vegetative clearance & pre-groundworks condition

12) Within the period of 6 weeks prior to the commencement of vegetative clearance or groundworks, a survey for badger setts shall be carried out by a competent ecologist. The results of these surveys shall be reported to the Local Planning Authority and subsequent actions or mitigation agreed in writing prior to the commencement of vegetative clearance or groundworks. Where a Natural England licence is required a copy shall be submitted to the Local Planning Authority prior to works affecting the badger resting place commencing. Good practice construction measures to ensure badgers are either unable to access the

construction site or cannot become trapped in excavations (for example, through covering up at night or inserting an 'escape ramp') shall be applied on site during the construction period.

Vegetative clearance conditions

13) Prior to any works, including groundworks, commencing on site, vegetative clearance shall be carried out in strict accordance with the following procedures, either:

- a. Between April and August in any year, a licensed dormouse ecologist shall check the site for nests immediately before clearance. If there are no nests, then the hedgerow can be removed. If present, the removal shall proceed either as per b) or c) below. The results shall be communicated to the Local Planning Authority by the licensed dormouse ecologist within 1 week of the inspection; or
- b. In September or October when dormice are still active, but avoiding the breeding and hibernation seasons, a licensed dormouse ecologist shall supervise the work checking the site for nests immediately before clearance and, if needed, during clearance. All work shall be carried out using handheld tools only. If an above-ground nest is found it shall be left in situ and no vegetation between it and the adjacent undisturbed habitat shall be removed until dormice have gone into hibernation (December) as per procedure c). The results shall be communicated to the Local Planning Authority by the licensed dormouse ecologist within 1 week; or
- c. Between December and March only, when dormice are hibernating at ground level, under the supervision of a licensed dormouse ecologist, the hedgerow, scrub and / or trees shall be cut down to a height of 30 centimetres above ground level using hand tools only. The remaining stumps and roots shall be left until the following mid-April / May before final clearance to allow any dormouse coming out of hibernation to disperse to suitable adjacent habitat.

No vegetative clearance shall be permitted between June and September inclusive in any year when females have dependent young. Written confirmation of the operations shall be submitted to the Local Planning Authority by a licensed dormouse ecologist within one week of the work.

14) No removal of habitat suitable for nesting birds (for example, hedgerows, trees, shrubs, or scrub), shall take place between 1st March and 31st August inclusive in any year, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and / or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to the Local Planning Authority by the ecologist, accompanied by dated photographs showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.

15) Any vegetation in the construction area should initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited

rain and wind, with temperatures of 10°C or above) before clearing to minimise the risk of harming / killing / disturbing any amphibians or reptiles that may be present and to encourage their movement onto adjoining land. This work may only be undertaken during the period between March and

October in any year under the supervision of a competent licensed (Great

Crested Newt) ecologist. Once cut, vegetation should be maintained at a height of less than 10 centimetres for the duration of the construction period. Any features such as rubble / brash piles which potentially afford resting places for amphibians and reptiles shall be dismantled by hand by a competent licensed ecologist. The hedgerow base (roots) must be checked prior to removal by a suitably qualified and licensed ecologist. The ecologist should also supervise the removal of this habitat. Removal of rubble piles / brash / hedgerow bases must take place between March and October in any year, during the active period for reptiles and amphibians, to avoid killing / injury / disturbance of any hibernating animals. Any individuals found should be translocated to a location agreed with the Local Planning Authority prior to works commencing on site. A letter confirming these operations and any findings shall be submitted to the Local Planning Authority by the ecologist responsible. Should Great Crested Newts be encountered, works must stop immediately and a licence be secured from the appropriate authority.

Initial construction period condition

16) In line with the recommendations from Natural England, the following procedures must be followed:

- a. Between 1st April and 31st October inclusive in any year works during the construction period shall start no earlier than 30 minutes after sunrise and shall finish no later than 30 minutes prior to sunset. No site lighting is to be left on overnight. Noise disturbance should also be kept to a minimum during this time.
- b. Prior to construction above damp-proof course level, a lighting design for bats, following Guidance Note 08/18 Bats and artificial lighting in the UK (ILP and BCT 2018), shall be submitted to, and approved in writing by, the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The design should accord with Step 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels. Lux levels should be below 0.5 Lux on adjacent suitable habitat (for example, hedgerows and proposed neutral grassland). All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior written consent from the Local Planning Authority.

Pre-occupancy conditions

- 17) Prior to the first occupation of any dwelling hereby permitted on site, a scheme detailing the provision of covered cycle and electric vehicle charging points (to be provided through driveways, garages or shared charging points as appropriate to

each dwelling hereby permitted) shall be submitted to, and approved in writing by, the Local Planning Authority. Access to the covered cycle and electric vehicle charging points shall be made available at all times.

- 18) The proposed road(s), including footpaths and turning spaces where applicable, shall be constructed in such a manner so as to ensure that any dwelling hereby permitted on site before it is first occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between any dwelling hereby permitted on site and the existing highway.

End of Conditions Schedule

Application No: 3/37/22/017

Address: 40 Woodland Road, Watchet, TA23 0HH

Description: Erection of 1 No. detached dwelling with parking and associated works in the garden to the side

Application Decision: Delegated Decision

Appeal Decision: Dismissed



Appeal Decision

Site visit made on 24 November 2023 by **Alexander**

O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/W3330/W/23/3317204 40 Woodland Road, Watchet, Somerset TA23 0HH

- 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 Martin Sadler against the decision of Somerset Council.
- The application Ref 3/37/22/017, dated 12 November 2022, was refused by notice dated 11 January 2023.
- The development proposed is erection of a detached dwelling with parking and gardens.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal was submitted against the decision of Somerset West and Taunton Council. Somerset Council has now taken over the functions of Somerset West and Taunton Council. Somerset Council has therefore been named in the banner header, above.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site comprises an area of residential garden land and hard surfaced areas associated with 40 Woodland Road (No 40) in a residential area in Watchet. No 40 is a 2-storey semi-detached dwelling. Woodland Road in the vicinity of the site has a broadly symmetrical pattern, with semi-detached dwellings being the predominant form of development along each side of the road.
5. The proposed development would introduce a 2-storey detached dwelling within the site. Its scale would be similar to No 40 and it would be positioned at a median height between No 40 and 42 Woodland Road (No 42).
6. As a detached dwelling in this location, it would interrupt the clear pattern of development referred to above. Moreover, the proposed new dwelling, which would be sat higher than No 40, would be sited adjacent to the pathway between No 40 and No 42, meaning that its incongruity in the street scene would be particularly evident in this prominent location. Furthermore, the proposed new dwelling would largely fill the space to the side of No 40, which currently positively contributes to the spacious character of residential development in the area.
7. Therefore, whilst the proposed materials, hipped roof, and window proportions of the proposed new dwelling would not appear out-of-place in this location, the combination of the adverse impacts mentioned above would result in a development that would undermine the character and appearance of the area.
8. I observed all of the dwellings referred to by the appellant. Whilst these dwellings constitute infilling, their visual effect on the street scene is mitigated by the fact that they are all part of a long and near-continuous run of properties. In contrast, the proposed new dwelling would, as mentioned above, be situated in a corner location, and separated from the area of 2-storey dwellings further to the west on Woodland Road, meaning that its incongruity in the street scene would be evident. Hence, the occurrence of infill development in the vicinity does not change my findings on this main issue.
9. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with Policy NH13 of the West Somerset Local Plan to 2032 (adopted 2016) which provides that, amongst other things, all proposals for new development should demonstrate that the proposal makes a positive contribution to the local environment and creates a place with a distinctive character.
10. The proposed development would also conflict with paragraph 130 c) of the National Planning Policy Framework (the Framework) which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built

environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Other Matters and Planning Balance

11. The Council did not refuse the application on matters relating to flood risk, highway safety, sustainable transport, parking, or the living conditions of the occupiers of nearby dwellings. However, even if I were to likewise reason that the proposed development would be in compliance with the development plan and the Framework in these respects, these would be neutral factors rather than ones which weigh positively in favour of the proposed development.
12. The proposed development would support the Government's objective of significantly boosting the supply of homes, and it would support the local economy by providing work for construction professionals. Additionally, the future occupiers of the proposed new dwelling would likely contribute to both the local economy and the community life of the area.
13. Nevertheless, considering that the Framework provides at paragraph 126 that, amongst other things, the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, as a matter of planning judgement I find that the other considerations in this case do not, either individually or collectively, outweigh the harm identified on the main issue above, nor the conflict with the development plan when considered as a whole.

Conclusion

14. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR

Application No: 27/22/0018

Address: WHISPERFIELDS, HILL ROAD, NORTON FITZWARREN,
TAUNTON, TA4 1BG

Description: Erection of a single storey extension & retention of
vehicular access at Whisperfields, Hill Road, Norton
Fitzwarren, Taunton, TA4 1BG

Application Decision: Delegated Decision

Appeal Decision: Dismissed



Appeal Decision

Site visit made on 21 November 2023 by **J Evans BA(Hons) AssocRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

**Appeal Ref: APP/W3330/D/23/3318578 Whisperfields, Norton Fitzwarren,
Taunton TA4 1BG**

- 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 Ian Johnson against the decision of Somerset West and Taunton Council.
 - The application Ref: 27/22/0018, dated 10 June 2022, was refused by notice dated 21 December 2022.
 - The development proposed is described as the erection of a single storey extension and creation of a vehicular access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It was evident to me during my site visit that the works associated with the creation of the proposed vehicular access had taken place. Section 73A of the Town and Country Planning Act 1990 (the Act) makes allowance for the submission of a planning application for development which has been carried out before the date of the application.
3. Section 55 of the Act describes development as the carrying out of building operations or the making of material changes of use rather than the retention of works or the continuation of a use. I have therefore not included the word 'retention' in the description of the proposal as was the case with the description on the decision notice. I have also removed the address of the appeal building and reworded the description of the proposal to better reflect the development before me.
4. The proposal was amended from the original scheme submitted to the Council reducing the scale of the extension to a single storey and to include the vehicular access works. I have determined the proposal upon the revised plans as considered by the Council.

Main Issues

5. The main issues are the effects of the development on the:
 - character and appearance of the appeal building and the wider area; and
 - biodiversity.

Reasons

Character and appearance

6. The appeal building is a detached modestly proportioned traditional barn conversion set in attractive rural surroundings. It is understood that the building obtained planning permission originally as a home office¹⁷ linked to the residential conversion of a barn situated to the east. However, more recently planning permission has been granted to allow the building to be used as a single dwellinghouse¹⁸ separate from the adjacent property. It was evident to me during my site visit that whilst the appeal building is clearly in residential use, its original function and purpose as a traditional agricultural building remains evident.
7. With regard to the proposed extension, I understand the desire to enlarge the existing living space of the appeal building, which I accept is restricted in terms of internal space. I also acknowledge the basis for the design approach taken with regard to distinguishing between the traditional and the new through the proposed glazed link, and a single storey form. However, it is the proposed length, width and resultant massing of the proposed extension that, to my mind, would appear uncomfortably large and would result in a domineering addition to the proportions

¹⁷ LPA ref: 27/07/0014

¹⁸ LPA ref: 27/19/0016

of the appeal building. Consequently, the proposal would overwhelm, and appear discordant and disproportionate, resulting in harm to the traditional characteristics of the existing building.

8. The appellant has referred me to the recent approval granted on the barn conversion to the east, which was under construction at the time of my visit. Whilst I acknowledge these submissions, it is not clear to me what were the full circumstances behind this decision, and nonetheless, the adjacent property differs from the appeal building in terms of its scale and appearance, and capacity to accommodate change. As a result, the works on the property to the east have not materially changed my view of the proposals before me and in any case, I am required to determine the appeal proposal on its own individual merits.
9. Turning to the proposed site entrance, this is located just to the west of the existing access and visibility splay serving the adjacent barn conversion. The access point is level with the extent of the domestic garden of the appeal building. As a result, the access is predominately perceived in this context from the narrow lanes leading by and close to the appeal site. The appellant has suggested landscape planting could also be provided. Had I been minded to allow the appeal, I am satisfied that the effects of the proposed new access would be acceptable as it is perceived in the domestic context, and would, through conditions regarding appropriate landscaping measures and the final detail of the entrance gates, provide for a visual and natural buffer to the domestic garden of the appeal building as perceived from the adjacent lane.
10. However, for the reasons I have set out above, I am of the view that the proposed extension would result in harm to the character and appearance of the appeal building and the surrounding area. For this reason, I therefore find conflict with Policy DM1 d. of the Taunton Deane Borough Council Adopted Core Strategy 2011-2028 (the CS) and Policy D5 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016 (the DMP), which amongst other matters, require development to not unacceptably harm the appearance and character of the host building and street scene, and permits extensions to dwellings provided they do not harm the form and character of the dwelling and are subservient to it in scale and design. The proposal would also conflict with paragraph 130 of the National Planning Policy Framework 2023 (the Framework), which amongst other matters requires development to be sympathetic to local character and history, including the surrounding built environment and landscape setting.

Biodiversity

11. From my review of the case officers report, it is understood that the areas of concern of the Council on this matter relate to uncertainty over the effects of the proposed extension works on roost access points on the main barn building, and the impact of the removal of the hedgerow for the site entrance.
12. As a consequence, the appellant has submitted through their Statement of Case, a Preliminary Ecological Appraisal by jh ecology dated March 2023 Reference 23/1703 (the PEA). The PEA also includes a Preliminary Roost Assessment (the PRA) of buildings on the appeal site.

13. The Council have referred to Policy CP8 of the CS in their decision notice on this matter, however I have not been provided with a copy of this policy. Nonetheless, I am aware of Policy DM1 c. of the CS, which amongst other matters requires proposals to demonstrate that development will not lead to harm to protected wildlife species or their habitats. Paragraph 174 of the Framework also explains that planning decisions should contribute to and enhance the natural and local environment by, amongst other matters, recognising the benefits from natural capital and ecosystem services and minimising impacts on and providing net gains for biodiversity.
14. Further, paragraph 99 of Circular 06:2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impacts within the Planning System explains that it "... is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."
15. The PEA and the PRA explain that whilst the appeal building is a potential roost site for bats, the limited extent of the proposed works to the existing building itself alongside the evidence provided through the PRA, indicate that it is considered unlikely that bats would be affected by the proposed works. A number of mitigation and enhancement measures are recommended in the PEA. These are matters that could have been controlled via planning condition if I was minded to allow the appeal.
16. It is also noted that the PEA sets out that the negative effects from the removal of the hedgerow for the site entrance could be offset through replanting on the northern and eastern boundaries. The PEA also provides a number of further mitigation and enhancement measures, again these are all matters that could be adequately controlled via condition.
17. On the above basis, I am satisfied that subject to accordance with the PEA and the implementation of the highlighted mitigation, compensation and enhancement measures, the proposal would align with Policy DM1 c. of the CS and paragraph 174 of the Framework.

Conclusions

18. While I have found that the appeal proposal would have an acceptable effect on biodiversity and on the character and appearance of the area with regard to the proposed vehicular access, the proposed extension would have a detrimental effect on the characteristics of the appeal building and that of the surrounding area.
19. As a result of these negative effects, the proposal is in my view unacceptable, and contrary to the development plan, when read as a whole. There are no material considerations that would justify a decision contrary to the provisions of the development plan, in this case.
20. For all the above reasons, having regard to all matters raised, I conclude that the appeal should be dismissed.

J Evans

INSPECTOR

Application No: 3/30/22/002

Address: Kimmins Moor, Frogwell Cross to Skilgate, TA4 2DL

Description: Erection of a log cabin for farm workers [rural worker] occasional temporary accommodation (retention of works already undertaken)

Application Decision: Delegated Decision

Appeal Decision: Dismissed



Appeal Decision

Site visit made on 13 December 2023 by **T Gethin BA (Hons), MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 December 2023

Appeal Ref: APP/W3330/W/23/3319636 Kimmins Moor, Frogwell Cross to Skilgate, Skilgate, Somerset TA4 2DL

- 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 P Govier, GPG Developments Ltd, against the decision of Somerset West and Taunton Council.
 - The application Ref 3/30/22/002, dated 9 August 2022, was refused by notice dated 9 February 2023.
 - The development proposed is described as Retrospective application for the siting of a log cabin for farm workers [rural worker] occasional temporary accommodation.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. With the proposed development already in situ, I was able to observe it on my site visit. I have dealt with the appeal on this basis.
3. The Council's decision notice refers to Policy NC/1 of the West Somerset Local Plan to 2032 (LP). However, rather than this forming a reason for refusal, the

reference indicates that the Council simply took account of the policy when determining the planning application and the decision notice does not allege a conflict with the policy. I have determined the appeal on this basis.

Main Issue

4. On the basis of the above, the main issue is whether the location of the proposed development is essential for a rural worker.

Reasons

5. The appeal site is in the open countryside, as defined by the LP. The log cabin is situated in a corner of a field near to a hedge, various trees and a stream. Although positioned on the furthest land from the farmhouse, it is a short walk from the public highway and approximately half a mile from Kimmins Moor.
6. LP Policy OC1 sets out that development in the open countryside will only be permitted where it can be demonstrated that, amongst other things, such a location is essential for a rural worker. In this instance, the log cabin is proposed to provide welfare facilities and occasional temporary accommodation for the full-time employed farm worker, and for use by the appellant on the holding.
7. The available evidence indicates that the holding now includes some 42 Ruby Red cows. These animals, who prefer to reside outside, clearly need looking after, with particular attention needed at certain times of the year, such as during calving. When the livestock are in the part of the holding where the cabin is proposed to be permanently sited, it is also not possible to see them from the farmhouse and barn. In such circumstances and without the cabin, this would mean that someone would have to travel to check on them. It is said that the log cabin would avoid the need for this whilst providing shelter for the farm worker and ensuring sufficient care for the cows. For example, the cabin was used to provide cover in 2022 for a calf suffering from cold and meant that someone was on hand to help a calf born in the placenta.
8. Be that as it may, the distance between the farmhouse and appeal site is not particularly far. The journey therefore only takes a few minutes by vehicle, even if the latter part requires walking across fields. Walking the whole way would take longer, but the distance means that it would also not take a significant amount of time. It seems to me that it is therefore possible to ensure the cows' welfare is sufficiently maintained in this part of the holding, even during times where more monitoring may be required. I also have little substantive evidence that the cows could not be moved to fields nearer to (and visible from) the farmhouse and barn if/when the cows require closer attention and/or faster access is necessary. Furthermore, corresponding with the description of development, the available evidence indicates that the accommodation is only needed occasionally, whereas the proposal is for the cabin's permanent siting.
9. Accordingly, the proposed permanent siting of the log cabin in the open countryside for farm worker accommodation is not justified and the proposed location cannot, on the basis of the available evidence, reasonably be described as being essential. I therefore find that the proposed development conflicts with

LP Policy OC1. In coming to this view, I have taken into account that the appellant employs a full-time worker (who lives some 20 miles away) to farm the holding because their main business keeps them away from the farm; considers that it is neither appropriate to accommodate the worker or provide welfare facilities for them at the farmhouse nor viable to do so from the attached one-bedroom annex; and is said to not have any other permanent or temporary shelter to cater for the use and welfare of the farm worker.

Other matters

10. Notwithstanding this, I note that the log cabin is said to be moveable and thus would be classed as permitted development if it is not sited permanently in one place. Although moving it may in some situations make it more visible in public views, it seems to me that its high-quality appearance and design, which is supported by the National Planning Policy Framework, means that it would not read as a harmful feature in such views. Alternative locations may also be as well screened as its current siting, whilst I have little substantive evidence that any land disturbed from it being moved (particularly during the winter months and wet weather) would not be able to recover relatively quickly. Accordingly, even if it is not possible or desirable to move the cows to fields closer to the farmhouse when more monitoring of them is necessary, the ability to keep and use the log cabin under permitted development rights means that the cows could still be closely monitored in parts of the holding not visible from the farmhouse. Dismissing the appeal would therefore not mean that the appellant would be unable to ensure the cows' welfare in the furthest parts of the holding from the farmhouse or that the farm worker would have insufficient shelter/welfare facilities. That it would be easier to deal with waste water from the cabin does not lead me to a different conclusion.
11. It has been put to me that similar accommodation to the cabin (such as shepherd huts) have been used for hundreds of years and may rarely have been moved, and that farm worker employment could not easily be accommodated within or adjoining any nearby settlements. I recognise that the appellant is keen for the holding to continue being farmed despite the small financial returns and that the cabin is said to support this. By providing employment, the appellant is also supporting the rural economy, whilst the cabin, which does not harm the surrounding landscape, reduces the need to travel, provides shelter for the farm worker and helps to ensure that the welfare of the livestock is met. Be that as it may, these matters do not outweigh the conflict I have identified with the development plan, and the conditions suggested by the appellant would not change this.
12. The appellant has indicated that they did not receive the Council's Officer Report and that this made it difficult to understand the decision and prepare a response. The decision was also made well after the original determination date, whilst the appellant has been frustrated by the lack of communication from the Council and that the initial indication was that permission would be granted. Be that as it may, and irrespective of the reasons behind the Council's changed position and the parish council's actions, these are procedural matters. Accordingly, neither these nor the planning permission for the very different and not comparable proposal of

two 'glamping' units elsewhere in the parish are determinative as to the acceptability of the appeal proposal, which I have determined on its merits, based on the evidence before me.

Conclusion

13. The proposal conflicts with the development plan read as a whole and there are no material considerations which carry sufficient weight to warrant a decision otherwise than in accordance with it. The appeal is therefore dismissed.

T Gethin BA (Hons), MSc, MRTPI

INSPECTOR

Application No: 44/22/0003

Address: Burts Farm, Ford Street, Wellington

Description: Change of use of land to domestic curtilage and erection of an ancillary gym building for private use at Burts Farm, Ford Street, Wellington (retention of works already undertaken)

Application Decision: Delegated Decision

Appeal Decision: Dismissed



Appeal Decision

Site visit made on 13 December 2023 by **Mrs H Nicholls FdA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/W3330/W/22/3312884 Burts Farm, Ford Street, Wellington TA21 9PG

- 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 R Baker against the decision of Somerset Council.
 - The application Ref 44/22/0003, dated 9 March 2022, was refused by notice dated 15 July 2022.
 - The development proposed is erection of an ancillary gym building and the extension of residential curtilage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the proposal from the application form.
3. The building described above was already built and the material change of use of land had commenced prior to my visit. The appeal proposal therefore seeks permission for these elements retrospectively.

4. The appeal was submitted against the refusal of permission by Somerset West and Taunton Council, which since the submission of the appeal, has merged with other Councils to form Somerset Council. As a result, I have referred to Somerset Council in the banner heading above.

Main Issues

5. The main issues in this appeal are:
 - whether the proposal would preserve or enhance the significance of the Grade II listed building, Burts Farmhouse;
 - the effects of the proposal on the character and appearance of the site and surrounding area; and
 - whether the proposal would be suitably located in relation to the host dwelling.

Reasons

Context

6. This appeal seeks retrospective planning permission for the erection of an ancillary building and the extension of the domestic use of land in order to accommodate the appellant's home gym. The gym building (and car port) measures around 12.3m by 13.8m by around 5.8m high to its ridge with an internal mezzanine first floor level. Its north-eastern elevation is largely glazed. The remaining elevations comprise a mix of waney edge timber cladding, dark grey weatherboard cladding and metal profile sheeting. The asymmetric roof form is covered with slates on one plane and profile sheeting on the other.
7. The development plan for the area includes the Taunton Deane Core Strategy (2012) (CS) and the Taunton Site Allocations and Development Management Plan (2016) (SADMP).

Effects on Listed Building

8. The Grade II listed building, Burts Farmhouse (List Entry Number: 1344619), is a handsome, detached dwelling that dates from the mid-19th century and features stucco front elevation with centred porch, a hipped slate roof and traditional sash windows.
9. The significance and special interest of the listed building stems from its architectural aesthetic and detailing and remaining historic fabric that denotes its origins as a relatively high status Georgian farm dwelling. Significance also comes from the listed building's historic function as the primary building within the original farmstead. The former barns have been converted into separate dwellings and the listed building stands within its spacious garden, partially enclosed by stone walls and adjoined on one side by agricultural land.
10. In my view, the significance of the listed building has already been eroded to a degree by the accumulative effects of new buildings and the spread and extent of land changed to uses associated therewith. Not only within the land owned by the Appellant but also on adjoining land to the west which appears to be in various

commercial and domestic uses. The effects of the urbanisation of the wider surrounding area undermine the legibility of the rural listed building and what would have been its associated farmstead. As a contrast, it is fortunate to retain its spacious, verdant garden and sense of rurality to the north and east.

11. By virtue of the generous scale, form and mass, and the incoherent mix of external materials, the building would result in further urbanising effects of the appeal site when taken in combination with the large extent of hardstanding and associated domestic paraphernalia. Taken as a whole, in my view, the appeal scheme detracts from the rural scene and setting of the listed building. This results in a further modest erosive effect on the listed building's significance.
12. That the significance of the building has already been undermined by other development within its setting is not sufficient justification for further harm. Similarly, harm does not need to be widely visible from public vantage points or from *habitable* rooms from within the listed building itself, though there are windows from the listed building that look towards the appeal building and hardstanding. Furthermore, given the proximity and relationship between the listed building and the appeal site, I do not consider that a landscaping scheme required by way of planning condition could negate the identified harm.
13. For the above reasons, the proposal fails to preserve the significance of the listed building, thus bringing the appeal scheme into conflict with S66(1) of the Listed Building and Conservation Areas Act 1990, and with CS Policy CP8 which requires development to protect, conserve or enhance the interests of natural and historic assets.
14. Under the terms of the National Planning Policy Framework (the Framework), less than substantial harm to the significance of a designated heritage asset shall be weighed against the public benefits of the scheme. In this case, I consider that the magnitude of harm to the significance of the designated heritage asset would be less than substantial. I return to the balance below.

Character and appearance

15. As above, I have found the building to have a harmful effect on the rural scene owing to its scale, form and appearance. These conclusions are also relevant to the effects on the character and appearance of the area. The scale of the building challenges the primacy of the host dwelling and when combined with the excessive hardstanding, absence of soft landscaping and hedges, and spread of domesticity, the development has a harmful urbanising effect on the rural area. These effects are not offset by the agricultural feel of the building promoted by the Appellant, which is limited only to the waney edged timber clad elevation and its simple form, although it is similarly akin to a modest commercial building.
16. It is claimed that the building is screened by the host dwelling in views from the south, which is broadly accurate. However, I was able to glimpse parts of the building itself from the nearby public right of way and noted its association with buildings, caravans and structures on the adjoining site. Rather than being of limited consequence in this context, the appeal proposal adds to this overall cluttering effect.

17. The suggestion that the curtilage does not project into the open countryside is also difficult to rationalise with the evidence presented and with what is visible on the ground. The Council's Statement provides an extract showing the planning unit from the original conversion scheme which shows it to be much smaller than it is on the ground. Figure 11 of the Appellant's Statement sets a notional line denoting the furthest extents of domestic curtilages with which the appeal proposal is purportedly contiguous. However, there are a number of projections of the residential uses beyond this red line, including a recent addition not captured within the plans.
18. In reaching this finding, I do not consider that there would be material effects on the setting of Wellington or on the nearby Blackdown Hills Area of Outstanding Natural Beauty. I have focussed on the effects of the scheme on the site and its surroundings within the cluster of buildings at Burts Farm, Farmhouse and immediately surrounding landscape. I have also considered the Appellant's willingness to replace the external materials of the building if it were capable of remedying identified harm. In my view, this would not be adequate to overcome the identified harms and therefore, I have determined the appeal on the basis of the plans before me.
19. For the above reasons, the proposal would be harmful to the character and appearance of the area, contrary to, in particular, CS Policies DM1 and CP8. Together, these Policies require development to be appropriate in terms of scale, siting and design and to avoid unacceptable harm to the appearance and character of any affected landscape.

Location of development

20. Whilst the Appellant alleges that the extent of the red site area was already part of the domestic curtilage, the appeal seeks to retain the change to a residential use associated with the host dwelling should it be necessary.
21. My view is that the domestic use of the land appears to have been extended incrementally through the siting of various buildings; the planning status of which is unclear from the evidence. The same can be said of the appeal scheme. As observed on my site visit, the most recent extension of the domestic use of the land beyond the appeal building has already occurred; with an enclosed decking and equipped play area having been created part way into the paddock area. This additional change of use of land is not reflected in the plans submitted to me.
22. Neither the CS or SADMP appears to contain any policies explicitly addressing the change of use of land to domestic uses in countryside locations. Policy D6 of the SADMP refers to the conversion of an appropriate building within the curtilage of a dwelling, or the construction of new buildings within the curtilage of a dwelling for ancillary purposes. The wording of Policy D6 appears to infer that the curtilage of the dwelling should be established prior to consideration of any proposals for an additional building to be sited within it. The Policy does not obviously deal with the present scenario where a building is proposed on land which would also concurrently extend the domestic curtilage.

23. However, the change of use of land and its associated domestic paraphernalia has a visual dimension, and even if the building were close enough to maintain a functional relationship with the dwelling, the harms to the character and appearance of the area and undermining of the significance of the designated heritage asset still conflict with SADMP Policy DM1 and CS Policy CP8 in any event. Therefore, SADMP Policy D6 is not determinative in this appeal.

Planning balance

24. By reason of its effects on the character and appearance of the area and harm to the significance of the designated heritage asset, the appeal scheme conflicts with the development plan when taken as a whole.

25. I have considered the suggested needs of the Appellant for the well-sized, lit and ventilated building on site to accommodate specialist exercise equipment. I have attributed limited weight to this aspect which would derive largely private benefits for the Appellant in any event. The reduction in the Appellant's need to travel to facilities elsewhere is a very limited benefit.

26. The less than substantial harm to the significance of the designated heritage asset is not outweighed by the very limited public benefit of the scheme. Furthermore, the limited public benefits do not form a consideration of such materiality that they indicate that a decision should be taken other than in accordance with the development plan.

27. The appeal is therefore dismissed.

Hollie Nicholls

INSPECTOR

Application No:

Address:

Description:

Application Decision:

Appeal Decision:



The Planning Inspectorate

Appeal Decision

Site visit made on 23 November 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2024

Appeal Ref: APP/W3330/W/23/3319548

The Coach House, Old Cleeve, Minehead, Somerset TA24 6HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Eric Beavan against the decision of Somerset Council.
 - The application Ref 3/26/22/017, dated 15 December 2022, was refused by notice dated 15 February 2023.
 - The application sought planning permission for change of use of the gatehouse from holiday accommodation to residential annexe or holiday accommodation without complying with a condition attached to planning permission Ref 3/26/12/019, dated 14 November 2012.
 - The condition in dispute is No 3 which states that: The development hereby approved shall not be occupied at any time other than for a residential annexe or holiday accommodation ancillary to the residential and guest house use of the property known as Cedar House and shall not be occupied as a separate dwelling unit.
 - The reason given for the condition is: The site is outside the Development Limit of any Town, Rural Centre or village and is not in an area appropriate for the establishment of new dwellings, having regard to the provisions of Saved Policies SP/5 and H/6 of the West Somerset District Local Plan (2006).
-

Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. The appeal was submitted against the decision of Somerset West and Taunton Council. Somerset Council has now taken over the functions of Somerset West and Taunton Council. Somerset Council has therefore been named in the banner header, above.
4. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken the comments received into account. I have had regard to the December 2023 version of the Framework in my decision.

Background and Main Issues

5. The Coach House is a building located to the north of Cedar House, found near the edge of the village of Old Cleeve. The Coach House was, according to the

<https://www.gov.uk/planning-inspectorate>

appellant, originally built as a family home for the coachman employed by the then-owner of Cedar House. According to the appellant, The Coach House was built in 1906, and this date has not been disputed by the Council.

6. I accept that it is feasible that The Coach House could have been used as an unfettered residential dwelling at various points in the past. The appellant has also asserted that The Coach House would historically have met the *Gravesham*¹ test, with *Gravesham* holding that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day private domestic existence, and that this essential character is not lost if its usage is restricted in duration.
7. However, even if The Coach House has met the *Gravesham* test, The Coach House has been used as holiday accommodation since at least 2003, when permission was granted for Cedar House to be used as private residential and guest house accommodation, with the 3 properties in the grounds to be used for holiday accommodation.
8. Furthermore, the 2012 permission² shows that the building was considered by the Council to be in use as holiday accommodation at that time. Additionally, following the 2012 permission, which specifically authorised a change of use of the building to a residential annexe or holiday accommodation, the evidence provided relating to the travel patterns of various holiday makers using The Coach House provides support for the view that the usage of The Coach House for holiday accommodation has been ongoing since 2012.
9. Taking all of the above into account, due to the long-standing usage of The Coach House as either a residential annexe or holiday accommodation, I have considered The Coach House as currently being used as stated in the 2012 permission, that is, as a residential annexe or holiday accommodation.
10. The case of *Reid*³ clarified a number of points in relation to the scope of applications under s73 of the Town and Country Planning Act 1990 (as amended), including that a change of use is permitted not by the description of the permitted development but by operation of law⁴, and that a public decision-maker cannot adhere to a description of permitted development while at the same time deciding to impose a condition that is inconsistent with that description⁵. However, condition No 3 is not inconsistent with the description of development in the 2012 permission, as they both relate to a residential annexe or holiday accommodation. *Reid* does not therefore provide support for the view that condition No 3 should be removed.
11. The appeal proposal seeks to remove condition No 3 of the 2012 permission, which currently prevents The Coach House from being used as a separate dwelling unit. It is not the purpose of this appeal decision to re-appraise the Council's decision-making based on the circumstances and planning policy that prevailed in 2012, but rather to assess whether condition No 3 is reasonable and necessary at the present time, including by reference to current local and national planning policies.

¹ *Gravesham BC v SSE & O'Brien* [1983] JPL 306

² 3/26/12/019

³ *Freddie Reid v SSLUHC* [2022] EWHC 3116 (Admin)

⁴ Paragraph 36 of *Reid*

⁵ Paragraph 51 of *Reid*

12. The main issues therefore are whether condition No 3 is reasonable and necessary in relation to:

- planning policies which restrict residential development in the countryside;
- the suitability of the location for permanent residential accommodation; and
- highway safety.

Reasons

Principle of proposed use

13. The site is located in a predominantly residential area, and is near to residential development. Considering this, in the terms of *Braintree*⁶ the site is not physically separate or remote from other development. The site is not therefore in an isolated location with respect to paragraph 84 of the Framework, meaning that the 5 exceptions listed under paragraph 84 are not applicable to the proposal. Moreover, as The Coach House is not physically attached to Cedar House, the removal of condition No 3 would not involve the subdivision of an existing residential building, which means that paragraph 84 d) would not provide support for the proposal in any event.
14. Appeal decision Ref APP/M1710/W/20/3249372 dealt with a situation where the equivalent paragraph in the Framework relating to the development of isolated homes in the countryside was applicable to the proposal under consideration, and that appeal involved a single-storey annexe which was physically attached to a detached house, which is not the case here. That appeal decision is therefore not directly comparable with the appeal proposal.
15. Although the removal of condition No 3 would not result in the development of an isolated home in the countryside, it is still necessary to consider development plan policies which seek to restrict development outside of settlement boundaries. In this regard, the appeal site is situated in the open countryside for planning policy purposes. Policies SC1 and OC1 of the Adopted West Somerset Local Plan to 2032 (adopted 2016) (Local Plan) set out the settlement hierarchy for the area. In particular, Policy OC1 of the Local Plan provides criteria which must be fulfilled for development in the open countryside to be permitted. Policy OC1 refers to development in general and does not specifically exclude its applicability to applications connected to changes of use.
16. Policy OC1 refers to the conversion of existing, traditionally constructed buildings in association with employment or tourism purposes as part of a work / live development. However, the proposal would result in The Coach House being used as an independent dwelling, separate from Cedar House, and not as part of a work / live development. Hence, that criterion within Policy OC1 is not applicable to the appeal proposal. The proposal also does not fall within any of the other criteria listed within Policy OC1.
17. The proposal therefore conflicts with Policy OC1, and by extension, Policy SC1 of the Local Plan which provides that, amongst other things, development elsewhere in the open countryside will be considered under Policy OC1. There is

⁶ *Braintree DC v SSCLG & Ors* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

nothing within the wording of Policy SC1 or its supporting text that excludes its applicability to applications connected to changes of use.

18. Given that the Framework provides at paragraph 15 that, amongst other things, the planning system should be genuinely plan-led, this conflict with the Council's adopted spatial strategy for the area is of importance. It strongly weighs against the proposal.
19. I have had regard to the details submitted in relation to the planning applications at Grooms Cottage⁷ and Langtry Country House⁸. I concur with the appellant that saved Policy H/6 of the West Somerset District Local Plan (adopted 2006) when read as a whole appears to relate to the loss of business premises to residential or holiday accommodation. Although evidence has not been provided to demonstrate that the proposal complies with part I) of Policy H/6, which requires the applicant, in relation to a proposed change of use to permanent residential use, to demonstrate that every reasonable attempt has been made to secure a business use of the building, due to the age of this policy and that it has been largely superseded by the provisions of Policy OC1, this conflict is not of critical importance to this appeal.
20. Whilst the planning history for Langtry Country House was deemed by the Local Planning Authority to be unclear, that is not the case with respect to the history of The Coach House since at least 2003, as described above. My findings on this main issue therefore remain unchanged.
21. In light of the above, I find that condition No 3 is reasonable and necessary in relation to planning policies which restrict residential development in the countryside. The proposal would conflict with Policies SC1 and OC1 of the Local Plan, which collectively provide that, amongst other things, development is not generally appropriate in the open countryside.

Location

22. The evidence before me indicates that there is a limited range of facilities available in Old Cleeve. I have not been referred to any particular employment destinations which might exist in Old Cleeve, either. In all likelihood, then, if The Coach House were occupied as a permanently-occupied independent dwelling, the future occupiers would be required to use private motor vehicles to travel beyond Old Cleeve to access the services and facilities required for day-to-day living, including those relating to shopping and employment. Furthermore, as an independent dwelling, trips would likely be generated by visits from friends and family and through deliveries to The Coach House.
23. The evidence provided by the appellant relating to the travel patterns of holiday makers using The Coach House demonstrates that these holiday makers typically travel long distances to reach The Coach House, and then make regular shopping and leisure trips by private motor vehicle once there. Given the extensive range of desirable tourist destinations within reasonable driving distances from The Coach House I have no doubt that holiday makers would regularly drive to these during their stay.
24. Nevertheless, the key consideration here is that, according to the appellant, lettings for The Coach House largely cease in the October to April period,

⁷ 3/26/05/005

⁸ 3/26/16/017

whereas The Coach House would likely be occupied all-year-round if condition No 3 were removed. Hence, the evidence indicates that permanent residential occupiers of The Coach House would likely generate more trips by private motor vehicle over the course of a typical year. Given the limited services and facilities available in Old Cleeve, sustainable modes of transport would not likely be used to access the required services and facilities. These facts distinguish the present case from the situation described in *Blackpool BC v SSE*⁹, where it was held that the character of the user of the building from a planning point of view had not been changed.

25. Whilst the appellant has referred to the residential use of The Coach House, the 2012 permission restricts this type of use to a residential annexe. No specific information has been provided to accurately quantify the amount of comings and goings to The Coach House which might occur over any given period if it were used as a residential annexe. It has not therefore been demonstrated that its usage as a residential annexe generates more trips by private motor vehicle over a given period compared with The Coach House being used as an independent dwelling. This reinforces my finding that the removal of condition No 3 would not promote the use of sustainable modes of transport.
26. Therefore, I find that condition No 3 is reasonable and necessary in relation to the suitability of the location for permanent residential accommodation. The proposal would conflict with Policy TR2 of the Local Plan which provides that, amongst other things, development should be located and designed to maximise the attractiveness of modes of transport other than the private car.
27. The proposal would also conflict with chapter 9 of the Framework, which seeks to promote sustainable transport.

Highway safety

28. A short accessway links the site to Old Cleeve Road. I observed that visibility is quite limited when exiting this accessway and looking to the left, due to the presence of the side of The Coach House and vegetation on the roadside verge. Visibility to the right is also somewhat constrained by the existing hedgerow. No technical evidence has been provided to demonstrate that the existing access meets the requirements of Manual for Streets in terms of an adequate visibility splay.
29. The short and narrow accessway from the road leads to a small hard surfaced area to the rear and side of The Coach House. This area, as it currently stands, is not large enough for a car to turn and exit the site in forward gear. The future occupiers of The Coach House would therefore be required to reverse their vehicle onto the road, using an access which, as stated above, has not been demonstrated to have adequate visibility.
30. I note that the 2012 permission stated that the means of access and parking arrangements met the required safety standards. However, few details have been provided to illustrate what safety standards the 2012 proposal was considered against. I also note that, compared to the Site Photograph - rear elevation provided in the Design and Access Statement, the available parking area is now appreciably smaller than as shown in that photograph, meaning that it is unclear to what extent historic parking arrangements reflect those at

⁹ (1980) 40 P&CR 104

the present time. For these reasons, the 2012 permission does not change my findings on this main issue. The fact that visibility from accesses is commonly poor in the local area and that holidaymakers may be less familiar with the local road network than a resident family does not alter the safety implications of the access at The Coach House itself.

31. Taking all of the above into account, including my findings on the second main issue above in relation to the potential for the proposal to result in an uplift in vehicle movements to and from the site, I consider that it has not been demonstrated that the proposal would not result in an unacceptable impact on highway safety, which paragraph 115 of the Framework sets as the threshold for development to be prevented or refused on highways grounds.
32. I therefore find that condition No 3 is reasonable and necessary in relation to highway safety. The proposal would conflict with paragraph 115 of the Framework, the relevant part of which has been summarised above.

Other Matters

33. The conduct of the Council during the processing of the planning application is not a matter that I can assess in the context of a planning appeal.
34. Few details have been provided to substantiate the assertion that maintenance of The Coach House is becoming increasingly unviable, and therefore the extent of any financial burden in this respect unclear. Whilst the loss of the holiday accommodation might not be significant in economic terms and other properties offering holiday accommodation are present in the locality, the evidence does not indicate that The Coach House has encountered significant issues in generating business during the holiday season.
35. Moreover, the restriction in condition No 3 relating to The Coach House being used as holiday accommodation ancillary to the residential and guest house use of Cedar House is congruent with the reference to holiday accommodation in the description of the proposal in the 2012 permission and I have not been provided with evidence which suggests that the words 'holiday accommodation' in condition No 3 has resulted in difficulties with The Coach House being operated in commercial terms.
36. The removal of condition No 3 would allow The Coach House to be occupied as an independent dwelling, thereby providing a limited contribution to the housing stock in the locality. I note the aspiration for Cedar House to be sold, but as no mechanism is before me to secure this, this consideration can only be given limited weight in favour of the proposal. Policy EC9 of the Local Plan relates to new proposals for tourism developments outside settlements rather than the potential loss of tourism development, and accordingly the criteria listed within it are not directly relevant to the present proposal. Considering all of the above, the collective benefits of removing condition No 3 are therefore given no more than moderate weight in favour of the proposal.
37. The proposal would conflict with the Council's spatial strategy for the area, and it would not promote sustainable transport. It has also not been demonstrated that that the proposal would not result in an unacceptable impact on highway safety. Given the range of adverse impacts identified, covering matters of fundamental importance to the planning system, it is clear that the benefits of

the proposal, as summarised above, are not sufficient to outweigh the adverse impacts identified.

38. Overall, I find that condition No 3 is reasonable and necessary in the present circumstances, and that the proposal would conflict with Policy SD1 of the Local Plan which seeks to, amongst other things, secure development that improves the economic, social, historic and natural environmental conditions in the area.

Conclusion

39. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR