

APPEAL DECISIONS – 7 APRIL 2022

Site: BIRDS FARM, HIGHER KNAPP LANE, KNAPP NORTH CURRY,
TAUNTON, TA3 6AZ

Proposal: Replacement of barn with the erection of 1 No. dwelling at Birds Farm,
Higher Knapp Lane, Knapp, North Curry (amended scheme to 24/19/0027)

Application number: 24/21/0031

Reason for refusal: Dismissed

Original Decision: Chair Decision



Appeal Decision

Site visit made on 28 February 2022 by **John Wilde CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 9 March 2022

Appeal Ref: APP/W3330/W/21/3285797 Birds Farm, Higher Knapp Lane, Knapp North Curry, Taunton TA3 6AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Rob Case against the decision of Somerset West and Taunton Council.
 - The application Ref 24/21/0031, dated 12 May 2021, was refused by notice dated 14 September 2021.
 - The development proposed is the erection of a single dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:-
 - a) The character and appearance of the area, and
 - b) The Somerset Levels and Moors Ramsar site

Reasons

3. The appeal site lies on a hillside situated above and a short distance away from the River Tone. The site is approached from the east and the land falls steeply away towards the west. The proposal is for a two storey dwelling that would be sited towards the front of the crest, replacing a now demolished barn.
4. There is an extant planning permission on the site for a single storey dwelling with mezzanine, which would replace the barn and was allowed under the permitted development regime. This is therefore a fallback position and an important material consideration.

Character and appearance

5. The site is very prominent within the local rural landscape, being the highest point for a considerable distance. There is a copse of trees to the front (west) of the site and an 'L' shaped stable type block and single storey wooden property relatively close to the north. Within the area, and particularly from the hillside, built form can be seen nestled within the landscape and there are three agricultural barns visible which are more prominent than most of the other buildings, due primarily to their colour.
6. I have been supplied with a Landscape Statement (LS) prepared by Clark Landscape Design on behalf of the appellant. This assesses the views likely to be available of the proposed development from seven viewpoints, the majority being on local public rights of way to the west of the appeal site. In most instances the LS summarises the overall effect of the proposed development as being neutral or low to neutral. However, in the summary associated with each of these viewpoints the comment is made in all but one instance that there *may be some partial and glimpsed winter views of the dwelling with the loss of leaf cover*. I agree with this assessment. The majority of trees within the copse are deciduous and during my visit I was able to glimpse the outline of the existing buildings behind the trees, and as I moved further to the north the single storey wooden property was clearly visible.
7. These buildings, and in particular the stables, are set back from the front of the promontory and it follows that anything further forward would be likely to be more prominent. I acknowledge that the approved dwelling would be further forward. However, this would be considerably smaller in terms of its scale, bulk and height than the proposed dwelling. Furthermore, the proposed dwelling would have large windows facing the west, with two very large picture windows serving the master bedroom.
8. Whether or not the proposed dwelling could be seen over the top of the copse of trees is a moot point, but it would certainly be seen through it, particularly during the winter, and the presence of the extensive glazing would mean that the dwelling was very noticeable across a wide area when the lights were on. To my mind the proposed dwelling would be seen as an intrusion into what is at present a rural and relatively tranquil landscape.
9. This would place it in conflict with policies DM 1 and CP8 of the Taunton Deane Borough council Adopted Core Strategy 2011-2028. The former of these seeks to ensure, amongst other things, that development does not unacceptably harm the appearance and character of any affected landscape. The latter requires that

development outside of settlement boundaries is appropriate in terms of its scale, siting and design.

Somerset Levels and Moors Ramsar site

10. The appeal site is within the catchment area of the Somerset Levels and Moors Ramsar site which is designated by virtue of its rare aquatic invertebrates. There is an ongoing environmental issue related to high phosphate levels within the RAMSAR site. Information from Somerset County Council (SCC) indicates that any applications for residential development need to demonstrate how nutrient neutrality can be achieved in respect of wastewater discharged from the site. This is needed to show that the development would comply with The Conservation of Habitats and Species Regulations 2017 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
11. Consequently, as the Appropriate Authority, I have to be certain that the proposed development would not have a likely significant effect upon the integrity of the RAMSAR site.
12. I have not been supplied with any details as to how nutrient neutrality could be achieved. The appellant has indicated that he would be *willing to sign up to any future solution to this issue including a financial contribution*. However, I have no signed Obligation before me to ensure that mitigation measures would be put in place in the event of a future solution, and even if I had, this would not be sufficient taking into account the precautionary principle required in such situations. I therefore find that the proposed development would conflict with policy CP8 of the CS, which requires that development should provide for any necessary mitigation measures.

Conclusion

13. For the above reasons, and having taken into account all other matters raised, I conclude that the appeal should be dismissed.

John Wilde

INSPECTOR

Site: 1 TAUNTON ROAD, BISHOPS LYDEARD, TAUNTON, TA4 3BN

Proposal: Change of use of vacant shop premises to residential accommodation with alterations to former shop front at 1 Taunton Road, Bishops Lydeard

Application number: 06/21/0024

Reason for refusal: Dismissed

Original Decision: Delegated Decision



Appeal Decision

Site visit made on 1 February 2022 by Alison Fish BA (Hons)

DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2022

Appeal Ref: APP/W3330/W/21/3282280 1 Taunton Road, Bishops Lydeard, Taunton TA4 3BN

- 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 and Mrs Mark Green Sims against the decision of Somerset West and Taunton Council.
 - The application Ref 06/21/0024, dated 29 May 2021, was refused by notice dated 13 August 2021.
 - The development proposed is change of use of vacant shop premises to domestic accommodation and alterations to former shop front.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. My attention has been drawn to the Council's Technical Note: Policy Guidance for change of use of rural service provision and conversion of existing buildings. I have had regard to this insofar as it is relevant to the appeal.

Main Issue

3. The main issue is whether the proposal would result in the unacceptable loss of an essential community facility.

Reasons

4. The appeal proposal involves the conversion of the former commercial floorspace to provide extended residential accommodation which occupies the remainder of the building. I understand that the appeal premises were formally a post office and shop with residential accommodation which closed in the autumn of 2020. Since that date, the premises has remained closed and no alternative post office operates from Bishops Lydeard.
5. Policy SP1 of the Adopted Taunton Deane Core Strategy 2011-2028 adopted September 2012 (CS) identifies Bishops Lydeard as a 'major rural centre' to provide essential facilities for rural communities and an appropriate balance of housing, employment and other local services. Policy CP3 of the CS seeks to prevent the loss of rural services where it would damage the vitality and viability of a settlement or increase car travel unless it can be proven to be unviable for re-use for local service provision.
6. This is consistent with paragraphs 84 and 93 of the National Planning Policy Framework (the Framework) which seek to retain valued local services and guard against their unnecessary loss particularly where it would reduce the community's ability to meet its day-to-day needs.
7. Policy C4 of the Taunton Deane Adopted Site Allocations and Development Management Plan adopted December 2016 (DMP) sets out the areas (criteria a) – d) inclusive) where evidence will be required to support and justify proposals for the loss or change of use of existing community facilities.
8. Criteria a) requires evidence to show there is no longer a community need for the facility. My attention has been drawn to the range of shops, services and community facilities currently on offer in Bishops Lydeard and this includes two public houses, a paper shop and general store and an existing Co-op food store. The Council have not challenged this evidence or indicated that there is any deficiency in local provision. Indeed, there does not appear to be any dispute between the main parties that some of the services which were offered by the post office are now offered by other businesses in the area, other services can be obtained online and that there is a regular bus service to a nearby post office which takes 14 minutes. I have not been provided with details of services which were offered at the post office which cannot be accessed elsewhere in the local area.
9. However, whilst it would appear that Bishops Lydeard is well served by businesses offering similar services and there is an alternative post office facility which is accessible by bus, neither of these represent evidence which demonstrates that there is no longer a community need for the facility. Indeed, the indication that a post office facility may be provided within the Co-op foodstore which is to be constructed on Taunton Road suggests the opposite. As a result, I am not satisfied that there is no longer a need for a post office facility within the village.
10. With regards to criteria b) and demonstrating that the facility is no longer viable, the appellant has provided copies of the 'Trading and Profit and Loss Account'. The appellant advises that the premises were refurbished in 2017 and despite this, the submitted accounts demonstrate a declining income. I accept that they show a

declining income for the post office element. However, the information provided shows a substantial increase in income generated by sales in 2020 and even if the Covid grant was excluded, income would still be above 2018 and 2019 levels. I accept that overall, the accounts indicate a decline in profit but they are not accompanied by an explanation of some of the significant figures contained therein such as the cost of purchases and a 'goodwill' payment made.

11. I have been provided with evidence that Post Office Limited sought to advertise a vacancy for a post office service in Bishops Lydeard on their website but received no interest or formal applications for the position. The appellant indicates that the lack of interest demonstrates that a post office use is unviable but I cannot draw the same conclusions from the limited information I have been provided with. On the basis of the information I have before me, I am not satisfied that it has been sufficiently demonstrated that the business was unviable.
12. Criteria c) and d) require that the premises could not be put to another use or that replacement facilities are provided within the vicinity to meet the needs of the local population. I accept that the post office element of the business may not have been within the appellants control but there has been no active marketing of the premises for any other use. I note that a local estate agent confirms that there is a lack of demand for commercial premises in the village but there has been no attempt made to test the market and therefore I am not convinced that a sufficient or exhaustive marketing exercise has taken place to find another use for the premises. Equally, given that the Co-op store on Taunton Road which may provide a post office service has yet to be constructed, a replacement facility has not been provided in the vicinity as required in criteria d).
13. On the evidence that is before me, I am not satisfied that there is no longer a community need for the facility, that it is no longer viable and that the appeal site could not be put to another community use. As such, I find that the proposal is contrary to Policy CP3 of the CS, Policy C4 of the DMP and paragraphs 84 and 93 of the Framework insofar as the proposal would result in the unacceptable loss of a community facility.

Other Matters

14. The appeal site is located within the Bishops Lydeard Conservation Area. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The external alterations to the property would be limited to replacement windows and the provision of a lean-to roof over the existing shopfront which are similar to those already on the building. The scope of these works is limited and as such I find that they would preserve the character and appearance of the conservation area.
15. Section 66 (1) of the same Act requires that I have special regard to the desirability of preserving listed buildings and their setting. Farrington Farmhouse is a grade II listed elongated farmhouse under a thatched roof. It is located roughly opposite the appeal site on the junction with the main road through the village. It is set back from the road, as is the appeal site. Given the limited works proposed at the appeal site, and the relative positioning of the two buildings I find that there would be no harm to the listed building or its setting.

16. The appeal property is located within the catchment of the Somerset Levels and Moors Ramsar site. As I am dismissing the appeal, an appropriate assessment under Regulation 63 of the Habitats Regulations 2017 in terms of the impact of the proposal on the Ramsar site is not required.
17. The parking provision at the site remains unchanged as part of this proposal and as such is not relevant to my consideration of this appeal.

Conclusion

18. 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.

Alison Fish

INSPECTOR

Site: FORMER VILLAGE SHOP, DYERS CLOSE, WEST BUCKLAND,
WELLINGTON, TA21 9JU

Proposal: Change of use of former village shop storeroom, with erection of a single storey extension to the front, to form 1 No. self contained dwelling together with parking and associated works at Former Village Shop Dyers Close, West Buckland

Application number: 46/21/004

Reason for refusal: Dismissed

Original Decision: Delegated Decision



Appeal Decision

Site visit made on 23 February 2022 by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 March 2022

Appeal Ref: APP/W3330/W/21/3280700 2A Dyers Close, West Buckland, Wellington TA21 9JU

- 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 Uwejoma of U.M.A Construction Limited against the decision of Somerset West and Taunton Council.
- The application Ref 46/21/0004, dated 30 October 2020, was refused by notice dated 29 March 2021.
- The development proposed is the change of use and the extension of the former village shop storeroom to form a self-contained dwelling together with parking and associated work.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the (i) the effect of the proposal on the character and appearance of the area and (ii) whether or not adequate living conditions would be created for future occupants, with reference to indoor space.

Reasons

Character and appearance

3. Paragraph 130 of the National Planning Policy Framework (the Framework), amongst other things, requires the decision maker to ensure that proposals will add to the overall quality of an area, be visually attractive as a result of good architecture, and maintain a strong sense of place, using the arrangement of spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
4. The storeroom comprising the site was previously connected to the village shop which has since been converted into the flat 2A Dyers Close. This part of Dyers Close presents as a typical residential street, with predominately brick houses in repetitive styles under pitched roofs. Where there are garages, they are single storey, set back into their site and deferential to the dwellinghouses they serve. As a redundant store, the site is arguably an anomaly within the street scene. However, it is well set back and low profile, with an innocuous presence.
5. The proposed dwelling would sit within the stepped building line on this side of Dyers Close but would fail to assimilate in other respects. Its single storey, projecting, utilitarian and cuboid form, finished in render, with sparse, domestic fenestration, would offer a conspicuously crude and confused design. It would be at odds with the appearance and hierarchy of development in the street.
6. This leads me to conclude on this issue that the proposal would have an unacceptable effect on the character and appearance of the area. It would conflict with the design aims of Policies DM1 and CP8 of the Core Strategy 2011-2028 (adopted 2016) (CS), Policy D7 of the Site Allocations and Development Management Plan (SADMP) (adopted 2016) (SADMP) and the National Planning Policy Framework (the Framework).

Living conditions

7. Paragraph 130 of the Framework also seeks schemes to create places which promote health and well-being, with a high standard of amenity for users.
8. Policy D10 of the SADMP sets minimum internal space standards for housing, which closely reflect the Government's Technical housing standards – nationally described space standard (2015). For dwellings of the type proposed, Policy D10 requires a minimum of 39sqm of gross internal floor space and 1sqm of internal storage space. The nationally described space standard also requires 1sqm of internal storage space, but drops its requirement for gross internal floor space to 37sqm as the property would contain a shower in lieu of a bath.
9. The main parties do not agree as to the internal space of the proposed dwelling, with the Council stating a figure of 36.84sqm and the appellant measuring the internal space to be 37sqm on the nose. However, even if I were to accept the appellant's figure, the layout does not show any dedicated internal storage space, relying instead on outdoor storage. Consequently, the minimum space standards set by both the development plan and by the Government would not be met either way in this case.

10. Accordingly, I conclude on this issue that the proposal would fail to create adequate living conditions for future occupants, with reference to inside space. The proposal would conflict with the residential amenity aims of Policy D10 of the SADMP and the Framework.

Other Matters

11. On the evidence before me I am unable to rule out, in the first instance, likely significant effects on the integrity of the Somerset Levels and Moors Ramsar Site as a result of increased phosphates through wastewater emanating from the proposed dwelling. Had I been minded to allow the appeal, it would have been necessary for me to consider this matter further within an Appropriate Assessment. As I am dismissing the appeal for other reasons, I have not.

Planning Balance and Conclusion

12. The harm to the character and appearance of the area and the failure of the scheme to create adequate living conditions for future occupants draws it into conflict with the development plan when read as a whole. There are no other considerations, including the Framework and the likely energy efficiency and security of the dwelling, that outweigh this conflict.
13. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

Site: Zine Farm, Zine, Stogursey, TA5 1TL

Proposal: Application for prior notification for the erection of an agricultural cylinder grain silo made of curved corrugated steel

Application number: 3/32/21/012

Reason for refusal: Allowed

Original Decision: Delegated Decision



Appeal Decision

Site visit made on 1 February 2022 by **Alison Fish BA (Hons)**

DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2022

Appeal Ref: APP/W3330/W/21/3282779 Zine Farm, Zine, Stogursey TA5 1TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Mr Sam Williams against the decision of Somerset West and Taunton Council.
 - The application Ref 3/32/21/012, dated 24 June 2021, was refused by notice dated 21 July 2021.
 - The development proposed is a cylinder grain silo made of curved corrugated steel.
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Decision

- 1 The appeal is allowed and prior approval is granted under the provisions of Article 3 (1), Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 ('2015 GPDO') for the erection of a cylinder grain silo made of curved corrugated steel at Zine Farm, Zine, Stogursey TA5 1TL in accordance with the details submitted pursuant to Paragraph 2 (i) of the 2015 GPDO through application, Ref 3/32/21/012, dated 24 June 2021. The approval is subject to the standard conditions set out in subparagraph 2 (v) and (vi) of paragraph A.2 the 2015 GPDO.

Preliminary Matters

2. The proposal relates to works for the erection of a grain silo on land comprised in an agricultural unit in excess of 5 hectares. As such, the proposal falls to be

considered with regards to Article 3 (1), Schedule 2, Part 6, Class A of the 2015 GPDO. Sub-paragraph 2 of paragraph A.2 requires, amongst other things, the developer to apply to the local planning authority for a determination as to whether the prior approval will be required for the siting, design and external appearance of the building. In this case the Council have raised no objections in respect of the design and external appearance. However, the Council are of the view that the proposed siting would have an unacceptable impact on the setting of the nearby listed building and that the silo would be located within an area of unacceptable flood risk and have refused prior approval accordingly.

Main Issues

1. Therefore, the main issues are whether the siting of the proposed development would be acceptable having regard to: • the setting of the listed buildings; and flood risk.

Reasons

Listed building

2. Zine Farmhouse is a seventeenth century Grade II listed building. It is a substantial linear farmhouse under a tiled roof which is set well back from the road. There are later additions to the building on either end but neither detract from the clearly vernacular appearance of the farmhouse. Lean-to additions obscure much of the original rear wall of the farmhouse and sited directly to the rear of the house is a linear pair of barns constructed of stone, with a lean-to along the rear which faces onto a yard area.
3. The listed building derives its significance from its agricultural origins, being a vernacular farmhouse within an agricultural landscape with its associated functional buildings and working yard to the rear.
4. There is a dispute between the parties as to whether the appeal proposal is 25m or 27.45m away from a listed building. Either way, I find that the grain silo would be located close to and within the setting of the listed building.
5. Although S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not directly relevant as planning permission is granted by Article 3(1) of the GPDO, I have still had regard to the desirability of preserving the setting of the listed building in considering whether the proposed siting is acceptable.
6. The grain silo would be cylindrical in shape and constructed of curved corrugated steel. It would be located towards the rear of the buildings, together with other buildings and structures and a yard area, which are clearly in agricultural use. The silo would be visible from the public highway and would be viewed together with the listed farmhouse. However, I find that its shape, form and materials of construction would give the silo a functional appearance and one that is clearly agricultural. As a result, it would not compete with the listed building and instead, would reinforce the agricultural setting and identity of the listed farm complex.
7. As such, I find that the proposal would preserve the setting of the listed building.

Flood risk

8. The Framework seeks to avoid development in areas at high risk of flooding by steering development to areas with the lowest risk, and not permitting

development in high risk areas if there are other reasonably available sites in areas with a lower risk of flooding.

9. The Council advise that their records indicate that the silo would be located on land which falls within Flood Zones 2 and 3 and that it could be located elsewhere on the holding, such that it would be within Flood Zone 1. However, the Council have not provided any evidence to substantiate their position.
10. By contrast, the appellant has provided evidence by way of a map from a recognised government website which the Council agrees, clearly identifies that the appeal site is located within Flood Zone 1.
11. Flood risk is not a prior approval matter under Part 6, Class A of the 2015 GDPO and in any event, the appellant has demonstrated that the appeal site is located in an area with the lowest risk of flooding.
12. Therefore, in considering the proposed siting of the grain silo, I find that it is acceptable.

Conditions

13. The Council have provided a list of conditions to be attached, in the event that the appeal is allowed. However, I do not have the power to attach conditions beyond the standard conditions set out in in the 2015 GPDO which relate to compliance with the approved plans and the implementation period.

Conclusion

14. For the reasons given I conclude that the appeal should succeed.

Alison Fish

INSPECTOR

