

Planning East – Appeal Decisions

Please see below list of appeal decisions made by the Planning Inspectorate between 22nd May 2024 and 30th June 2024.

Full details of all appeals, can be found on the Council's website

<https://publicaccess.mendip.gov.uk/online-applications/>

Application Reference	2022/2392/FUL
Site Address	Chapel Farm Barn, Knoll Lane, Faulkland
Applicant/Organisation	G Morse
Application Type	Full Planning Permission
Proposal	Change of use from agricultural use to residential garden, installation of ground mounted solar panels.
Decision	Non-determination
Appeal Decision	Appeal Allowed
Appeal Decision Date	28.05.2024



Appeal Decision

Site visit made on 21 May 2024

by **Tom Bristow BA MSc MRTPI AssocRICS**

an Inspector appointed by the Secretary of State

Decision date: 29 May 2024

Appeal Ref: APP/E3335/W/23/3332581

Land to the east of Church Street, Stoke St Michael, Radstock BA3 5JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended (the '1990 Act') against a refusal to grant permission in principle.
 - The appeal is made by Dr Simon Farnsworth against the decision of Somerset Council.
 - The application ref. is 2023/1487/PIP.
 - The development proposed is described in the application form as 'one dwelling and garden within its curtilage'.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The proposal is for permission in principle. Planning permission is only ultimately granted in the eventuality that a scheme is suitable in principle and secures technical details consent ('TDC'). Although there is an element of judgement as to what are matters of principle or fall to TDC, I address only what I consider to be relevant in respect of the former.

Statutory and policy context

3. Section 59A, paragraph (12) of the 1990 Act sets out in respect of permission in principle that regard must be had to the Secretary of State's guidance. The Planning Practice Guidance ('PPG') sets out that the scope of permission in principle is limited to 'location, land use and amount of development'.¹ Amongst other provisions, section 79(1) of the 1990 Act establishes that I may deal with an application as if made to me in the first instance.
4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended requires that proposals are determined in accordance with the development plan unless material considerations indicate otherwise. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 'LBCA Act') requires that special regard is had to the desirability of preserving listed buildings, their settings, or any features of special architectural or historic interest that they possess.²
5. On 1 April 2023 Somerset Council was formed in place of the former Districts of Mendip, Somerset West and Taunton, Sedgemoor and South Somerset. Existing development plan documents of former authorities nonetheless remain. In this instance the development plan includes policies of the Mendip

¹ Reference ID: 58-012-20180615.

² Applicable by virtue of Section 150(5) and schedule 12, paragraph 42(1) of the Housing and Planning Act 2016.

Local Plan Part 1 2006-2028 (adopted 15 December 2014, the 'LP1') and of the Mendip Local Plan Part 2 (adopted December 2021, the 'LP2').³

6. In addition to the PPG, I have had regard to all other relevant material considerations including the National Planning Policy Framework (updated 20 December 2023, the 'NPPF') and the Stoke St. Michael Village Design Statement (July 2016, the 'VDS').⁴ The Council accept that there is a shortfall here in the anticipated forward supply of deliverable housing sites with reference to NPPF paragraph 77. As such NPPF paragraph 11.d) is engaged.

Main issue

7. The main issue is whether the proposal would be acceptable in respect of location, land use and amount of development. The suitability of the site for the development proposed in those respects is fundamentally intertwined, including as reflected in the Council's decision notice of 1 September 2023.

Reasons

The site and its surroundings

8. The appeal site is an irregular parcel of 'natural' land of some 0.04ha set centrally within Stoke St. Michael. Historically the village grew up around, petering outwards from, the junction of Church Street, the Bridge, Mendip Road and Stoke Hill ('the square'). The square is just by the site. The LP2 aptly describes the village as 'set in the characteristic East Mendip landscape of lush pasture, streams, swallets, wooded valleys and quarries.'⁵ A stream, crossing beneath the square leading to grade II listed Stoke Mill towards Partman's Hill, bisects the site. As shown on title plan no. ST182303, the site is within the same ownership as the Mill.
9. The site, other than the stream, is maintained as lawn. In the appellant's words it is 'domestically tended'. Between the appeal site and the square is Millenium Green or Lychgate, an area of land owned by the Parish Council. As the stream heads from the square towards the Mill it runs between the rear gardens of no 1. Church Street, Crosslynds and properties along The Mead and Mead Close. Properties at The Mead and Mead Close are, in their understated design and regular arrangement, characteristic of mid-to-late twentieth century suburban development (as is no. 1 Church Street). The VDS explains that those properties were built around 1977 in the place of a former milk factory.
10. The landscape here is characterised by a sense of intimacy and seclusion on account of the landform, hedgerows, self-seeded vegetation and a long and diverse history of land uses and reapportionment. The landscape blurs with the built form of Stoke St. Michael. By the boundary of the site with the plot of Crosslynds there is a substantial historic rubblestone wall. There is a similar wall, lower this time, along the northern boundary of the site. Those features are consistent with the intimate historic jumble of properties central to the village, particularly apparent at the terrace of modest properties at nos. 5 to 10 Church Street. Those properties run northwards from the square towards grade II* listed St. Michael's Church some 50 metres or more away from the site.

³ The adoption of the LP2 was subject to judicial review entailing the deletion of 5 allocations.

⁴ The version of the NPPF extant at 1 September 2023 being the 20 July 2021 version.

⁵ Paragraph 11.24.1.

Access

11. Footpath SM 18/22 heads eastwards off Church Street by no. 1 to the north of the site at slightly elevated level. Thereafter it roughly tracks beside the stream heading towards the Mill. At present that footpath is the only means by which the site can be reached. There is no vehicular access currently proposed, and more broadly the historic road network here was not designed to accommodate current demands in terms of numbers of vehicles or parking pressures. I cannot therefore establish whether the proposal would comply with LP1 policy DP9 or NPPF paragraph 114.b) which, in summary, seek to ensure appropriate provision is made in respect of access.⁶
12. The appellant's position is that access and associated parking implications would be capable of being dealt with via TDC. Given the nature of permission in principle, in many circumstances it may be reasonable to address access and parking at that stage. The appellant further argues that it is conceivable that appropriate vehicular access and parking could be provided in time (for example by agreement with a neighbouring landowner).

Existing use

13. Several local residents have suggested that the appeal site is in community ownership, use, or that it should be. That appears to stem from the absence of physical features demarcating the boundary between the appeal site and Lychgate, and as former owners of the Mill allowed for occasional community use of the site including for an annual charity duck race. The Council's decision notice also states that the appeal site forms part of an Open Area of Local Significance ('OALS') to which LP1 policy DP2 relates.
14. Nevertheless the title plan boundary, likely reflecting historic boundaries, shows the site as separate from Lychgate. The duck race has not run through the appellant's land since they took ownership of the site and the Mill. I understand that the appellant also offered to sell to the Parish Council the appeal site (albeit any details in that respect are cursory). Moreover land ownership is essentially a private matter, whereas planning relates to the public interest. It may therefore be, in the abstract, that planning permission is obtained but cannot be implemented.
15. The appeal site is, moreover, not within an OALS; the site falls within neither of the two such designated areas at Stoke St. Michael.⁷ The Inspector who examined the LP2 also recommended that all Local Green Space designations at that juncture be deleted for reconsideration.⁸ Therefore no conflict would arise with LP policy DP2 or NPPF paragraph 102. The site is identified as 'STOK_3012', via the Greenspaces Supplementary Planning Document (adopted 6 February 2023, the 'SPD'). As referenced in the glossary to the NPPF, however, supplementary planning documents 'add further detail to the policies in the development plan'. They do not create policies or allocations.

⁶ LP1 policy DP10 seeking to ensure parking provision 'appropriate to the operational needs of the development'.

⁷ OALSSM001 and OALSSM002.

⁸ Inspector's report to Mendip District Council, 1 September 2021, page 3.

Relevance to historic significance

16. The relevant list entry describes the Mill as originating around 1700, being built principally of rubblestone, and its alterations over time.⁹ The appellant contends that the site, an historic header pond long since silted-up, is not within the curtilage of the Mill being some 180m from it. Nonetheless, and whilst there is no Conservation Area at Stoke St. Michael, the village has a clear historic integrity to which the stream and appeal site contribute positively. That character is particularly apparent around the muddy junction of the square. The Manor House, the Knatchbull Arms and Crosslynds, around the square, are listed.¹⁰
17. Reflecting the origins of the village, properties central to it tend to be arranged in traditional single plot depth facing roads. As above the rear gardens of neighbouring properties lead to Lychgate or to the appeal site and stream. That arrangement reinforces a sense of rurality. That the countryside extends to the heart of the village is particularly appreciable from various vantage points along footpath SM 18/22. The interface between the rural surroundings to the village and its built form, including visually, contributes to an understanding and appreciation of the historic evolution of Stoke St. Michael in the present.
18. The absence of an OALS does not equate to an absence of value, historically or otherwise. NPPF paragraph 180.a) and b), as examples, sets out planning should protect and enhance 'valued landscapes' and 'recognise the intrinsic character and beauty of the countryside' ('recognise' connoting a degree of protection). Although not a local development document, the VDS indicates the appeal site on a diagram 'showing open spaces of local significance'.¹¹ That is a fair summary of my impression. The appeal site has evidently also taken on a perceptive scenic value over time. In the collective memory of many people it has been part of the warp and weft of the village for a considerable length of time (essentially as it now is).
19. As with the Mill, the Manor House and the Knatchbull Arms trace their origins to around the early eighteenth century. All might be summarised as drawing on loose local vernacular in terms of their form and use of local stone, albeit with polite architectural elements and alterations over time. They, and 5 to 10 Church Street, reflect both local craftsmanship as well as their modest form reflecting the practical limitations of historic construction. Crosslynds is of a later understated Georgian aesthetic, reflecting growing social affluence and architectural tastes of that era. Whilst the facades of several of nos. 5 to 10 appear Georgian or Victorian, it is commonplace for older buildings to have been altered in that manner. That is likely reflected in much of the area around the square, including Church Street and the appeal site, being within an area identified as of high archaeological potential.
20. As is common of much domestic ecclesiastical architecture, the list entry for grade II* St. Michael's Church indicates that its present form is largely a Victorian remodelling of a medieval structure.¹² The tower, again of local stone, is nonetheless said to date from around 1400. Visually I acknowledge that

⁹ List entry no. 1345262.

¹⁰ List entry nos. 1345263, 1058336 and 1058370.

¹¹ VDS, page 9.

¹² List entry no. 1173964, three memorials and a chest tomb there being separately listed also.

there is limited intervisibility between the site and the Church. The appellant accurately notes that only the roof of the nave and the tower can be seen from the development site across intervening gardens and boundary features.

21. Significantly, however, the NPPF defines setting as 'the surroundings in which a heritage asset is experienced'. Experience extends beyond visibility. Whilst the Council's reasons for refusal relates to effects in terms of the setting of the Church only, the appellant has nonetheless addressed the interaction between the site and other listed buildings. Moreover section 66(1) of the LBCA Act applies in my determination of the scheme in any event.
22. Inherent in the foregoing reasoning is that the appeal site has both a clear visual and historic value to the village and thereby to the setting of nearby listed buildings. The stream, site and Mill, in their location, function and design, attest to the former agrarian economy upon which Stoke St. Michael was founded. They are also reflective of the importance of the numerous streams in the landscape, which the VDS explains provided not only water to the village but enabled the creation of water meadows and small-scale industries.
23. Albeit that the Church pre-dates the Mill, Manor House and Knatchbull Arms, it likewise emerged at a juncture when the economy was founded on what could be worked or wrought from the land. Its setting is bound with the evolution of the village, both before and after the Mill as it presently stands (rather than embodied discretely in the medieval tower or remodelling in the mid nineteenth century). In summary, the site in its present nature contributes to historic integrity, setting aside any archaeological interest. It appears as a semi-natural extension of the relatively tranquil rural surroundings to the very centre of the village.

The effect of the proposal in principle

24. Stoke St. Michael has successively expanded into formerly rural surroundings.¹³ At the time of the VDS it was home to around 400 households. LP1 Core Policy 1 defines Stoke St. Michael as a 'primary' village, reflecting a reasonable availability of services and facilities.¹⁴ There is some variety in successive eras of development, including development at The Mead and Mead Close which the VDS indicates is of a density of around 28 dwellings per hectare ('dph'). Numerically 1 dwelling set within a site of 0.04ha would represent a density of about 25dph. In that context, and with reference to LP1 Core Policy 2, criterion 2.a., 'infill' development hereabouts would not intrinsically be incongruent.
25. However, following my reasoning above, the development of a dwelling at the site would fundamentally alter its present character. Any scheme would inevitably introduce substantial built development where none is present, setting aside any implications of domestic paraphernalia or for relative tranquillity associated with domestic occupation. Any scheme would also reduce the visibility of the stream, be of higher density than prevails at the village centre,¹⁵ and fail to reflect the prevailing layout of development nearby.¹⁶ The

¹³ Several local residents have brought my attention to the continuation of that process by virtue of outline planning permission for up to 47 dwellings at land east of Coalpit Lane (appeal ref. APP/Q3305/W/21/3286463), and a proposal for a further 38 off Frog Lane (application ref. 2024/0120/FUL relating to LP2 allocation SS1a).

¹⁴ LP1, paragraph 4.32.

¹⁵ Where the VDS indicates that prevailing density is around 19.2dph at page 13.

¹⁶ With reference to paragraph 17 of this decision.

scheme, in principle, would therefore clearly adversely affect the character of the village which authentically reflects the past in the present and aids an understanding and appreciation of listed buildings, including the Church.

26. Notwithstanding my reasoning in paragraphs 2, 11 and 12 above, consideration of access provision is relevant in this instance. Not only would locating a dwelling at the appeal site be anachronistic and unduly constrained as above, so too would the creation of vehicular access to it. Such access would alter land apportionment or structure compared to historically. It would also, in all likelihood, entail further adverse implications for local character (for example by necessitating the removal of historic stone walls which contribute to a sense of intimacy, or culverting the stream itself). Vehicular movements along with activity associated with occupation would result in a marked decrease in tranquillity and of comfortable transition between the village and its rural surroundings.
27. Although potentially more than a theoretical entitlement,¹⁷ the establishment of more substantial boundary features to the site than presently exist irrespective of this scheme seems practically unlikely given the site has remained in its present condition for many years. Even were that to occur, however, its implications relative to the current nature of the site would be far more limited than that which would occur in principle from the creation of a dwelling. Drawing together my reasoning, a dwelling here would inevitably be clearly detrimental to historic integrity, an important facet of the village. Consequently the proposal would conflict with the clear expectations of statute, DP1 policy DP3 and provisions of NPPF paragraphs 195 and 205.

Consideration

28. It is for the decision-taker, having identified that harm would result to consider the magnitude of that harm. In that context the appeal site represents only part of the stream and countryside fringe of the village. The setting of the Church, and of other listed buildings, is also extensive and varied. As such the magnitude of harm arising may therefore fairly be characterised as 'less than substantial' with reference to NPPF paragraph 208 (and, all told, towards the low end of a spectrum within that categorisation). NPPF paragraph 208 sets out that, in such circumstances, the extent of harm should be 'weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'. I now turn to that balance.

The planning balance

29. The LP1 shares a common objective with NPPF paragraph 8, to improve the 'economic, social and environmental conditions in the area'.¹⁸ Different development plan policies may pull in different directions; they invariably do as the planning system is designed to the foregoing, often competing, objectives.
30. Both the development plan NPPF accord in-principle support to housing provision. LP1 Core Policy 2, criterion 2.a., also supports infill development. NPPF paragraph 70 recognises the important contribution that may be made via small and medium sized sites towards meeting the housing requirement of

¹⁷ With reference to Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

¹⁸ LP1, box beneath paragraph 1.21.

an area. The proposal would, if implemented, result in a new home in an area with an acknowledged lack of forward supply (entailing further social and economic benefits in supporting employment during construction and as future occupants would make use of nearby services and facilities).

31. However any development, however incongruous, may achieve similar benefits. Here the benefits of the scheme would be contingent on harm (which must be accorded 'great weight' under NPPF paragraph 205). Neither the support in the development plan nor NPPF for additional housing is at the expense of ensuring all is appropriate for its context. Although there are moderating factors in this instance as set out above, the public benefits are not sufficient to outweigh the harm. It may of course be that more detailed design, evidence and assessment could enable a refined assessment of implications. That evidence is not, however, before me.
32. Less than substantial harm does not equate to a less than important planning consideration; NPPF paragraph 206 sets out how any harm should require 'clear and convincing justification.' In that context, despite the limited nature of the harm that would result, and even were the proposal acceptable in all other respects, that has not been demonstrated. Inherent in my reasoning above is that the public benefits would not outweigh the heritage harm that would result, nor do any other material considerations justify allowing the appeal. The proposal would not be acceptable in respect of location, land use and amount of development. There is therefore a clear reason for refusing permission with reference to NPPF paragraph 11.d)i.

Conclusion

33. Having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Tom Bristow
INSPECTOR

Application Reference	2023/1487/PIP
Site Address	Land to the East of Church Street, Stoke St Michael
Applicant/Organisation	S Farnsworth
Application Type	Permission in Principle
Proposal	Permission in Principle application for Erection of 1no. dwellinghouse.
Decision	Refusal (Delegated)
Appeal Decision	Appeal Dismissed
Appeal Decision Date	29.05.2024



Appeal Decision

Site visit made on 14 May 2024

by **Alison Fish BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2024

Appeal Ref: APP/E3335/W/23/3323270

Chapel Farm Barn, Knoll Lane, Faulkland, Frome, Somerset BA3 5GD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Dr Gordon Morse against Somerset Council.
 - The application Ref is 2022/2392/FUL.
 - The development proposed is change of use from agricultural use to residential garden and installation of ground mounted solar panels.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from agricultural use to residential garden and installation of ground mounted solar panels at Chapel Farm Barn, Knoll Lane, Faulkland, Frome, Somerset BA3 5GD in accordance with the terms of the application, ref 2022/2392/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 1:1250 (unnumbered); Site Plan 1:500 (unnumbered); GM Upright Assy 2inP Ballasted 30° Panels Drawing number 0627-PAA-BAL-30-deg Revision 1; Modular Design Table Revision 1 (unnumbered).
 - 3) Within three months of the solar array ceasing to be used for the generation of electricity, the arrays and associated infrastructure shall be permanently removed from the site and the site restored to its former agricultural use and condition in accordance with details submitted to, and approved in writing by, the local planning authority prior to these works being carried out.

Preliminary Matters

2. I have used the above description of development as it more succinctly describes the proposal. I have also used the appellant's title as it appears on the appeal form as one was not provided on the planning application form.
3. The planning application was originally submitted to Mendip District Council. However, the Council became part of Somerset Council in April 2023 and therefore the appeal is against Somerset Council. I have referred to this in my banner heading above. For the avoidance of doubt, the Mendip District Local

Plan 2006-2029, adopted December 2014 (LP) remains the adopted development plan and I have determined the appeal accordingly.

4. For the avoidance of doubt, this appeal relates to the change of use of the land identified within the red application site boundary only and I have determined the appeal accordingly.

Main Issues

5. The main issues in this appeal are whether the appeal site is a suitable location for the proposed development and its effect on the character and appearance of the area.

Reasons

6. The appeal site is located in the open countryside, adjacent to the host dwelling. There is an established hedge along the boundary with the road which prevents direct views of the appeal site. The proposed size, height and siting the solar array is such that it would not be visible from the road.
7. Views of the array would be possible but only at a distance across the open fields to the east. Intervening hedges and trees would significantly limit its visual impact and it would also be read against the host dwelling, and the hedge forming the boundary between its garden and the appeal site. For these reasons, the harm to the character and appearance of the area would be very slight.
8. Nevertheless, the introduction of solar panels with their functional and somewhat industrial appearance would extend development beyond the existing boundary of the residential property. This would encroach into the countryside, thereby eroding some of its rural character, albeit to a very limited extent. This would be contrary to Core Policy 1 of the LP which seeks to control development in the open countryside.
9. Given that the harm I have identified to the character and appearance of the area would be very slight, there would also be a limited degree of conflict with some of the provisions within Development Policies 1, 4 and 7 of the LP in respect of achieving high quality design that contributes positively to local identity and distinctiveness.

Planning Balance

10. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration in planning decisions.
11. The Framework supports the transition to a low carbon future with Paragraph 163 recognising that even small-scale projects provide a valuable contribution to significant cutting of greenhouse gas emissions. Development Policy 7 of the LP is consistent with this, providing support for proposals which maximise opportunities for renewable energy generation on site.
12. The appellant has provided details of a 4.92 kWp system and a 6.56 kWp system but has not confirmed which one is applicable to the appeal proposal. However, even if I took the lower of the two, the details provided indicate that there would be a 55% reduction annually in carbon dioxide emissions over the

current situation. I have given significant weight to this as a benefit of the appeal proposal. I have also given significant weight to the need to support low carbon heating improvements to existing buildings through the installation of solar panels as set out in Paragraph 164 of the Framework.

13. Whilst I have identified that the proposal would fail LP policies for the location and distribution of development and would result in harm to the character and appearance of the area, I have also found that the harm which would arise from this would be very slight. On the other hand, there are benefits to the scheme which I have afforded significant weight such that they outweigh the conflict with the development plan. In these circumstances, I am satisfied that a decision other than in accordance with the development plan is merited.

Conditions

14. Neither party have provided me with any suggested conditions. I have had regard to the advice in the Planning Practice Guidance and I have also sought comments from the main parties on conditions which are necessary but have not been put forward in the submissions. I have undertaken some minor editing where required.
15. Although a solar array was on the land at the time of my site visit, I cannot be certain that what is in place is the same as shown on the submitted drawings. For the avoidance of doubt, I have therefore attached the standard time condition. It is necessary to specify the approved plans in the interests of certainty. Given that the benefit of the development in respect of the generation of renewable energy has weighed in the balance in my decision, I have attached a condition requiring the removal of the panels and the restoration of the land once they cease to be used for this purpose.

Conclusion

16. The proposed development would be contrary to the development plan but in this instance material considerations, namely the Framework, indicate the proposal should be determined otherwise than in accordance with the development plan. Thus, for the reasons given, the appeal has succeeded, and planning permission is granted.

Alison Fish

INSPECTOR