



Appeal Decision

Site visit made on 1 March 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2022

Appeal Ref: APP/Q3305/W/21/3287550

43 Wells Road, Chilcompton, Radstock BA3 4EX

- 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 planning permission
 - The appeal is made by Mr Sean Hanley against Mendip District Council.
 - The application Ref 2020/1632/FUL, is dated 24 August 2020.
 - The development proposed is dwelling to rear of 43 Wells Road.
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Decision

1. The appeal is dismissed and planning permission for a proposed dwelling to rear of 43 Wells Road is refused.

Main Issues

2. The Council made no decision on the application leading to this appeal. However, in light of its submissions, the main issues are (i) the effect of the development on the character and appearance of the area, (ii) the effect on the living conditions of occupiers of Harford House as well as 42, 43 and 43A Wells Road (Nos 42, 43 and 43A) in terms of privacy, and (iii) whether the proposal would provide satisfactory living conditions for occupiers in terms of privacy.

Reasons

Character and appearance

3. The appeal property is in a predominantly residential street. It lies in a line of houses that display a marked visual uniformity in terms of their form and their layout, lying side by side and facing the road.
4. The proposed dwelling would be towards the rear of the plot. Despite the partial screening effect of the houses to the front, it would be seen from the highway through the wide access gap. Also, it would be visible from the adjacent properties and from a footpath in the field to the rear.
5. From these vantage points, the development would look unusual as it would be positioned amongst the back gardens, noticeably behind the line of residences facing the road. The proposed house would be similar in scale to the nearby dwellings but it would be much larger than the outbuildings in the adjoining back gardens. Through a combination of its location and scale, the dwelling would appear incongruous and inappropriate to its context. The use of stone to match the prevalent external material in the area would not fully address or override this incompatibility.

6. The proposed development would not be seen with the cul de sacs further along Wells Road and would be different in scale and nature. Reference is made to various houses which have been granted planning permission. However, these schemes would have been assessed in light of their particular context and so they do not set a precedent that I am bound to follow with this appeal.
7. For these reasons, I conclude the development would harm the character and appearance of the area. In these regards, it would not accord with policies DP1 and DP7 of the Mendip District Council Local Plan Part 1 2014 (the LP). Amongst other things, these policies look to ensure development contributes positively towards local identity and distinctiveness.

Living conditions of occupiers of adjoining residences

8. Fences on the side boundaries prevent easy overlooking from the site onto adjoining gardens and towards rear ground floor windows at neighbouring properties. The proposed dwelling would include a first floor window in its front elevation that would allow new elevated views over the fences towards the windows and back gardens of Harford House as well as Nos 42, 43 and 43A.
9. The front elevation of the dwelling would be set back from the rear of the adjacent houses. The appellant states that the separation from window to window would be more than "the minimum of 22m", although it is unclear where this standard is taken from. In any event, I find the front first floor window would be near enough to allow easy and direct overlooking onto parts of the neighbouring properties that currently enjoy a significant level of privacy. In these regards, the development would be intrusive.
10. The appellant suggests the imposition of a planning condition that requires the installation of obscure glazing to the front window. However, such a measure would severely restrict the outlook from the window and so it would lead to unacceptable living conditions for future occupiers. Therefore, such a condition would be unreasonable.
11. The rooflights in the sides of the proposed dwelling would mainly allow only skyward views and so these would not affect the neighbours' privacy. Also, sufficient outlook and access to light would remain to the adjoining properties. However, for the above reasons, I conclude the development would harm the living conditions of occupiers of Harford House, Nos 42, 43 and 43A in terms of privacy. In these respects, it would not accord with LP policy DP7 which seeks to ensure new development protects the amenity of neighbouring properties.

Living conditions of occupiers of the proposed dwelling

12. The rear first floor windows of Harford House, Nos 42, 43 and 43A would allow views towards the front windows of the proposed dwelling. As this would form the principal and more public face of the house, a degree of overlooking is to be expected. The back garden and rear facing windows of the development would not be visible from the adjoining properties and so significant parts of the proposed residence would not be overlooked. As such, I conclude the development would provide satisfactory living conditions for occupiers in terms of privacy. In these respects, it would comply with LP policy D7.

Other considerations and planning balance

13. The Council is unable to demonstrate a 5 year supply of housing land as required under the National Planning Policy Framework (the Framework). As such, it is necessary under the terms of paragraph 11 d) of the Framework to assess any adverse impacts of the proposal against its benefits.
14. For the reasons already given, the scheme would conflict with the Framework policies that seek to ensure development is sympathetic to local character and to create places with a high standard of amenity for users of property. As such, it would not be good design and it would be at odds with a key aspect of sustainable development. Therefore, I attach significant weight to the harm caused in these regards.
15. The development would provide appropriate living conditions for its occupants and would have a suitable access, sufficient parking and renewable energy generating features. No objections are raised by the Parish Council. However, these are neutral factors rather than positive benefits of the scheme.
16. Occupiers of the development would have reasonable access to a range of facilities. As such, it would be located where it would enhance or maintain the vitality of a rural community. Also, occupants would be able to access public transport links to larger settlements further afield. Moreover, the development would make a more effective use of the site by adding to the housing stock. These benefits attract positive weight in my assessment.
17. However, I find the harm arising from the proposal would significantly and demonstrably outweigh the benefits of the scheme when considered against the policies of the Framework. As such, the presumption in favour of granting permission as set out at paragraph 11 of the Framework does not apply.

Other Matter

18. The site lies in a bat consultation zone associated with Mells Valley Special Area of Conservation. One of the qualifying features leading to the designation of this site is its greater horseshoe bat population. However, there is no need to consider the implications of the development on the protected site because the scheme is unacceptable for other reasons.

Conclusion

19. For the above reasons, I conclude the development would conflict with the LP when read as a whole. Insufficient justification exists to depart from the development plan and so the appeal is dismissed.

Jonathan Edwards

INSPECTOR