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## Appeal Decision

Site visit made on 14 August 2018

**by Mrs J Wilson BA BTP MRTPI DMS**

Inspector appointed by the Secretary of State

Decision date: 30<sup>th</sup> November 2018

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**Appeal Ref: APP/D0121/W/18/3200632**

**Edge Hill, Celtic Way, Bleadon Hill, Weston Super Mare BS24 0NB**

- 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 A E James against the decision of North Somerset Council.
  - The application Ref 17/P/1484/F, dated 16 June 2017, was refused by notice dated 23 October 2017.
  - The development proposed is the demolition of an existing stable building and erection of a dwelling and garage.
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The appellant has submitted an amended plan<sup>1</sup>. This corrects the orientation of the ridge of the garage building to match the detailed elevations and plans. I consider that no prejudice would occur to any interests as a result of me taking its contents into account.
3. The revised version of the National Planning Policy Framework (the Framework) was published on 24 July 2018. Parties were able to comment on changes associated with the revised version in relation to this appeal.

### Main Issues

4. The main issues are: a) The suitability of the site for residential development having regard to national policy and the development plan; b) The effect of the development on the character and appearance of the area; c) The effect of the development on the public right of way; and d) The effect of the development on protected species.

### Reasons

#### *Development Plan*

5. Planning law requires that applications for planning permission be determined in accordance with the development plan<sup>2</sup> unless material considerations indicate otherwise. Policies CS14 and CS33 of the North Somerset Council Core Strategy (2017) (Core Strategy) allow appropriate development within

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<sup>1</sup> No 2931/4a

<sup>2</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

- identified villages but strictly controls it beyond those limits unless it meets specific criteria which accords with other policies of the plan.<sup>3</sup> There is no evidence before me that any of those exceptions apply in this case.
6. There is no dispute between the parties that the appeal site is located beyond the settlement boundary of the village of Bleadon. Whilst located a short distance from the edge of the village it is physically separated by open fields. This part of Celtic Way is rural in character and forms part of a sizeable break between the village and the group of properties to the north and on the eastern side of Celtic Way. To this extent the cluster of properties close to the appeal site appear separate from the village with the site more akin to countryside than village.
  7. It has been put to me that the location of the site close to the development limits is a sustainable location being as close to services and facilities as many village properties and therefore with the same level of access to them. There would also be convenient access to bus services which stop adjacent to the site though I have no evidence of their frequency. I saw that village facilities are accessible within a mile of the site and whilst this proximity carries some weight in support of the scheme the topography and distance involved would present a degree of challenge especially for the elderly or infirm.
  8. The appellant argues that the site is previously developed land (PDL) and its redevelopment should be encouraged. Whilst the stable itself could be regarded as PDL the majority of the appeal site is not and I consider that the countryside protection policies of the development plan clearly apply.
  9. The appellant argues that it is unreasonable to refuse permission given the distance away from the development limits. He also highlights that planning permission has been granted elsewhere<sup>4</sup> in the village for a comparable scheme. However from the evidence before me it is clear that the Council considered that particular site as an infill plot within the context of dwellings either side and where they considered development would not be out of character. The circumstances are not therefore comparable with this appeal site and I attribute very little weight to that comparison.
  10. For the above reasons the proposal conflicts with Policies CS1, CS14 and CS33 of the Core Strategy. These together seek to ensure that new housing is accommodated within existing settlements and strictly controlled new development in the countryside in order to protect the character of the rural area.

#### *Character and appearance*

11. The site mainly comprises open field with a significant amount of vegetation in the northern part. The stable occupies a small part of the site and is barely visible from Celtic Way being mainly concealed from the north and east by vegetation. The stable is however visible in the landscape over a wide area to the south west and from the footpath of the West Mendip Way which passes directly across the northern part of the site.
12. The site lies immediately adjacent to (although outside of) the boundary of the Area of Outstanding Natural Beauty (AONB) which is visible in longer range

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<sup>3</sup> CS28, CS31, CS32 ad CS33

<sup>4</sup> 17/P/2278/0

views of the site and from the footpath of the West Mendip Way. The appellant states that the views into and out of the AONB would be unaffected as the building would sit well into the landscape. However I disagree. Even though the building would be cut into the site, the land rises up towards the edge of the AONB and is visible from the footpath and the wider area especially as land slopes away to the south west. As such the building would have a greater visual presence than the stables which represent a discreet structure in the landscape.

13. By comparison the introduction of a highly individual design incorporating mono-pitched winged roof elements either side of a flat roofed link would materially alter the appearance of the site emphasising its prominence. These features coupled with extensive glazing to the south west elevation would result in a prominent, incongruous and obtrusive building which would be out of keeping and, in my view, directly at odds with the well-established character of the site and the prevailing pattern and character of development. Whilst the appellant argues that there is no single form of development in the village the proposed design bears no relationship to development in the vicinity of the site.
14. The appellant argues that the glazed screen would not be prominent as it would appear black when looking towards the hill. I take a contrary view as the western side of the site would have an open vista across a wide area particularly as land falls further away and the building would be particularly visible in the landscape and even more so during hours of darkness.
15. Although the overall height of the building is detailed to be lower than the wall adjoining Celtic Way, achieved by cutting it into the site the structure would be significantly larger and more prominent than the stables which it would replace. It would occupy a greater area of the site and would take a much larger area of land into residential use including the formation of a lengthy surfaced drive which would intrude across an open field. Taken together these factors would result in a building of significantly greater prominence adversely impacting on the site and the wider context of land immediately outside the AONB. For these reasons it would stand out as an incongruous and unsympathetic feature which would result in unacceptable harm the character of the surrounding area.
16. For these reasons, the proposal conflicts with Policies CS5, CS12 of the Core Strategy and Policies DM10, DM11 and DM32 of the North Somerset Council Development Management Policies Sites and Policies Plan (Part 1) (DMPSP) and to the aims of the Framework. These policies, amongst other things, seek to achieve high quality design which demonstrates sensitivity to its location; requires that development responds to and is sympathetic to local character; including protecting landscape character and distinctiveness; and the setting of the AONB including views into and out of AONB which are protected areas.

#### *Public right of way*

17. There is a lack of clarity in the application on the matter of the public right of way (PROW). The site layout plan refers to a diverted footpath but does not detail any alternative route. The appellants' statement of case confirms that the PROW would not be reduced severed or adversely affected and there would be no need for a diversion of the PROW from its existing route. However the effect of this proposal would result in the West Mendip Way being enveloped into and across a residential plot with one element of the footpath constrained at a pinch point between the boundary of Mendip Croft and the position of the

proposed garage where the footpath currently provides wider views. I agree with the Council that this would affect the aesthetic attractiveness of the route where the proposed structures would encroach on and compromise the open character and rural appearance of the site to the detriment of users of this well utilised footpath.

18. This alteration of the context of an important walking route into and out of the AONB would have a harmful effect on the amenity enjoyed by users of this public right of way in conflict with the provisions of Policy DM25 of the North Somerset Sites and Policies Plan (NSSPP) which seeks to protect and enhance existing public rights of way.

### *Protected Species*

19. The Council states that the site is within a known bat habitat and in an area with a number of known hibernation sites including those of rare species which are sensitive to disturbance. No bat activity and other protected species surveys were undertaken to support the application and the concern is that the Phase 1 survey is not sufficiently robust for reliance to be placed upon it that protected species are absent from the site.
20. It is an established principle "*...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*".<sup>5</sup> Even though the appellant argues that careful consideration has been given to undertaking surveys I have no evidence to demonstrate what was relied upon in reaching that conclusion. Taking into account the substantial differences in these positions I am not satisfied that the evidence is sufficient to adequately assess the potential impact of the proposed development on protected species and this weights against the proposal.
21. I therefore conclude that it has not been demonstrated that the proposed development would have no materially harmful effects on protected species. In consequence the proposed development would conflict with Policy CS4 of the Core Strategy; Policy DM8 of the NSSPP and the provisions of the Framework. These policies require development proposals to take account of their impact on local biodiversity to ensure that development that would result in significant harm to biodiversity or the loss or deterioration of a protected species is either adequately mitigated or resisted.

### **Planning Balance**

22. There is no dispute that the tilted balance is triggered as the Council does not have a 5 year supply for the provision of housing. The Framework states that where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. I have found that the location of development would, in the context of access to village services and public transport, be the same as other dwellings close by and this weighs in support of the development. There would also be a social and economic benefit from the development through the provision of additional

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<sup>5</sup> Circular 06/2005

housing and economic investment in relation to construction and subsequent support for services locally; though as a single dwelling this would be very limited. There are facilities to access services by bus and I attach moderate weight to that benefit.

24. Nonetheless, even with the application of the tilted balance<sup>6</sup>, the cumulative adverse impacts of the development with regard to: the conflict with the development plan; the effect on the character and appearance of the area; the negative effect on the setting of the AONB; the adverse effect on the PROW and the absence of evidence to satisfy the protection of ecological interests; would significantly and demonstrably outweigh the benefits which have been identified and these weigh heavily against the grant of planning permission. From the evidence provided there are insufficient beneficial considerations which would lead me to conclude other than in accordance with the development plan and on that basis the application should not succeed.

### **Other Matters**

25. I have taken into account that the Parish Council raised no objection to the development and a letter of support suggesting that the proposal would sit well with other houses and that more homes are needed in an area where there is an imbalance of high housing costs. Whilst the need for housing, particularly affordable in the area is acknowledged these comments do not outweigh the totality of the harm that I have found in relation to the main issues.
26. A large number of representations have been received however as my conclusions on the main issues represent compelling reasons for dismissing this Appeal, it is not necessary for me to consider the representations against the development in any further detail.

### **Conclusion**

27. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Janet Wilson*

INSPECTOR

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<sup>6</sup> paragraph 11(d)(ii) of the Framework