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## Appeal Decision

Site visit made on 16 December 2019

by **S. Rennie BSc (Hons), BA (Hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

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**Appeal Ref: APP/D0121/W/19/3237546**

**Land accessed from Wentwood Drive, Weston-super-Mare BS24 9NU**

- 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 Mrs R Landen against the decision of North Somerset Council.
  - The application Ref 19/P/0525/FUL, dated 27 February 2019, was refused by notice dated 1 August 2019.
  - The development proposed is the change of use of land from agricultural use to use as a woodland pre-school. Erection of pre-school storage building with sedum roof, compost toilets and associated car parking and access arrangements.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are
  - Whether the site is appropriate given its location and levels of accessibility
  - The effect of the proposed development on the character and appearance of the area
  - The effect of the development on ecology, including the significance and value of the North Somerset and Mendip Bats Special Area of Conservation (SAC)
  - The effect of the development on highway and pedestrian safety.

### Reasons

#### *Location of development*

3. The site is outside of any defined settlement boundary, in what is a field. The site would be accessed via Wentwood Drive, to which a new housing development is being built near to the site boundaries.
4. Policy DM69 states that sporting cultural or community facilities will only be permitted outside settlement boundaries where it is demonstrated that the scale, character or potential impact is appropriate taking into account the principles set out in a stated criterion. This include that the site should be well related to the community it is intended to serve and that it is in a sustainable

- location, genuinely accessible by a choice of transport modes and to disabled people. Furthermore, policy CS25 which states that new schools/children and young people facilities will be sited in a location that would facilitate safe routes to the venue and be directly accessible to a pedestrian and cycleway network.
5. The scale and character of the proposed development, and its other potential impacts, will be considered in the following sections. In terms of how the site relates to its community and its accessibility, it is the Council's opinion that the site is in an inaccessible location and that the private car would likely be needed to travel to the proposed pre-school.
  6. Whilst I recognise that the site is not within a settlement boundary, the proposed pre-school would be in close proximity to the housing currently under construction at the end of Wentwood Drive. The site would not be isolated or significantly detached from urban areas. I also understand that there would be a highway with footways through this new development towards the site frontage, linking with the existing street of Wentwood Drive.
  7. To walk to the site from Wentwood Drive there would be a relatively steep incline, but this is also the case for the new houses being built on this street and also for other housing in this hilly area. I would not regard these houses as inaccessible as a result of the gradient and in my opinion the same is true for the proposed pre-school. Although this gradient may be difficult for some people to manage, for many others the gradient would not mean the site is inaccessible.
  8. There is a bus service in the locality, with what seems to be quite a regular service. I acknowledge that there would be a quite long walk up hill to get to the proposed pre-school, but I do not think this is likely to mean that nobody would consider taking the bus as an option.
  9. In this location, I would regard the proposed development to be sufficiently accessible by modes of transport other than the private car, although I do recognise that for various reasons some will choose to take their car. Indeed, a car park is proposed, which will be considered in detail in a following section.
  10. Overall, the pre-school is intended to have a more rural and woodland location. However, this site also is adjacent to urban/residential areas with good highway connections for walking/cycling and also a bus service. Therefore, the proposal is in accordance with policy CS25 of the North Somerset Core Strategy and Policy DM69 of the North Somerset Sites and Policies Plan (Part 1) in regard to the location of development, as the site is accessible via safe routes.

#### *Character and Appearance*

11. The site is within an undeveloped field which falls within character area E1 Mendip Ridges and Combes in the North Somerset Landscape Character Assessment – Supplementary Planning Guidance (SPG).
12. The proposal would result in a new school building with some other smaller associated buildings, together with an access drive and parking area. Being a 'woodland' pre-school, the focus would be outdoor activities and learning for the children. As a result, the proposed buildings would be relatively small and modest in scale. Furthermore, they would have the appearance akin to typical

- agricultural/rural buildings and would not appear out of keeping within this setting.
13. If indeed there was to be further buildings or other development needed in the future then this would need to be applied for and considered separately. For this appeal I have considered the proposal before me only.
  14. I recognise that there would be some cars parked frequently at the site, especially when the pre-school is open, but this is not a large car parking area proposed and the number of cars would not be such that it would result in a significant visual impact within the landscape. Any possible future fencing and lighting would also be unlikely to cause a significant adverse visual impact on this small scale.
  15. This is currently an open and undeveloped field, but the proposed operational development would only be to one relatively small part of it. The site is quite well enclosed, with the buildings and parking area adjacent to a small wooded area, for example, which at least partially would screen the site from some longer range views.
  16. Landscape buffers would mean that the development would be physically and visually separate from the proposed and existing housing nearby, but not by a substantial distance. Therefore, I have also considered that the development would be closely related to urban areas and would not be in an isolated rural location.
  17. Overall, the proposal would not adversely impact the rural character of the site or the wider landscape. The proposal would therefore be in accordance with policies CS5 and CS12 of the North Somerset Core Strategy, policies DM10 and DM32 of the North Somerset Sites and Policies Plan (Part 1). These policies require development to protect the landscape, integrate with the natural environment, and be sensitively designed for the area.
  18. Furthermore, I consider that the proposal broadly accords with the North Somerset Landscape Character Assessment SPD and the National Planning Policy Framework on these matters.

#### *Highway Safety*

19. As stated above, the site would be accessed via Wentwood Drive, including through the new housing development currently being built. The initial planning application was accompanied by a Transport Statement (TS) which suggested that the proposal would generate approximately 12-15 peak hour vehicle movements, which the Council agree would not have a detrimental impact to the local highway network.
20. The Council however had concerns that, although the amount of parking provision would be sufficient, the initial proposed did not provide an adequate turning provision. To address this, the appellant has submitted a revised plan with tracking (swept path analysis) included.
21. Whilst this latest plan does show that cars could perform a three-point turn near to the proposed building, this would be a small area and would only likely result in one vehicle turning at a time. Furthermore, the space behind the parking bays would be narrow which would not allow vehicles to easily pass one another, especially if the bays were full of parked cars. Therefore, it is my

view that this is not an adequate parking and turning area for the pre-school, which would likely result in a congested area with likely vehicle conflicts as cars arrive at the same time as others leaving. The tracking on the submitted plan is not sufficient to convince me otherwise.

22. This could result in drivers choosing to park in what is the new housing development area. Although this development has not been completed, I am not satisfied from the evidence before me that overspill of parking onto the new estate road would be safe and not impede access for emergency or service vehicles for example, or that there would be the on-street capacity.
23. As such, the proposal is likely to cause harm to highway safety contrary to policy DM 24 of the North Somerset Sites and Policies Plan (Part 1). This policy requires development to not prejudice highway safety, among other things.

### *Ecology*

24. The site is within Band B of the Bat Consultation Zone, in relation to the North Somerset and Mendip Bats Special Area of Conservation (SAC). This is defined in 'The North Somerset and Mendips Bats Special Area of Conservation ('SAC') Guidance Supplementary Planning Document' ('SPD'). The SPD explains how landscapes outside of the SAC, which is designated pursuant to the Habitats Directive, are important in providing foraging habitat. In this regard, the National Planning Policy Framework at paragraph 170(d) notes how planning should minimise impacts on, and provide net gains for, biodiversity including by establishing 'coherent ecological networks'.
25. In this case, the proposal includes introducing a new barn type building with other smaller buildings, together with parking area, onto an area of undeveloped land in the corner of a field, adjacent to woodland. This will include some level of lighting.
26. The appellant's Ecological Appraisal (EA) by JH Ecology confirms that there are records of bats in the area, including Horseshoe Bats, and states that the trees within the woodland adjacent to the proposed parking and barn building would have potential to have bat roosts and that there could be some 'minor' potential disturbance to bat movement corridors.
27. On this basis, as competent authority in these circumstances, an assessment is required as there is a potential impact to these bats. Following consultation with Natural England and considering the representations made I am of the opinion that the proximity of the development proposed to the woodland and its position in an area where it is apparent as being used by bats, including the Horseshoe bats, there is likely to be an adverse impact. This is particularly due to the necessity for lighting.
28. The appellant has stated that the lighting would be to a minimum. However, from the evidence it has not been satisfactorily demonstrated that even with light spill controls there would not be any illumination of the woodland edge which is in close proximity, even with the buffer proposed. To my mind, there would need to be lighting, especially in the winter months, from maybe about 4pm, to ensure that the parking area is safe considering the traffic movements and pedestrians (including children) in this area too. Low level lighting may not be sufficient for this to remain safe in hours of darkness. This has the potential to adversely impact bats that may be in the area of the development.

29. There may also be lighting at other times of the year needed for various reasons, which could have an impact to the bats foraging or on their commuter routes. There is the issue of the access resulting in a break in the commuting route for Horseshoe Bats, which was raised by the Natural England Lead Advisor. There is an existing field access, but this would need to be altered. There would also be an intensification of its use, including by vehicles with headlights on.
30. The evidence before me indicates that there is the potential for an adverse effect to the SAC and the bats that use this site. Mitigation has been proposed, which could include some enhancements such as bat boxes and woodland management, but none are sufficient to address the issues as set out above. Accordingly, I cannot be certain that the proposal would not adversely affect the protected bat population and SAC in this way.
31. I recognise that the site has been used to keep donkeys at certain times of the year, which may have their own ecological impacts, but this does not outweigh the impact of the proposed development in this regard.
32. Taking account of the precautionary principle I can only conclude that the proposal would likely have a significant adverse effect on bat population and would conflict with the National Planning Policy Framework on this matter. The proposal is also contrary to policy CS4 of the North Somerset Core Strategy, and policy DM8 of the North Somerset Sites and Policies Plan (Part 1). These policies seek to, amongst other things, require that the biodiversity of North Somerset is maintained and enhanced, and that development that has an adverse impact to SACs will not be permitted.
33. The proposal also does not fully accord with the North Somerset and Mendip Horseshoe Bats SAC SPD and the North Somerset 'Biodiversity and Trees' SPD.

### **Conclusion**

34. For the reasons given above, in relation to highway safety and ecology, the appeal should be dismissed.

*S. Rennie*

INSPECTOR