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## Appeal Decision

Site visit made on 1 March 2016

by **Simon Hand MA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 April 2016

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**Appeal Ref: APP/R3325/W/15/3134898**

**Moor End Nursery, Moor Lane, Hardington Moor, Yeovil, BA22 9NW**

- 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 David Matthews against the decision of South Somerset District Council.
  - The application Ref 14/05063/FUL, dated 10 November 2014, was refused by notice dated 4 June 2015.
  - The development proposed is the demolition of existing bungalow and construction of 15 dwellings (Use Class C3), together with associated landscaping, access and infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing bungalow and construction of 15 dwellings (Use Class C3), together with associated landscaping, access and infrastructure at Moor End Nursery, Moor Lane, Hardington Moor, Yeovil, BA22 9NW in accordance with the terms of the application, Ref 14/05063/FUL, dated 10 November 2014, subject to the conditions in Annex A.

### Main Issues

2. The Council have a single reason for refusal which refers only to policy SS2. The main issue is therefore, whether policy SS2 is to be considered up to date and whether the proposed development meets the criteria of that policy.

### Reasons

#### *Policy SS2*

3. The proposal is for a housing development of 14 units, five of which would be affordable. The Council refused permission as the proposal was contrary to policy SS2 of the South Somerset Local Plan (2015). This policy deals with development in rural settlements. There are five criteria relevant to housing development; firstly that it should meet identified housing need, particularly for affordable housing; secondly, that it should be commensurate with the scale and character of the village; thirdly that it should increase the sustainability of the settlement; and fourthly it "*should generally have the support of the local community following robust engagement and consultation*". It is agreed that Hardington Moor is a settlement that meets the fifth criterion; that housing
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would also only be allowed in settlements which have access to 2 or more key services. The first four criteria are thus in dispute.

4. The Council do not have a 5 year housing land supply and so paragraph 49 of the NPPF is engaged so that "*relevant policies for the supply of housing should not be considered up to date*". I was given a recent appeal decision for South Somerset DC<sup>1</sup> in which the Inspector found the housing supply provisions of SS2 could not be up to date because of paragraph 49, but he did not specify which parts of SS2 were affected. Insofar as it deals with the location of housing then I agree that SS2 is a policy for the supply of housing and so of the five criteria listed above the first and fifth are out of date as far as the NPPF is concerned. Nevertheless the policy still exists and should be given weight as required by s38(6) of the Act. I shall therefore analyse the proposal against the four disputed criteria, attaching weight to the results as appropriate.

#### *Identified housing need*

5. The provision of affordable housing clearly meets an identified housing need. The Council argue that 14 houses are not required to provide 5 affordable units, but that ratio is within the proportion required by policy HG3. There is nothing in SS2 that suggests a higher ratio of affordable to market housing should be used in Rural Settlements than elsewhere and the Council do not take issue with the need for 5 affordable units. Consequently, I cannot see there is a rationale to argue that 14 units in total are excessive.
6. The Council do argue that some bungalows would be preferable to allow older villagers to downsize and remain in the village, but there seems to be no direct evidence to support this contention, and the Council's Strategic Housing Department accepted the 5 units offered. Taking this together I consider the proposal does meet an identified housing need.

#### *Scale and character of the village*

7. The village is relatively small and is clustered around the junction with Moor Lane. Dwellings line Moor Lane until it reaches Moor Farm where it turns into a footpath. There are a number of vernacular cottages in the Lane, several of them listed, but also a lot of more modern houses. From the lane on the ridge above the village there is a good view of the whole area. It is clear that as with many rural hamlets the village has grown in the post war era with clusters of houses of the same design all clearly built at the same time. The proposal would appear to be the largest of such groups, but would not look inherently out of place. It is not so large that it would dominate the village, or even Moor Lane.
8. The density of the proposal is 27dph which is fairly generous by modern standards. The square in the centre for parking is not a feature found in Hardington Moor or in other villages in the area so far as I am aware. However, it would be interesting feature in its own right. The design has been accused of looking like Poundbury, but I do not necessarily consider that to be a criticism. The houses are all designed separately so there will be variation and interest. I consider this is a sensitive and attractive design which, with generous landscaped margins should fit into the village. It would be neither unprecedented nor out of character as several third parties have suggested.

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<sup>1</sup> APP/R3352/W/15/3063768 Issued December 2015

### *Sustainability of the settlement*

9. Clearly extra housing would increase the sustainability of the settlement, especially when there are already services in the village itself and in nearby Hardington Mandeville. This is also the general thrust of paragraph 55 of the NPPF which deals with rural housing and encourages development to support services in a group of villages. I find the proposal would increase the sustainability of the settlement.

### *Support of the local community*

10. There has been considerable community engagement which lead to a reduction in overall numbers from 15 to 14 and an improvement in the drainage proposals to deal with poor drainage in the area generally, rather than just on the site. Nevertheless the Parish Council and a number of local residents continue to oppose the development. Some do so on principle, but others accept there should be some development on the site, but would prefer a maximum of 10 houses. Given my conclusions above I do not consider that fewer houses are necessary to make the proposal acceptable and less open market houses would provide less affordable units. Nor do I think that development that is otherwise sustainable should be prevented solely by local opposition. I am not sure exactly how that part of SS2 is intended to be applied, but I cannot think it should be read as a ban on all development not supported by locals. There is certainly nothing in the NPPF that suggests this is Government policy. Nevertheless the proposal does not have the support of the local community.

### **Other Matters**

11. Local residents have raised a number of issues in addition to those mentioned above. The use of Moor Lane by extra traffic is of concern to many. I saw the Lane was not in the best of repair, but it does already serve a considerable number of dwellings. The local highway authority has no objections. While the percentage increase in cars is likely to be significant the actual numbers would not be great and there is no suggestion that the Lane cannot cope with the vehicles associated with 13 additional houses, especially when one takes into account there would have been extra traffic to the nursery when it was in use.
12. Flooding is another issue of concern. Ordinarily an applicant would have to ensure that the existing situation would not be made worse by developing the site but in this case various off-site improvements have been suggested which can be secured by condition and this represents a benefit to the proposal.
13. I have looked at the proposed entrance and its proximity to Moorend House. The access to the development is separated from both the flanking dwellings by a landscape strip and proposed boundary treatments. Again, these can be secured by condition and there is no reason why either dwelling lying beside the access should suffer a significant loss of amenity.

### **Conclusions**

14. Subject to the conditions and s106 obligation discussed below I consider that the planning permission should be granted for the proposed development. Although the proposal does not have the support of the local community and is contrary to a part of policy SS2 it is in accordance with the other aspects of that policy. The benefits it would provide in terms of much needed affordable

housing and the minor benefit of improving the local drainage situation are sufficient to outweigh any harm caused by its failure to adhere to one aspect of SS2. On balance the proposal is sustainable as defined in the NPPF and is in accord with the development plan as a whole and so, as advised in paragraph 14 of the NPPF, should be approved without delay.

### **S106 Obligation and Conditions**

15. An obligation to secure funding for informal play, recreational and cultural facilities has been provided. It also contains the mechanism to ensure five dwellings are secured in perpetuity as affordable houses. In this case affordability means they should be sold at 70% of their actual market value and to local residents in housing need first and then to those in the cluster of parishes locally, the district and finally the county. The Council originally accepted this was the preferable method of ensuring affordability and that a discount to 70% was acceptable. In their later comments they suggested a larger discount should be applied and that the appellant should have demonstrated the discount "would address the appropriate income cohort". Given that the planning committee had already confirmed the proposed mechanism and discount was acceptable I do not consider any further evidence is necessary and the s106 will, in my view, adequately provide for affordable housing on the site.
16. Conditions have been suggested and are required so that the development is carried out in accordance with the plans and begins within three years (1 & 2). Because of the sensitive rural location detailed control over the materials and the walling to be used is required (3 & 4). The site slopes so floor levels need to be approved (5). As discussed above flooding and drainage are important issues that require control (6 & 7). As the site has previous development on it which may have involved chemical or pesticide residues a scheme for dealing with contamination is required (8 & 9). A bio-diversity management plan is needed as is control over street lighting for bio-diversity purposes (10 & 13). As the northern boundary is close to a working farm an acoustic barrier is required on that boundary (11). Trees on the site require protection and a landscaping scheme is needed, but I have reduced the period in which dead plants are replanted to the standard five years and added in a specific requirement for details of the landscaping and boundary treatments next to the dwellings flanking the access (12). Construction works need control as the site is bounded by houses as does the traffic generated by the works (14 & 17). Finally the access should be finished and car parking provided before the houses are occupied (15 & 16).

*Simon Hand*

Inspector

### **Annex A – Schedule of 17 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:
  - a) Location Plan, Drawing No. 1563-A-P-X-01
  - b) Proposed Site Layout, Drawing No. 1563-A-P-X-02 RevA
  - c) Landscape Masterplan, Drawing No. NT-656-C-3-100 RevB
  - d) Plot 1 - Drawing No. 1563-A-PE-X-08 RevB
  - e) Plots 2, 3 and 8 - Drawing No. 1563-A-PE-X-06 RevB
  - f) Plot 4- Drawing No. 1563-A-PE-X-09 RevC
  - g) Plots 5 and 6 - Drawing No. 1563-A-PE-X-01 RevC
  - h) Plot 7 - Drawing No. 1563-A-PE-X-07 RevC
  - i) Plot 9 — Drawing No. 1563-A-PE-X-04 RevC
  - j) Plot 10— Drawing No. 1563-A-PE-X-10 RevC
  - k) Plot 11 — Drawing No. 1563-A-PE-X-05 RevC
  - l) Plots 12 and 13 — Drawing No. 1563-A-PE-X-02 RevD
  - m) Plot 14— Drawing No. 1563-A-PE-X-03 RevD
  - n) Typical Garages — Drawing No. 1563-A-PE-X-11 RevC
  - o) Materials Plan, Drawing No. C-3-101 RevB
  - p) Boundaries Plan, Drawing No. C-3-102 RevC
  - q) Details Location, C-3-103 RevC
  - r) Typical Stone Wall Detail, Drawing No. C\_3\_400 RevA
  - s) Permeable Block Paving Detail, drawing No. C\_3\_402 RevB
  - t) Gravel Surface Detail, Drawing No. C\_3\_403 RevA
  - u) Entrance Path Detail, Drawing No. C\_3\_404 RevA
  - y) Close-Board Fence Detail, Drawing No. C\_3\_405
  - w) Entrance Wall Detail, Drawing No. C-3\_406 RevA
- 3) Save for demolition, no development shall commence until the following details have first been submitted to and approved in writing by the Local Planning Authority:
  - a) specific materials to be used for the external walls and roofs:
  - b) materials to be used for rainwater goods and window dressings (lintels, cills);
  - c) the design (including joinery details where appropriate), type of material, plus proposed colour and finish of all windows and doors plus recesses:
  - d) details of eaves/verges;

- e) location and design details of all vents, flues and meter boxes;
- f) details of all internal and external boundary treatments; and
- g) the surfacing materials (and drainage details thereof) of all areas of hardstanding including driveways.

Once agreed the scheme shall be carried out in accordance with those details.

- 4) Save for demolition, no work shall be carried out on site until full details of the new natural stonework walls, including the materials, coursing, bonding, mortar profile, colour, and texture along with a written detail of the mortar mix, have been provided in writing; this can be supported with detailed photographs. Prior to the commencement of any walling within the works hereby approved sample panels (based on the written description) shall be made available on site and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the agreed details, and the sample panels shall remain available for inspection throughout the duration of the work.
- 5) Save for demolition, no works shall be carried out until details of the internal ground floor levels of the buildings to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
- 6) The development shall be carried out in complete accordance with the Drainage Strategy contained within the submitted Flood Risk Assessment (Hydrock, May 2015 — R1C142741002.04) and specifically Drawing No. C14274-C002 Rev F unless any variation is agreed with the Local Planning Authority. The drainage scheme comprised in the strategy shall be fully completed and become fully operational before the development hereby permitted is first brought into use. Following its installation the approved scheme shall be permanently retained and maintained thereafter.
- 7) Save for demolition, no works shall be carried out until a management and maintenance plan for the surface water management scheme (as approved under Condition 06) for the lifetime of the development has been submitted to and approved by the Local Planning Authority. Such a scheme shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 8) Save for demolition, no development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local planning authority:
  - a) A preliminary risk assessment which has identified:
    - i. all previous uses
    - ii. potential contaminants associated with those uses
    - iii. a conceptual model of the site indicating sources, pathways and receptors for potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) The results of the site investigation and detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

- 9) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 10) The development (particularly including any site clearance) shall not commence until a 'Biodiversity Mitigation and Enhancement Plan' has been submitted to, and approved in writing by the local planning authority. The plan shall include details of provisions for further wildlife surveys, and avoidance, mitigation and compensation measures for badgers, reptiles, bats, dormice and nesting birds, measures for ecological supervision of sensitive stages of development, and measures for the enhancement of biodiversity. The Biodiversity Mitigation and Enhancement Plan shall be implemented in full.
- 11) Prior to the first occupation of any unit an acoustic barrier shall be installed along the northern boundary. The exact location, specification, and finished height of the barrier shall have been previously submitted to and approved in writing by the Local Planning Authority.
- 12) Save for demolition and notwithstanding the submitted plans, no works shall be carried out until a scheme has been submitted detailing the following tree protection and landscaping planting details:
  - a) a comprehensive tree and hedge planting scheme
  - b) a layout plan of the below-ground drainage & services to be installed;
  - c) a Tree Survey, Tree Protection Plan and Arboricultural Method Statement relating to all retained trees and hedges on or adjoining the site, so as to conform to British Standard 5837: 2005 - Trees in relation to construction; which shall include:
    - i. a layout and specification of tree and hedge protection fencing

ii. special protection and engineering measures for required access, installation of built structures, below-ground services, drainage and hard-surfacing within the Root Protection Areas of retained trees

iii. a schedule of compliance-monitoring for the duration of the construction phases of the development (inclusive of landscaping & dismantling of tree protection fencing)

d) details of the landscaping and boundary treatments to both dwellings flanking the access.

All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of a dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Upon approval by the Local Planning Authority, the tree protection scheme shall be implemented in its entirety for the duration of the construction of the development.

- 13) There shall be no public street lighting installed, without the prior written consent of the Local Planning Authority.
- 14) Construction works (including the operation of any machinery) and the delivery or dispatching of any construction materials, shall not take place outside 0830 hours to 1800 hours Mondays to Fridays, and 0830 hours to 1300 hours on Saturdays and not at any time on Sundays, Bank or Public holidays.
- 15) No part of the development hereby permitted shall be occupied until the access arrangements/carriageway realignment have been carried out in accordance with a design and specification to be approved in writing by the Local Planning Authority and to be fully implemented in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.
- 16) The areas allocated for parking and turning on the submitted plan, Drawing No. 1563-A-P-X-02 RevA, shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.
- 17) Prior to the commencement of development, including demolition, a Construction Traffic Management Plan providing details of the delivery of the materials and equipment to the site and of the compound parking area shall be submitted to and approved in writing by the Local Planning Authority (and Local Highway Authority) and fully implemented in accordance with the approved details.