



## Appeal Decision

Site visit made on 4 June 2014

**by Lynne Evans BA MA MRTPI MRICS**

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

Decision date: 28 July 2014

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**Appeal Ref: APP/R3325/A/14/2214651**

**Land to the South of Witches Way and Brooke House, Holywell, East Coker Yeovil Somerset BA22 9NQ**

- 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 Dudley & Mrs Aileen Miller against the decision of South Somerset District Council.
  - The application Ref: 13/03162/FUL dated 29 July 2013, was refused by notice dated 7 November 2013.
  - The development proposed is the erection of one dwelling with detached garage together with associated access and parking and provision of photo voltaic panel area; also associated landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of one dwelling with detached garage together with associated access and parking and provision of photo voltaic panel area; also associated landscaping at land to the South of Witches Way and Brooke House, Holywell, East Coker Yeovil Somerset BA22 9NQ in accordance with the terms of the application, Ref: 13/03162/FUL dated 29 July 2013 subject to the conditions set out in the attached schedule at the end of this decision letter.

### Preliminary Matters

2. The post code for the appeal site on the application forms is given as BA20 9NQ, whereas all other references are to BA22 9NQ. It is the latter postcode I have used in the decision.
  3. The plans were revised at the application stage both to amend the siting of the photo voltaic panel and to show the highway visibility splays, and my decision is based on the amended plans.
  4. After the site visit, I invited both the Appellants and the Council to submit comments on the use of a personal condition, particularly to limit first occupancy to the family, to reflect the particular and special circumstances of this case. I have taken these further representations into account in my decision.
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## **Main Issues**

5. The main issues in this appeal are:
  - a) the suitability of the site for residential development, and
  - b) the effect of the proposed access arrangements on highway safety.

## **Reasons**

### ***Issue a) Suitability of Site***

6. The appeal site relates to open land on the east side of the lane running through the small hamlet of Holywell, which comprises a small number of houses and a public house. The application site lies in the north-west corner of the open field with an existing field access. The land is sloping and slopes both from north to south as well as from west to east. To the north of the site and to the immediate north of a brook there are a number of individual houses set back at various distances from the lane.
7. I am advised that Holywell does not have a settlement boundary and for planning policy purposes the site falls within the open countryside. I recognise that the proposed dwelling would not be completely isolated given the surrounding group of existing dwellings and there is a bus service through the hamlet as well as facilities in the nearby village of West Coker. Nonetheless, I share the Council's view that a proposal for a new dwelling in this countryside location where many services and facilities are not easily accessible other than by the private car would not accord with either the first part of Paragraph 55 of the National Planning Policy Framework (Framework) or Policy ST5 of the South Somerset Local Plan 2006 (Local Plan) relating to the appropriate locations to direct new residential development in rural areas. The list of *special circumstances* set out under the second part of Paragraph 55 of the Framework to justify a new dwelling in the countryside would not be met by the appeal scheme, although the use of the words *such as* to precede these examples indicates that the list is not exhaustive, and I am therefore able to consider the particular circumstances of the Appellants in this context.
8. The case for the new dwelling is very specific and relates to the particular family needs of the Appellants and the medical needs of their son. They currently live in a house to the north of the appeal site at Witches Way but the new house is sought as the long term home for their son and his carers. There is detailed written information from the Appellants as well as the Specialist Medical Team that supports the family to explain the reasons for the proposal, providing an explanatory commentary on the son's medical condition; why the new house is required; the benefits of siting it close to the existing home and why the existing home could not be satisfactorily altered and the medical related issues with regard to seeking alternative accommodation. I have no reason to question this evidence.
9. Taking all of these factors into account, I am persuaded that the particular family and medical reasons that have been set out provide very specific and special circumstances to justify a dwelling in this location, and outweigh the harm that would arise regarding the generally unsustainable nature of the location of the site for residential development.

10. I understand the Council's concerns and recognise that at some point in time a new house in this location would become available to be disposed of on the open market, and that there is no complete certainty that the Appellants and their son would occupy the dwelling for any considerable period of time, if circumstances were to change. I have also taken into account the relevant guidance in the Planning Practice Guidance. However, given the particular and special circumstances of the case before me, I have concluded that this case is one where, exceptionally there is justification for granting permission and furthermore that a condition to limit first occupation to the Appellants together with resident dependants would be both appropriate and justified.
11. Although the proposal would introduce built development into an existing open field, I consider that the siting of the proposed dwelling would be read as extending the existing group of houses, in immediate as well as in longer views, for example from breaks in the hedgerows and field gates along Halves Way. The dwelling would be set down within the site, utilising the levels to minimise its impact on the surrounding open countryside. In these regards I consider that the proposed location and details of the house, as well as the revised siting of the solar panels are well considered to relate to the existing pattern of dwellings in Holywell and thus assist the integration of the new dwelling into the local built and natural context. However, Policy EC3 of the Local Plan is clear that these considerations only apply where development outside of development areas are otherwise acceptable, and these considerations would not by themselves render the development acceptable and outweigh the presumption against a new residential dwelling in this location.
12. The Appellant has argued that there is a shortfall in the supply of housing land in the district and that the provision of a new house in this location would assist in that regard. Given the location of the site and the proposed provision of one dwelling, I do not consider that the benefit of securing one additional dwelling, taken on its own, would overcome the harm I have identified from the generally unsustainable location of the site.
13. I have already set out that the proposed location within a small hamlet in the countryside would not accord with Policy ST5 of the Local Plan with regard to the appropriate locations for residential development in rural areas. However, I conclude that the very individual and exceptional medical grounds set out by the Appellants in respect of this proposal outweigh the harm I have concluded under this issue.

***Issue b) Highway Safety***

14. The proposed dwelling would utilise the existing field access at the northern end of the site, which would also continue to serve the remainder of the agricultural field. The road through Holywell is narrow and in places single width only; there is also an advisory speed limit of 20mph along the lane. There is disagreement between the Appellants and the Council regarding the visibility splays that can be achieved in a northerly direction when leaving the site, because of the adjoining land being in different ownership. However, from my site visit, and given the nature of the road and visibility that can be achieved in both directions, I do not consider that the proposed access to serve one house (and continued field access) would result in harm to highway safety. There

would be no conflict with Policy ST5 of the Local Plan, and in particular criterion 5, in this regard.

### **Other Considerations and Conditions**

15. I have noted the environmental proposals to ensure a highly sustainable dwelling in relation to its energy requirements. Whilst these proposals are to be welcomed, they would not by themselves support the development of a new dwelling in this location.
16. In respect of conditions I agree with the Council that details of materials and landscaping are required to ensure the integration of the new development into the local environment, although I do not consider it necessary or reasonable to require details of such elements as eaves/verge details. Drainage details are also necessary to ensure a satisfactory development. Conditions relating to the access are necessary to ensure a safe and satisfactory means of access. I have, however, amended the conditions to remove the unnecessary duplication of requirements. I have also added a condition to clarify the siting of the solar voltaic panel. I have also imposed a condition relating to first occupancy of the dwelling for the reasons set out earlier in my decision letter.
17. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be allowed.

*L J Evans*

INSPECTOR

### **Schedule of Conditions (Conditions 1 to 10 inclusive)**

- 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: 3247/13/8A; 3247/13/9A; 3247/13/1A; 3247/13/2A; 3247/13/3A; 3247/13/4A; 3247/13/5A; 3247/13/6; 3247/13/7; 3247/13/10 and 3247/13/11A.
- 3) Notwithstanding Condition 2, the siting of the solar voltaic panel shall be in accordance with the position shown on Plan 8A.
- 4) Notwithstanding Condition 2, no development shall take place until details of the external materials to be used in the construction of the house and garage hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 5) The first occupation of the dwelling hereby permitted shall be limited to the Appellants, Mr Dudley & Mrs Aileen Miller together with any resident dependants.
- 6) Development shall not begin until foul and surface water drainage details to serve the property have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to first occupation of the dwelling hereby permitted and thereafter retained and maintained.
- 7) No development shall take place until full details of both hard and soft landscape works, to include planting proposals, boundary treatments, and hard surfacing details, have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out prior to first occupation of the dwelling hereby permitted; and any trees or plants which within a period of 5 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 approval to any variation.
- 8) All hard landscaping, including hard surfacing for the parking and turning areas shall be carried out as approved prior to the occupation of the dwelling hereby permitted.
- 9) The gradient of the proposed access shall not be steeper than 1 in 10 and shall thereafter be maintained in that condition.
- 10) Any entrance gates shall be hung to open inwards and shall be set back a minimum of 10 m from the carriageway edge and thereafter maintained in that condition.