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## Appeal Decision

Site visit made on 11 January 2018

**by Thomas Bristow BA MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7<sup>th</sup> February 2018**

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**Appeal Ref: APP/R3325/W/17/3182427**

**Land accessed from Back Lane, Curry Rivel TA10 0NZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
  - The appeal is made by Mr G Doble against the decision of South Somerset District Council.
  - The application Ref 17/02265/OUT, dated 19 May 2017, was refused by notice dated 26 July 2017.
  - The development proposed is described on the application form as 'a detached dwelling; replacing a former concrete built water reservoir'.
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### Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling replacing a former concrete built water reservoir at land accessed from Back Lane, Curry Rivel TA10 0NZ in accordance with the terms of the application Ref 17/02265/OUT, dated 19 May 2017, subject to the schedule of conditions below.

### Preliminary matters

2. The proposal is in outline with matters of access, appearance, landscaping, layout and scale reserved for future consideration (the 'reserved matters'). I have therefore treated the Proposed Block Plan, 'Figure 3', as illustrative of the potential siting and footprint of a dwelling here.
3. Each proposal must be determined on its particular merits in accordance with the development plan unless material considerations indicate otherwise. The development plan includes policies of the South Somerset Local Plan 2006-2028 (adopted 5 March 2015, the 'LP'). I have taken account of other relevant material considerations, including the National Planning Policy Framework ('NPPF') and the Planning Practice Guidance ('PPG').
4. South Somerset District Council ('SSDC') explain that they cannot presently demonstrate a five year land supply of deliverable housing sites in accordance with paragraph 47 of the NPPF ('5YLS'). With regard to paragraphs 49 and 14 of the NPPF relevant policies for the supply of housing must therefore be treated as out of date, and permission withheld only if any adverse impacts of the proposal would significantly and demonstrably outweigh its benefits.

### Policy context

5. In summary LP policy SS1 'Settlement Strategy' guides development primarily towards identified towns and rural centres as opposed to smaller rural settlements. It also establishes that rural settlements will be considered as part

of the countryside 'to which national countryside protection policies apply (subject to the exceptions identified in policy SS2)'.

6. LP policy SS2 'Development in rural settlements' sets out that development in the countryside will be strictly controlled, although housing which meets a specific need in that location may be permissible. It also establishes that development must be commensurate with the scale and character of the settlement, and increase its 'sustainability in general'.
7. LP policy SS1 actively determines where housing is to be located. LP policy SS2 operates as the counterpart to LP SS1, and also establishes what types of housing are permissible in certain locations. Whilst these policies have broad aims, they are both largely concerned with the spatial approach to housing delivery and are therefore directly related to the supply of housing (rather than affecting it incidentally). As SSDC cannot demonstrate a 5YLS, LP policies SS1 and SS2 should be considered out of date.
8. Nevertheless, the objectives of LP policies SS1 and SS2, if not spatial approach, are aligned with those of the NPPF. Whilst the NPPF acknowledges that opportunities to maximise the use of sustainable transport will vary from urban to rural areas, it also sets out that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling (paragraphs 29 and 17).
9. Paragraph 55 of the NPPF also explains that housing should be located where it will enhance or maintain the vitality of rural communities, and that new isolated homes in the countryside should be avoided other than in special circumstances. I have accorded 'isolated' its ordinary meaning of 'far away from other places, buildings or people; remote'.
10. LP policy EQ2 'General development', amongst other elements, establishes that development should conserve and enhance landscape character and reinforce local distinctiveness. This policy applies generally rather than specifically to the supply of housing. It also accords with the NPPF in relation to recognising the intrinsic character and beauty of the countryside, seeking to promote or to reinforce local distinctiveness, and to protecting valued landscapes (paragraphs 17, 60 and 109).

### **Main issues**

11. Against the context above, the main issues are (1) whether or not the appeal site is an appropriate location for the development proposed with particular regard to the accessibility of nearby services and facilities, and (2) the effect of the development proposed on the character and appearance of the area.

### **Reasons**

#### Appropriateness of location

12. Aside from miscellaneous building materials, the appeal site is occupied by a substantial redundant water reservoir. This has become partially overgrown over time, however its rectangular concrete form remains readily apparent. On two sides the appeal site abuts pastoral fields, within a wider and predominantly rural landscape comprising a patchwork of gently undulating fields and occasional clusters of dwellings.

13. The appeal site falls outside the established built form of Curry Rivel. However this is only by a distance specified by SSDC to be approximately 200 metres (as the crow flies). Dwellings at the fringes of the village, which benefits from various services and facilities including a school, public houses and a garage, are clearly visible from the appeal site, as is the cluster of properties near the junction of the access to the appeal site with Back Lane.
14. Moreover the appeal site is sandwiched between two dwellings. Whilst I note SSDC's point that one of these has recently been converted from a former waterworks depot, pursuant to planning permission Ref 15/04390/FUL, it is nevertheless part of the surrounding context to the proposal. Notwithstanding that the proposal is in outline, from surrounding vantage points a dwelling in this location would inevitably be seen in conjunction with neighbouring properties and those in the wider area.
15. Given the predominantly rural setting of the appeal site it is likely that occupants of the proposed dwelling would to some extent be reliant on the use of private vehicles, for example to access a wider range of services and facilities than available at Curry Rivel. However the uplift in vehicular use arising from one dwelling would inevitably be limited.
16. Whilst it is a relatively circuitous route to walk entirely along roads between the appeal site and Curry Rivel, two footpaths run nearby through adjacent fields. Although these are unlit, they offer significantly more direct access between the appeal site and the village and, in my view, represent relatively convenient pedestrian provision for an area which is predominantly rural in character.
17. Given the appeal site's location beyond the established built form of Curry Rivel, and as no case has been made by the appellant that the proposal would meet a specific local housing need, the proposal would conflict with the approach in LP policies SS1 or SS2. Some level of uplift in private vehicular use would also result, in conflict with the approach in paragraph 17 of the NPPF.
18. Therefore whilst I conclude that the appeal site is not inherently an appropriate location for the development proposed, the harm arising in this respect would be highly limited. Given the proximity of the appeal site to neighbouring properties and to Curry Rivel, it cannot reasonably be described as isolated. Moreover any adverse environmental effects resulting from additional vehicular uplift would be minimal, noting in particular the availability of relatively convenient pedestrian access to nearby services and facilities.

#### Character and appearance

19. The erection of a dwelling at the appeal site would inevitably result in additional built development in the landscape, and serve to reduce the separation between adjacent properties. A dwelling of whatever design would be partially visible from surrounding vantage points, including nearby footpaths.
20. However the appeal site is not prominent in the landscape on account of the gently undulating topography, the screening afforded by established hedgerows and trees flanking the appeal site, and given its setting between two adjacent

dwellings.<sup>1</sup> As set out above, from surrounding vantage points a dwelling in this location would be seen in conjunction with neighbouring properties and those in the wider area.

21. Moreover, whilst relatively low-lying, the existing dilapidated concrete reservoir does not contribute positively to local character. I also note that the surrounding area is subject to no protective designations related to landscape character. Provided that a sensitive approach is taken to reserved matters, including scale and landscaping in particular, the erection of a dwelling in this location would not in my view significantly affect landscape character or local distinctiveness.
22. Whilst in outline, I therefore conclude that a dwelling could be erected at the appeal site without entailing unacceptable effects to the character and appearance of the area. Accordingly no substantive conflict arises from the proposal with the relevant provisions of LP policy EQ2, or with paragraphs 17, 60 or 109 of the NPPF.

### **Planning balance**

23. In the absence of a 5YLS, I now consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits. The NPPF establishes that it is the purpose of planning to contribute to the achievement of sustainable development, i.e. pursuing economic, social and environmental gains jointly and simultaneously (an approach reiterated in LP policy SD1).
24. No one element of the NPPF automatically outweighs any other, and the NPPF elsewhere sets out that planning should boost significantly the supply of housing, and that in rural areas housing should be located where it will maintain the vitality of rural communities. The PPG similarly highlights the role that housing may play in supporting the sustainability of villages and smaller settlements (Reference ID: 50-001-20150519).
25. The dwelling proposed would result in an addition to housing stock in an area with an acknowledged lack of provision. This would furthermore be in a location which, as I have found above, is relatively accessible by rural standards. There would also be economic and social benefits in supporting employment during construction, and as future occupants would bring trade to nearby services and facilities.
26. As the proposal is for one home, its benefits may fairly be accorded only limited weight. Nevertheless they are sufficient to justify taking a decision other than in accordance with the development plan, as only highly limited harm would result from the proposal on account of its location.

### **Other matters**

27. I have noted the concerns raised by a nearby resident and the Parish Council regarding, in particular, flood risks, the appropriateness of vehicular access, and the effects of the proposal on local education and healthcare provision. There is no evidence before me to indicate that the appeal site is vulnerable to flooding, or that the development proposed would exacerbate flood risk elsewhere. As set out above, the vehicular movements associated with one additional dwelling

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<sup>1</sup> Notwithstanding whether adjacent dwellings are themselves at variance to local character as SSDC note.

would be modest, and there is nothing before me to indicate that access visibility or highway safety are matters of concern.

28. The effect of one new home on local infrastructure capacity would, similarly, be modest, and some level of housing is in any event supported in principle at Curry Rivel via LP policy SS5 'Delivering New Housing Growth'. I also note that SSDC do not make the case at appeal that the proposal would be unacceptable in relation to the concerns of those nearby as cited above. Accordingly no other matters brought to my attention are sufficient to alter my reasoning in respect of the overall merits of the proposal.

### **Conclusion**

29. For the above reasons, and having taken all other relevant matters into account, the other material considerations in favour of the proposal justify taking a decision which is not in accordance with certain provisions of the development plan. Having had regard to the development plan taken as a whole and to the approach in the NPPF, I therefore conclude that the appeal should be allowed subject to the conditions below.

### **Conditions**

30. It is necessary to impose conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with relevant legislation, and requiring compliance with supporting plans in the interests of certainty (other than in so far as they relate to the reserved matters). As landscaping is a reserved matter, however, it is unnecessary to impose an associated condition as SSDC have proposed.
31. Nevertheless the established hedgerows and trees around the appeal site would limit the visual prominence of a dwelling in this location, and their preservation is necessary with regard to LP policy EQ2 as reasoned above. As any works related to the development proposed may adversely affect the wellbeing of nearby trees, and pursuant to the duty placed upon me by Section 197 of the Town and Country Planning Act 1990 as amended, I have imposed a condition requiring that development proceeds in accordance with an agreed Tree Protection Scheme.
32. Notwithstanding that the level of risk associated with a former water reservoir is likely to be relatively low, as a precautionary approach and pursuant to the relevant provisions of LP policy EQ7 'Pollution Control' and paragraph 109 of the NPPF, I have imposed a condition requiring that any unforeseen pollution or contamination discovered in undertaking development is reported to SSDC and associated action taken.
33. In imposing conditions I have had regard to the tests in the NPPF, the PPG and relevant statute. Accordingly I have amended the wording of certain conditions proposed by SSDC without altering their aim.

*Thomas Bristow*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) Details of the access, appearance, landscaping, layout and scale (the 'reserved matters') shall be submitted to, and approved in writing by, the local planning authority before any development takes place, and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this decision, and the development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans dated 13 April 2017, except in respect of any details related to the reserved matters: Location Plan entitled 'Figure 1', Ref: P0232/7 Revision A, Existing Block Plan entitled 'Figure 2', Ref P0232/7 Revision A, and Proposed Block Plan entitled 'Figure 3', Ref P0232/7 Revision 000.
- 4) No development hereby permitted shall take place (including any vegetative clearance, demolition, groundworks, heavy machinery entering the site or storage of materials) until a tree protection scheme ('TPS') has been agreed in writing by the local planning authority. The TPS shall include details of: measures to protect any trees that may be affected by the development hereby permitted in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction- recommendations', hard surfacing, underground utility and service provision, drainage and soakaways. The TPS shall also make provision for measures to protect trees to be installed as agreed and inspected in situ by the local planning authority, and modified accordingly before any development hereby permitted takes place, and for the eventual removal of such. The TPS shall be implemented and adhered to throughout the undertaking of the development hereby permitted in accordance with the details thus agreed.
- 5) If any signs of pollution or contamination are discovered in undertaking the development hereby permitted (including related to remains of the former use of the site, poor plant growth, odours, or unusual soil conditions including discoloration or staining), these must be reported in writing to the local planning authority within 14 days. Reporting shall include sufficient information to enable the local planning authority to determine whether temporary cessation of development, further assessment in accordance with British Standard 10175:2011 'Investigation of potentially contaminated sites', or remediation is necessary. In the event that the local planning authority serve written notice that temporary cessation of the development hereby permitted, further assessment, or remediation is required, development may thereafter only proceed in accordance with a pollution and contamination management scheme agreed in writing by the local planning authority.