



Appeal Decision

Site visit made on 13 September 2011

by Mike Robins MSc BSc(Hons) MRTPI

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

Decision date: 7 October 2011

Appeal Ref: APP/R3325/A/11/2156282

Acre Cottage, Stoney Lane, Curry Rivel, Langport, Somerset TA10 0HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr John Kitchen against the decision of South Somerset District Council.
 - The application Ref 11/00059/OUT, dated 17 December 2010, was refused by notice dated 25 March 2011.
 - The development proposed is the erection of four no. dwellings and garages.
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Application for costs

1. An application for costs was made by Mr John Kitchen against South Somerset District Council. This application is the subject of a separate Decision.

Decision

2. The appeal is allowed and planning permission is granted for the erection of four no. dwellings and garages at Acre Cottage, Stoney Lane, Curry Rivel, Langport, Somerset TA10 0HY in accordance with the terms of the application, Ref 11/00059/OUT, dated 17 December 2010, subject to the following conditions:
 - 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins 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 permission.
 - 3) 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.
 - 4) The proposed road, footpath and turning spaces where applicable, shall be constructed in such a manner as to ensure that before it is occupied each dwelling shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and the highway.
 - 5) The gradients of the proposed drives to the dwellings hereby approved shall not be steeper than 1 in 10.
 - 6) There shall be no obstruction to visibility greater than 600mm above adjoining road level forward of the line drawn 2.4m back and parallel to the nearest carriageway edge over the entire site frontage along Stoney Lane. Such visibility shall be fully provided before works commence on the development hereby permitted and shall thereafter be maintained at all times.

- 7) Before the dwellings hereby permitted are first occupied a 1.8m wide footway shall be constructed along the entire site frontage of the site along Stoney Lane, incorporating a pedestrian crossing facility with tactile paving in accordance with a specification to be submitted to and approved in writing by the local planning authority.
- 8) Any area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted, but only as required in respect of those matters not reserved for later approval and by other conditions of this permission.
- 9) Prior to the commencement of development details of site vegetative clearance, demolition of existing structures, ground works, heavy machinery entering the site or on-site storage of materials, a Tree Protection Plan and Arboricultural Method Statement relating to all the retained trees on or adjoining the site shall be submitted to and agreed in writing by the local planning authority. The approved plans and particulars shall specify the following details so as to confirm with British Standard 5837 : 2005 – *Trees in Relation to Construction*:
 - i) Root protection areas, construction exclusion zones, special tree protection and engineering measures for any required installation of built structures, below-ground services and hard surfacing within root protection areas of retained trees, the installation of protective fencing and arboricultural on-site supervision, monitoring and certificate of compliance.
- 10) The measures as specified in the approved Tree Protection Plan and the Arboricultural Method Statement shall be implemented in their entirety for the duration of the construction and landscaping phases of the development.
- 11) The development hereby permitted shall be carried out in accordance with the following approved plan: No 1613-1 Rev A, but only as required in respect of those matters not reserved for later approval and by other conditions of this permission.
- 12) The development hereby approved shall be limited to a maximum of four new dwellings.

Procedural Matter

3. The original application referred to five houses on the site, this, however, was altered to four prior to the Council's decision on the application. For clarity I have therefore used the Council's description of development.
4. The proposal was made in outline with the matter of access only to be determined at this stage. Appearance, scale, layout and landscaping are therefore reserved for future determination. A block plan was submitted showing both layout and landscaping, but this was referred to as being illustrative and I have considered the appeal on this basis.

Main Issue

5. I consider the main issue in this case is the effect of the proposal on the character and appearance of the area.

Reasons

6. The appeal site is a very large garden plot set towards the southern edge of Curry Rivel. The Council have confirmed that it lies within the defined development area. The existing property is to be retained, with the site divided to allow for up to four new properties to the south and east. The current plot is mainly laid to lawn with substantial hedge, shrub or stone boundaries and a number of mature trees, including two protected under a Tree Preservation Order, (TPO), an Atlantic Cedar and a Copper Beech.
7. Stoney Lane, which runs south from the main road, has a mix of properties, although the majority are detached. To the west of the road there is a long line of dwellings of consistent style and spacing extending to Bawler's Lane, which defines the southern boundary of the appeal site. To the east of the road there are larger and more individual properties, however, there is notably denser new and infill development to the rear of these along Stoneyhurst Drive.
8. Consequently, large scale, extensive development is not now typical of the area generally, and Acre Cottage itself has a much larger plot than others. Properties are, however, well set back from the road in mature plots and the area has an open and verdant character, which contributes to the edge of village setting.
9. Although development continues along Stoney Lane to the point where it joins the road to the southeast, there are gaps and this area becomes increasingly a transitional one to the open countryside. This is particularly evident to the southeast of Bawler's Lane.
10. The proposal involves the development of a garden area. Planning Policy Statement 3: *Housing* (PPS3) was amended in 2010 to remove the national indicative minimum density of 30 dwellings per hectare and to exclude private residential garden land in built up areas from the definition of previously developed land. While that removed any presumption there may have been in favour of the development because it fell within the scope of the earlier definition, it did not create a presumption against development. Instead, each proposal should be assessed on its merits.
11. The proposal would introduce four houses onto this divided plot, retaining the existing entrance for Acre Cottage and providing a new entrance onto Stoney Lane with a small estate road for the new properties. This is an outline application but I am satisfied that the site could accommodate four properties, allowing for sufficient garden space to respect the open character of the area. Properties would look onto Stoney Lane and Bawler's Lane, where houses to the rear of Stoneyhurst Drive already look out across the road to the paddocks and fields to the south.
12. The plot sizes and property spacing that could be achieved would not be noticeably smaller than the majority of dwellings here, and with appropriate landscaping the trees and hedge boundaries would be retained or replaced. I fully accept the transitional nature of this area and the need for appropriate design to respond to this, however, I consider that the main area at risk from further development lies beyond Bawler's Lane, and that sensitive development on this site would be acceptable.
13. I consider that the trees on the site are an important component of the character here. I am satisfied that, subject to layout, there would be sufficient space for the proposed dwellings to be constructed without risk to the main trees which contribute to the character, and specifically those protected under the TPO.

14. Overall the proposal would accord with national policy and guidance which seeks the efficient use of land in a sustainable location. While the revisions to PPS3 did change the status of garden land, they did not preclude such areas from development provided they were well designed and reflective of the character of the area. On balance I consider that four properties could be successfully integrated into the area, respecting the form, character and setting of the settlement and retaining the key features of the trees and hedge boundary, in accordance with the South Somerset Local Plan, adopted 2006, (the Local Plan) and Policies ST5 and ST6.

Other Matters

15. The proposed access would require the removal and replacement of the hedge along Stoney Lane in order to provide for sufficient visibility splays. Although I have no reason to doubt the concerns raised by local residents with regard to its use as a short cut, the road did not appear to be well used at the time of my site visit.
16. Nonetheless, the road at this point is relatively straight and of sufficient width to allow for access to entrances on both sides of the road. I concur with the Highway Authority that appropriate levels of visibility could be achieved and that the entrance would be sufficiently removed from other junctions to allow for the traffic movements that would be associated with this proposal.
17. The Government has issued a draft National Planning Policy Framework (NPPF) for consultation that consolidates national planning policy. Parties were given the opportunity to comment on this. I have considered it in relation to this appeal, but it carries limited weight at this stage of the consultation process. Existing development plan and national planning policy remains and carries substantial weight and the NPPF does not propose any significant change in national policy relative to the issues here.

Conditions

18. I have considered the conditions put forward by the Council, in the consultation responses and in the officer's report, against the requirements of Circular 11/95 – *The Use of Conditions in Planning Permissions*. In addition to the standard outline conditions, I have imposed conditions related to the provision of appropriate roads, footpaths and turning spaces to address the highway safety of users of the estate road and Stoney Lane.
19. To protect the character and appearance of the area I have explicitly restricted the development to a maximum of four new houses, and have imposed conditions to protect trees during construction. Otherwise than as set out in this decision and conditions, for the avoidance of doubt and in the interests of proper planning, it is necessary that the development shall be carried out in accordance with the approved plan. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the guidance in Circular 11/95.
20. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Mike Robins

INSPECTOR