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# 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: 3 October 2011**

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## **Appeal Ref: APP/R3325/A/11/2152382**

### **Land to the rear of Robins, Ham Lane, Compton Dundon, Somerton, Somerset TA11 6PQ**

- 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 Nick Studley against the decision of South Somerset District Council.
  - The application Ref 11/00067/FUL, dated 21 December 2010, was refused by notice dated 16 February 2011.
  - The development proposed is the change of use of an existing building to provide holiday accommodation.
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#### **Decision**

1. The appeal is dismissed.

#### **Application for costs**

2. An application for costs was made by Mr Nick Studley against South Somerset District Council. This application is the subject of a separate Decision.

#### **Main Issues**

3. I consider that there are two main issues in this case, firstly the effect of the development on the character and appearance of the surrounding countryside, having regard to the relevant national guidance and adopted local planning policies, and secondly, the effect on the living conditions of the occupiers of the neighbouring properties, with particular regard to privacy, noise and disturbance.

#### **Reasons**

4. The appeal site is an area of land partly separated from an agricultural field. It lies to the rear of a row of houses on a country road on the edge of the village. Part of the site has been enclosed by hedging within which there is a large garage, permitted in the 1980s as an ancillary building to Robins, a property which fronts onto Ham Lane. This property was later sold independent of the garage. Other than to Robins, where there is a culvert and an open fence boundary, the site is clearly separated from the housing along the road by a rhyne and a substantial hedgerow.
5. Separation of the garage from the domestic curtilage also removed the access, which was reported to have been approved as being via the side of Robins, where the existing garage was to have been removed. Access to the site presently is via an unsurfaced lane within the curtilage of a listed property, Walnut Tree Cottage, to the west. This lane is also a public footpath. The lane

- leads to a gate into the field, with access then across the rear of houses and into the enclosed and tended part of the appeal site. Public views into the site would be available from the footpath as well as from the rear of properties along Ham Lane.
6. Both main parties confirm that the site is outside of any development boundary and lies within open countryside where the full weight of relevant policies in the development plan and national guidance in Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS7) and Planning Policy Statement 4: *Planning for Sustainable Economic Growth*, (PPS4), apply.
  7. This proposal would represent a change from a low-level of use, whereby the garage provides for storage and the area of enclosed land provides for the occasional visit by the appellant and his family, to a more intensive residential use. Such use would include more permanent occupation and increased levels of domestic paraphernalia and activity. Furthermore the introduction of grasscrete and additional boundaries would represent further encroachment into the countryside beyond the well established limit of development along this road. The existing tended area and garage already sit uncomfortably here and the proposed use would not be in keeping with this countryside setting.
  8. The principle that the countryside is protected for the sake of its intrinsic character and beauty is retained in national policy and in Policies ST3 and EC3 of the South Somerset Local Plan, adopted 2006, (the Local Plan). While the principle of sustainable rural tourism is supported in national policy, this is only where such facilities enrich rather than harm the character of the countryside. The appellant refers me to Policy EH6 and ME10 of the Local Plan which deal with conversions. Policy ME10 requires compliance with other plan policies, and the accompanying text identifies that the conversion of existing buildings would occur only in exceptional circumstances. Policy EH6 refers to the conversion of countryside buildings, but only where they are in keeping with their setting.
  9. The appellant also refers to a Certificate of Lawful Use or Development granted by the Council on 13 August 2010<sup>1</sup> and suggests that the fact that the building exists and has been in regular use for a number of years supports this proposal. The certificate confirms that only part of the site has been in use and that this use is not as a residential curtilage, nor is it domestic use in its own right.
  10. I do not consider that this confirmation of existing use lends material weight in support of the introduction of more intensive domestic activity within the countryside. While I note that the findings set out in the certificate are challenged by the appellant, this appeal, made under section 78 of the Town and Country Planning Act 1990, is not the route by which such a challenge should be made. The proposal would therefore conflict with national policy and with Policies EC3, ST5 and ST6 of the Local Plan, which seek to ensure that development is strictly controlled and respects the form, character and setting of the locality.
  11. Turning to living conditions, while the rhyne and the substantial rear hedge boundaries would limit disturbance to some of the dwellings along the route to the garage, the boundary to Robins is currently open and the rhyne culverted.

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<sup>1</sup> 10/03203/COL

This would allow for any increase in activity to have an impact on both privacy and potential disturbance, with Robins having only a small, enclosed private rear garden area. I do not consider that the realistic use of the site at present can be compared to its use as a holiday let.

12. While I accept that landscaping could reduce the harm, to be effective it would potentially result in significant enclosure of this small rear garden area. On balance, the intensification of use here would lead to greater disturbance and a loss of privacy beyond what would be reasonably expected for occupiers of Robins. The proposal would therefore conflict with Local Plan Policy ST6 in this regard.
13. 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. While I note the appellant's comments regarding the NPPF, existing 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.
14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Mike Robins*

INSPECTOR