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# Appeal Decision

Site visit made on 3 March 2014

**by Simon Miles BA(Hons) MSc MRTPI**

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

**Decision date: 10 March 2014**

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## **Appeal Ref: APP/R3325/A/13/2209530**

### **Rose Cottage, Church Street, Kingsbury Episcopi, Martock TA12 6AU**

- 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 John Legg against the decision of South Somerset District Council.
  - The application Ref 13/01607/FUL, dated 22 April 2013, was refused by notice dated 18 June 2013.
  - The development proposed is formation of vehicular access and parking area and erection of dwelling.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. This is the effect of the proposed development on the living conditions at the proposed dwelling and existing neighbouring properties.

### **Reasons**

3. The appeal relates to a small parcel of land adjacent to Rose Cottage. The site is adjacent to Church Street and lies to the west of a small residential terrace, including Rose Cottage. There is a narrow footpath, providing pedestrian access, between the site and the terrace. The existing terraced dwellings are very close to the site and their upper floor windows would look directly down onto the amenity area for the proposed dwelling. Potential occupiers of the proposed dwelling would therefore suffer from a severe lack of privacy in relation to the use of their garden.
  4. In reaching this view, I acknowledge the existing boundary treatments and the potential for further screening and landscaping. However, this would not be sufficient to overcome my concern, given the limited separation between the existing terrace and the proposed dwelling and the height of the upper floor windows in the adjacent terrace. Although a degree of overlooking already occurs between nearby properties, my assessment indicates that the degree of harm in this case would be beyond reasonable limits, bearing in mind the general standards of the area.
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5. Being set somewhat forward of the existing terrace, the proposed dwelling would not cause an unacceptable loss of light. However, given the limited separation, I am concerned that the proposed development would have an unduly overbearing impact on the outlook from the front of the nearest terraced dwellings, which are orientated such that their principal windows face towards the site.
6. As regards the residential use of the site and the potential for noise and disturbance, I consider that the Council has over-stated the effect of the proposed development. In particular, I consider that any noise and disturbance would be within acceptable limits, having regard to the existing residential use of the land and noise and activity associated with the use of Church Street and the footpath between the site and the adjacent terrace.
7. Whilst in certain respects I have found in the appellant's favour, my findings indicate that the proposed development would cause significant harm to the living conditions at the proposed dwelling and existing neighbouring properties in relation to privacy and outlook. It follows that saved Policy ST6 of the adopted South Somerset Local Plan 2006 is not satisfied in terms of the need to avoid unacceptable harm to residential amenity. This policy is consistent with the approach set out in the National Planning Policy Framework, whereby a good standard of amenity should always be sought for all existing and future occupants of land and buildings.
8. In other respects, the site is within the Kingsbury Episcopi Conservation Area. However, having regard to the traditional design of the proposed dwelling, I am satisfied that the character and appearance of the conservation area, and its significance as a heritage asset, would be preserved.
9. Overall, although the proposal would increase the supply of housing in the settlement, in accordance with the Framework, it would fail to achieve an appropriate standard of amenity. In view of this, and given my findings, the balance weighs against approval. Accordingly, and for the reasons given, the appeal does not succeed.

*Simon Miles*

INSPECTOR

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# Appeal Decision

Site visit made on 4 February 2014

**by Nick Fagan BSc(Hons) DipTP MRTPI**

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

**Decision date: 19 February 2014**

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**Appeal Ref: APP/R3325/A/13/2206487**

**Land opposite 18 Broadmead Lane, Norton Sub Hamdon, Somerset TA14 6SS**

- 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 Clive Grinter against the decision of South Somerset District Council.
  - The application Ref 1/02712/FUL, dated 24 June 2013, was refused by notice dated 30 August 2013.
  - The development proposed is the development of an eco-friendly bungalow.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the adjacent Norton Sub Hamdon conservation area.

## Reasons

3. Broadmead Lane is a dead-end narrow lane on the eastern side of the village, which tapers into a track next to the stream just north of the site. The site itself is a paddock raised above the road level on the eastern side of the lane opposite two terraces of cottages on its western side. Immediately to the south is a bungalow. To the north and east are open fields on the edge of the village. The site lies outside the village's development boundary. The lane and the cottages opposite are within the Norton Sub Hamdon conservation area, which encompasses the older and major part of the village. The scene is dominated by the bulk of Ham Hill to the north-east. It has a distinctly rural character.
4. The proposed bungalow would be set at a level about a metre below the current ground level on the site. Whilst this would serve to some extent to minimise any impact it would have on the aspect from the cottages opposite or the bungalow to the south it would fail to preserve the openness of this land on the eastern edge of the village. It would also be at odds with this curving rural lane, which is characterised by mainly vernacular cottages set at road level.
5. The design of the proposed bungalow, although it exhibits some 'eco' features and Ham stone facing, would otherwise be typically suburban in appearance

- and would not match the distinctive vernacular of much of the village and most of the cottages on this lane, including those opposite the site. Its design would be alien to that of the conservation area, which it adjoins.
6. Policy EH1 of the South Somerset District Plan (2006) [LP] states that development in a conservation area or outside such an area but which would affect the settings or views in or out of it, should make a positive contribution to such character and setting. The setting of this part of the Norton Sub Hamdon conservation area includes this open land and the aspect across it from the lane. There are also clear views of the site and the lane from Ham Hill. By building on this open land the proposal would seriously compromise the conservation area's eastern setting.
  7. The proposal would involve slightly moving the current access into the site to the north. The submitted plans do not show a satisfactory visibility splay, which would be required to ensure safe access to and from the site. Although in principle this would be possible, it would necessitate removal of a large part of the bank and hedge to its north and south. This in turn would have a significant detrimental impact on the character of this part of the lane, in spite of the fact that a new hedge could be replanted further back into the site.
  8. Although I acknowledge the appellant's desire to live in the village he grew up in, this is irrelevant to the consideration of this appeal, as is the suggestion that the land will be left to become overgrown and unsightly if this proposal is not allowed. I must determine the appeal on its planning merits, and these constitute the issues set out above.
  9. I conclude, for the above reasons, that the proposal would seriously harm the character of the area and fail to preserve or enhance the character or appearance of the adjacent Norton Sub Hamdon conservation area. It would therefore fail to comply with LP Policy EH1. LP Policies ST5 and ST6 require, amongst other things, development proposals to respect the form, character and setting of the locality and maintain local distinctiveness. Again, for the above reasons, the proposal would fail to comply with these policies. The appellant implies these 'saved' policies are out of date and fail to comply with current national policy. I disagree; they are fully in accordance with the National Planning Policy Framework in terms of its guidance on design and heritage assets.
  10. For the reasons given above I conclude that the appeal should be dismissed.

*Nick Fagan*

INSPECTOR

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## Appeal Decision

Site visit made on 4 February 2014

**by Nick Fagan BSc(Hons) DipTP MRTPI**

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

**Decision date: 5 March 2014**

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**Appeal Ref: APP/R3325/A/13/2206933**

**Land off Burton Close, Heale Lane, Curry Rivel, Langport, Somerset  
TA10 0PG**

- 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 West of England Developments (Taunton) Ltd against the decision of South Somerset District Council.
  - The application Ref 13/02709/OUT, dated 3 July 2013, was refused by notice dated 30 September 2013.
  - The development proposed is for residential development.
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### Decision

1. The appeal is allowed and outline planning permission is granted for residential development in accordance with the terms of the application, Ref 13/02709/OUT, dated 3 July 2013, subject to the following conditions:
  - 1) Details of the access, 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 development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan.
  - 5) Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.
  - 6) The development hereby permitted shall comprise no more than 16 dwellings.

## **Main Issues**

2. The main issues are whether this site is in a sustainable location, and the effect of the proposal on the character and appearance of the area.

## **Reasons**

### *Location*

3. Curry Rivel is a large village with a number of facilities including a variety of shops, a primary school, garage, pub and a number of employment opportunities. The site is on the western edge of the village about a mile or so from most of these facilities, but is linked by a continuous footpath as well as a regular bus service connecting the village to Taunton, Langport and Street where there are a wide range of jobs, shops and facilities. There is a bus stop on the main road less than 200m from the site.
4. The site lies outside the defined development area of the village. Policy ST3 of the South Somerset Local Plan (2006) [LP] states that development will be strictly controlled outside such development area boundaries and the proposal is therefore contrary to this policy.
5. However, the Council, in its Committee report on this application, highlights the fact that it does not currently have a five year housing supply, which invokes the presumption in favour of sustainable development as set out in paragraphs 14 and 49 of the National Planning Policy Framework [NPPF]. Whilst this presumption does not negate Policy ST3, it is a relevant consideration that I must weigh in the balance in terms of the contribution this site can make to housing delivery, including affordable housing.
6. There have been a number of recent housing developments on this side of the village including Chatham Rise and Burton Close to the north-east and south-west of the site, and Westfield on the south side of the main road – the A378. The former two developments are clearly very recent and the appeal site directly abuts them and would give access onto them. The Council has also resolved to grant outline permission for six dwellings on the appeal site<sup>1</sup> very recently.
7. Although I am unaware whether all these recent schemes are located within or outside Curry Rivel's development boundary, this indicates to me that the Council must consider development at this end of the village to be in a sustainable location. This is particularly so because houses on the appeal site would be no further away from the village's facilities than those in Burton Close or Westfield.
8. Given the size and number of facilities in Curry Rivel, the presence of the continuous footpath to them from the site, and the regular bus service and nearby bus stop, I conclude that this site would be in a sustainable location.
9. In concluding this I have also had regard to the fact that Curry Rivel is identified as a village with a reasonable range of facilities in Policy ST2 of the LP. I have also had regard to Policy SS2 of the emerging Local Plan, which also intends to designate Curry Rivel as a Rural Settlement where modest development may be acceptable. Whilst I cannot give this substantial weight,

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<sup>1</sup> 13/04224/OUT

in part because of the suspension in the new Plan's Examination process, I consider it is relevant because it shows the Council's intended direction for such larger villages.

### *Character and Appearance*

10. The application is in outline with all matters reserved. However, the Planning Layout submitted with it shows that 16 houses can be accommodated on the site along with an area of public open space. This would equate to a density of 32.6 dwellings per hectare on a 0.49 hectare site. Such a density would be comparable with that on adjoining sites. The Planning Layout drawing illustrates that this amount of houses can be comfortably accommodated on the site and that 16 houses would not result in a cramped form of development.
11. The land rises gently upwards towards Heale and indicated residential development at similar heights to the adjacent dwellings in Chatham Rise would not look out of place in the landscape. The northern edge of the site, where it adjoins the public footpath, is more or less in line with the edge of the development at Chatham Rise and this proposal would in effect 'round off' this western edge of the village.
12. I noticed on my visit that the mature hedges to the north, east and west (Heale Lane) boundaries of the site had been recently pruned but these hedges remain as substantial landscaped features that the developer intends to keep, and such hedges would form a logical stop to development on this edge of the village.
13. The public footpath running along the inside of the northern boundary is shown retained in its existing position in the Planning Layout drawing. In any case the appellant must satisfy rights of way legislation if it wishes to divert this footpath. The detailed alignment of the public footpath can accordingly be determined at reserved matters stage.
14. I am satisfied that a satisfactory means of access can be created to the site off Burton Close at the location indicated on the Planning Layout. Although several residents have pointed out that this access is steep, I note that there are no highway objections to such an access and from my observations I consider this would be quite satisfactory.
15. I conclude that a development of up to 16 houses could be accommodated at a satisfactory density in a way that would respect the form, character and setting of this locality, as required by Policies ST5 and ST6 of the LP.

### **Other Matters**

16. I note that a signed and dated 106 Agreement has been submitted requiring the appellant to make a range of financial contributions to a range of off-site outdoor playing space, sport and recreation facilities in accordance with 'saved' Policies CR2, CR3, ST5 and ST10 of the LP. These contributions have been arrived at by a logical methodology and will fund a range of projects likely to be used by residents of the proposed houses and so these contributions meet Regulation 122 of the *Community Infrastructure Levy Regulations 2010* as well as paragraph 204 of the NPPF.

17. The 106 Agreement also commits the appellant to 50% of the dwellings on the site being affordable. I consider this obligation also weighs in the proposal's favour, especially as the recent scheme for six houses on the site has no affordable element.
18. I note the 23 objections to the scheme from local residents, but consider the main issues are those I have indicated above and none of the other concerns raised lead me to conclude that the proposal is unacceptable.

### **Conditions**

19. The Council suggests a number of conditions are necessary, as set out in its Committee report. I agree these are necessary although I have varied the wording of some of them in the interests of precision. A condition is necessary specifying the location plan of the site for the avoidance of doubt and in the interests of good planning. Details of drainage are required to ensure the site is properly drained. And a condition is necessary stating that the development shall be limited to 16 dwellings in the interests of the character of the area and to ensure that there is sufficient mitigation through necessary off-site contributions.

### **Conclusion**

20. For the reasons given above I conclude that the appeal should be allowed, subject to the above conditions.

*Nick Fagan*

INSPECTOR