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## Appeal Decision

Site visit made on 8 March 2016

**by Debbie Moore BSc (Hons) MCD MRTPI PGDip**

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

**Decision date: 25 April 2016**

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**Appeal Ref: APP/R3325/W/15/3140082**

**Windy Ridge, Butchers Hill, Fivehead, Taunton TA3 6PX**

- 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 and Mrs Stuart Morling against the decision of South Somerset District Council.
  - The application Ref 15/01486/FUL, dated 31 March 2015, was refused by notice dated 23 July 2015.
  - The development proposed is the erection of a four bedroom dwelling and change of use of agricultural land to residential curtilage.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a four bedroom dwelling and change of use of agricultural land to residential curtilage at Windy Ridge, Butcher's Hill, Fivehead, Taunton TA3 6PX, in accordance with the terms of the application Ref 15/01486/FUL, dated 31 March 2015, subject to the conditions set out in the Schedule to this decision.

### Main Issues

2. The main issues are:
  - whether the proposal would be sustainable development, having regard to local and national policies that seek to limit development in the countryside, and;
  - whether a financial contribution towards affordable housing provision is necessary to make the development acceptable in planning terms.

### Reasons

#### *Sustainable development*

3. The appeal site lies adjacent to the property known as Windy Ridge which is located on the edge of the village of Fivehead, fronting onto the main A378, Langport Road. The core of the settlement lies to the south of the site with development extending along Butchers Hill and Ganges Hill where these roads join the A378. The site lies between the two road junctions and forms part of an undeveloped area separating the clusters of development at the road junctions.

4. Fivehead is identified in generic terms as a 'Rural Settlement' and considered to be within the countryside, where development is strictly controlled under policies SS1 and SS2 of the South Somerset Local Plan, (the Local Plan) adopted in March 2015. However, paragraph 49 of the National Planning Policy Framework (NPPF) states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council acknowledges that it is currently unable to do this and consequently, housing supply policies SS1 and SS2 of the Local Plan are considered out-of-date.
5. Paragraph 49 of the NPPF requires housing applications to be considered in the context of the presumption in favour of sustainable development. This is set out at paragraph 14 of the NPPF and indicates that where relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
6. Paragraph 7 of the NPPF establishes the three dimensions to sustainable development: economic, social and environmental. In terms of the economic role of sustainable development, the proposal would provide short term construction employment and the future residents of the dwelling may support local services through expenditure.
7. With regard to the social role, the proposal would add to the housing stock meeting an acknowledged requirement for more homes, and be accessible to local services. A financial contribution towards the provision of affordable housing in the area, which would be secured through a planning obligation, weighs in favour of the scheme as it supports the social role of sustainable development.
8. In relation to the environmental role, the site is within walking distance of several key services in the village, including a pub with a shop, the village hall and places of worship. The appellant has provided evidence of the bus service, and the bus stop on the A378 is close to the site. Whilst the services in the vicinity are limited, it is a reasonable level of provision to serve the basic requirements of occupants of the single dwelling.
9. In terms of the character and appearance of the area, which falls to be considered under the environmental role of sustainable development, the Council is concerned that the proposal would intrude into the open countryside and is at variance with the local pattern of development. Whilst I agree with the Council that these undeveloped fields contribute to the character of the area, the proposed house is designed in such a way as to limit its visual impact and therefore its effect would be minimised. The house would also be set back from the front of site and would use an existing vehicular access to the main road. The mature hedgerow along the front boundary, and two existing trees, would be retained and would provide an element of screening. The garden area would be relatively restricted and whilst providing adequate space for future occupants, it would not encroach into the remainder of the paddock which would remain open.
10. The design includes single storey elements, one of which is an outbuilding, with flat 'green roofs' which would not be overly prominent in the wider area despite the location of the outbuilding towards the front of the site. The design aims to deliver an innovative design with low energy usage which is encouraged under

national planning policy and policy EQ2 of the Local Plan. Overall, I conclude that the proposed development is well designed and would respect the character and appearance of the area, consistent with the aims of national and local policy.

#### *Financial contribution*

11. The submitted S106 Unilateral Undertaking aims to secure a financial contribution towards providing affordable housing in the area. The Council has justified the sum sought with reference to the policy HG4 of the Local Plan and the contribution is therefore necessary to make the development acceptable in planning terms. I consider the measures in the Undertaking are necessary, related directly to the development and fairly related in scale and kind. As such, it accords with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the NPPF.
12. The Council has concerns about the document itself and whether it could be relied upon to secure contributions. The obligation contained in clause 3(b) deals with the eventuality of a future increase in internal floor space which would require an additional contribution. The clause means that an additional sum would not be paid should there be a change in national policy in the interim exempting small sites from contributions. The clause does not therefore render the Undertaking wholly ineffective and I am satisfied that it does secure the affordable housing contribution for the proposed development in line with policy HG4. This would remain the case irrespective of a change in national planning policy. I therefore conclude that the Unilateral Undertaking can be relied upon to secure the required contributions and consequently the scheme meets the affordable housing aims of policy HG4 of the Local Plan.
13. The Council refers to an appeal reference APP/R3325/W/15/3011490 dated 5 January 2015, which considered similar issues. In that instance, a planning obligation had not been submitted and therefore the circumstances are not directly comparable to this appeal. As such, the other appeal decision has only limited weight.

#### **Other Matters**

14. There is a grade II listed building, the Red Post House, on the corner of Langport Road and Butchers Hill, not far from the appeal site. The listed building is some distance from the appeal site and there is development separating it from the site. This separation, combined with the appropriate siting and design of the proposed house, leads me to conclude that the development would preserve the setting of the listed building.
15. A concern has been raised that the development would exacerbate runoff during periods of heavy rainfall, increasing the risk of flooding on Ganges Hill and Butchers Hill. No evidence has been presented to demonstrate that problems of this nature are bound to occur, and I note the Council did not express a concern in this regard. This matter has very limited weight.
16. A further concern that planning permission would set a precedent for future residential building on this site and other agricultural land has been raised. There is no evidence that schemes similar to appeal proposal are awaiting

determination. Moreover, each case should be considered on its individual merits. Against this background I give the precedent concern very little weight.

### **Conclusion**

17. The proposed development would be contrary to the specific terms of policies SS1 and SS2 of the Local Plan, including the fact that it would not meet an identified housing need as required by policy SS2. However, these policies are out of date.
18. For the reasons given, I have not found any harm that would significantly and demonstrably outweigh the benefits of the proposal. Consequently, it is concluded that the appeal should be allowed.

### **Conditions**

19. I have considered the conditions suggested by the Council having regard to paragraph 206 of the NPPF. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings as this provides certainty. Conditions relating to external materials, design and landscaping are necessary to protect the character and appearance of the area.
20. The Council have suggested two conditions relating to the provision of a suitable access. However, there is duplication between the two conditions put forward. I have therefore imposed one condition to ensure that the access is constructed and maintained to enable vehicles to enter and leave the site safely. Conditions requiring visibility splays to be maintained, any entrance gates to open inwards and adequate parking to be provided off road are required for purposes of highway safety. I have imposed a condition requiring drainage details to be submitted to ensure that adequate provision is made for surface water drainage. Some of the conditions imposed are pre-commencement which are essential in this case to make the development acceptable.
21. The NPPF advises that conditions should restrict permitted development rights only where there is a clear justification to do so. I am thus not satisfied that the Council's suggested condition removing householder rights is necessary as no detailed explanation has been given.

*Debbie Moore*

Inspector

## Schedule

### Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. 'P100 Revision A', 'P101 Revision A', 'P110 Revision B', 'P150' and 'P300'.
- 3) No development shall be carried out on site unless particulars of the materials (including samples) to be used for all external walls and roofs of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall be carried out on site unless details of the design, external finish, colour and recessing for all new doors, windows, boarding and openings have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping (planting), which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels. All planting, seeding, turfing or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five 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 consent to any variation.
- 6) The proposed access shall be constructed in accordance with the details shown on approved drawing number 'P-110 Revision B', and shall be available for use before the dwelling hereby permitted is first occupied. The access shall be maintained as such thereafter.
- 7) There shall be no obstruction to visibility greater than 900 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 120 metres either side of the access, as indicated on submitted plan, drawing number 'P-110 Revision B'. Such visibility shall be fully provided before the dwelling hereby permitted is first occupied and it shall thereafter be maintained at all times.
- 8) Any entrance gates erected shall be hung to open inwards and they shall be set back a minimum distance of 5.0 metres from the carriageway edge. They shall be retained as such thereafter.

- 9) The development hereby permitted shall not be commenced until four parking spaces for the dwelling and a properly consolidated and surfaced turning space for vehicles have been provided and constructed within the site in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. Such parking and turning spaces shall be kept clear of obstruction at all times and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.
- 10) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been previously submitted to and approved by the Local Planning Authority. Such approved drainage details shall be completed and become fully operational before the dwelling hereby permitted is first brought into use and they shall be retained as such thereafter.