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## Appeal Decision

Site visit made on 15 March 2016

**by Karen Radford BA (Hons), Dip Arch, Dip Arch Cons, IHBC**

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

**Decision date: 29 June 2016**

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**Appeal Ref: APP/R3325/W/15/3140061**

**Land adjacent to Corner Farm, Devenish Lane, Bayford, Wincanton, Somerset BA9 9NQ**

- 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 Hopkins Developments Ltd. against the decision of South Somerset District Council.
  - The application Ref 15/03729/FUL, dated 2 August 2015, was refused by notice dated 5 October 2015.
  - The development proposed is the erection of two semi-detached dwellings and ancillary works.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. I have noted that the refusal decision notice makes reference to a proposed garage and its proximity to the public footpath. However a revised site layout drawing (no. 140-A4-151204) was submitted with the appeal which shows that the garage would be omitted. This amended layout would be a minor change to the overall scheme, and I do not consider anyone would be prejudiced by me considering this alternative site layout. Therefore I have determined the appeal on the basis of there not being a garage.
3. I have also noted that this site plan drawing shows a total of five car parking spaces on the site, these being indicated as two spaces for each dwelling with one extra unallocated space. The Council Officer's report states that there are three spaces per dwelling, but this number is not shown on the drawing and I have determined this appeal on the basis of a total of five spaces.
4. The Council's statement says that the public right of way is proposed to be closely bound, however from my site visit I saw that the site boundary to the public right of way has already been demarcated with a close boarded fence, and I have considered the appeal on this basis.

### Main Issues

5. The main issues are the effect of the development on :-
    - The character and appearance of the area,
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- The living conditions of the future residents with particular regard to private external amenity garden space,
- The public right of way,

And, whether the development would provide sufficient parking provision for future occupiers.

## **Reasons**

### *Character and appearance*

6. The appeal site, a small vacant area of land is located in Devenish Lane, which is a very narrow dead-end road. It is in a prominent position within the surrounding area because it is positioned on a bend in the Lane.
7. The site relates both visually and due to its proximity, physically to the residential development which is on either side of this section of the Lane. This area has retained an attractive semi-rural quality.
8. Whilst these properties are varied in their appearance, the area does have a degree of unity, with dwellings having a strong relationship to the Lane. They tend to have a wide front elevation which is parallel to the highway, a prominently positioned front entrance door and a generous front garden. Although the front building line is not completely uniform, all the immediately adjacent dwellings are set back from the Lane by approximately 5 -6 metres. However the garage at the adjacent property Corner Farm House, which is closer to the Lane, is the exception.
9. Immediately adjacent to the south boundary of the appeal site is a public footpath and public right of way, which has been separated from the site by a high close boarded fence. Beyond the footpath there is a large new residential housing estate. These modern houses form part of a larger estate known as Deansley Way, which has its vehicular traffic access from elsewhere.
10. Although the rear of some these new houses can be seen from Devenish Lane, and this new estate is connected by a pedestrian link to the Lane at a junction very close to the appeal site, to my mind the appeal site has its principal relationship with the older houses in Devenish Lane and not this new estate.
11. The proposed development would be for two semi-detached two storey houses, each having three bedrooms and two parking spaces. There would be a vehicular access to the site approximately 5 metres wide, which would be shared by both dwellings, with another parking space located on the access driveway. The principal entrances to the houses would be from this access driveway. The rear elevations of both houses would face onto and be close to Devenish Lane, with the north-west corner of Plot 1 being one metre from the Lane.
12. Despite the appeal land having a visual connection with the properties in Devenish Lane, the proposed dwellings would turn their back on the Lane and these properties. Instead their front and principal elevations would be focused on the new access drive which given its width would look very suburban in this semi-rural area. The rear of new houses and the rear gardens would be close to the Lane which would be an untypical and uncharacteristic arrangement for the area.

13. In addition the front elevations of the proposed houses would face the rear of the recently built houses which would not reflect the general pattern of residential development in the area.
14. I have considered the Council's comments and evidence regarding the plot sizes on either side of Devenish Lane on entering the "S" bend, being similar to each other including the recent permissions for three dwellings (ref: 14/00479/FUL) on the south side of Devenish Lane. I agree with these comments and evidence and I consider that plot size is one of the determining factors in the character of an area.
15. Whilst I acknowledge that the appellant has prepared an analysis of a number of properties in the area with their plot coverage and density and compared the outcomes to the size and density of the appeal site, this analysis has mainly focused on the adjacent new housing plots. However I consider the appeal site to have a limited relationship to the new housing plots, and so I give little weight to this analysis.
16. My attention has been drawn to the appellant's argument concerning the architectural appearance of the building being appropriate, however this aspect of the proposals is not in dispute and consequently I have given limited weight to this point.
17. For the reasons outlined above I find that the proposed houses would have an adverse impact on the character and appearance of the area.
18. Therefore, the development would not be in accordance with Policy EQ2 of the South Somerset Local Plan 2006-2028, which aims among other things to ensure that development reinforces, respects local distinctiveness, context and character. In addition, the development would not be in accordance with paragraph 17 of the National Planning Policy Framework (the Framework) which seeks to ensure that development takes account of the different roles and character of different area.

*Living conditions of future residents*

19. I have noted that Plot One would have an external amenity/garden area of approximately 110 sq. metres with Plot Two having approximately 156sq metres. These areas would exclude parking spaces, front driveway and public footpath.
20. The proposed houses would be three bedroom dwellings and therefore be family accommodation, with each garden needing to provide such things as a space for a shed, refuse storage and private amenity space.
21. Both gardens would be located adjacent to Devenish Lane and this close proximity would compromise their privacy. Furthermore the garden to the rear of Plot Two would be north facing, remaining in shade for a significant period of the day.
22. I have considered the proposed gardens sizes, in conjunction with the proposed family use, their orientation and the proximity of Devenish Lane, and for the reasons outlined above I find that the proposed gardens and external amenity space would harm the living conditions of the future residents.

23. However I acknowledge the appellant's comment that there is not a policy or guidance with specific reference to size of amenity space. Nonetheless for the reasons given above I consider that the proposed gardens would be inadequate.
24. For the reasons outlined above, I find that the proposed development harm the living conditions of the future residents.
25. Therefore, the development would not be in accordance with Policy EQ2 of the South Somerset Local Plan 2006-2028, which aims among other things, to ensure that new development creates quality places. In addition, the development would not be in accordance with paragraph 17 of the Framework which seeks to ensure that development always secures high quality design and a good standard of amenity for all future occupants of land and buildings.

*Public footpath and public right of way*

26. The appellant contends that the close boarded fence has been erected in accordance with the provisions of the Town and Country Planning (General Permitted Development) Order 2015 and it is not for me, in this appeal, to make any determination in respect of it. However I noted on my visit that it did appear uninviting and given the height of the fence I question whether the new houses would provide passive surveillance over the footpath as asserted by the appellant or that a vehicle parked in the adjacent parking space would have any impact on the footpath. I have insufficient information about the width of the footpath prior to the erection of the fence to determine whether it has been narrowed by its erection or not. But the boundary treatment along the footpath of any approved development could be regulated by the imposition of a condition and in those circumstances I consider that there would be little or no harm arising from the development and that there would be no conflict with Policy EQ2 of the South Somerset Local Plan 2006-2028.
27. I acknowledge and accept that the new houses would provide some passive surveillance over the footpath. Although the effectiveness of this surveillance is questionable, given the height of the close boarded fence.
28. The Council state that the public right of way would be narrowed however I have no evidence before me to confirm this, or to confirm how wide the right of way should be if it has been narrowed by the erection of the fence. Consequently I have given limited weight to this statement.
29. As the garage is no longer part of the proposals, and the fence has been erected under the General Permitted Development Order (2015), on balance I do consider that the change to the public footpath and right of way is in accordance with Policy EQ2 of the South Somerset Local Plan 2006-2028 and with paragraph 17 of the Framework.

*Parking provision for future occupiers*

30. The parking provision proposed would be two spaces per dwelling with an extra space on the access driveway, making a total of five parking spaces for the development.
31. Policy TA6 of the South Somerset Local Plan 2006-2028, requires parking to be in accordance with the parking standards in the Somerset County Council

Parking Strategy. In this document the required number of parking spaces for a three bed house varies according to its location.

32. I have noted that the Council consider the site to be in the Parish of Stoke Trister, which under the County Council's Parking Strategy for a three bed house would require three parking spaces per dwelling plus visitors' parking. Whilst the appellant considers the site to be in Wincanton, which would require two and half parking spaces for a three bed dwelling, plus visitors' parking space. Because the parish boundary runs approximately through the middle of the site, both parties are partially correct in their assessment of the parking requirements.
33. However whilst notwithstanding the issue of the Parish boundary, I have noted that accepting the site to be in Wincanton the required total number of spaces would be five plus visitors' parking, and the proposed total of parking spaces would only be five with no allowance for visitors' parking.
34. Therefore for the reasons outlined above I find that the proposals would result in insufficient parking provision for the future occupiers of the properties.
35. The development would not be in accordance with Policy TA6 of the South Somerset Local Plan 2006-2028.

#### *Overall Planning Balance*

36. My attention has been brought to the Council's lack of five year housing land supply. The Council relies in part on Policy EQ2 which requires that development makes efficient use of land whilst having regard to housing demand and need. It controls the location of development including housing so it is a "relevant policy for the supply of housing". However in the absence of a five year supply that policy is out-of-date.
37. However although paragraph 14 of the Framework provides a presumption in favour of sustainable development, it also requires the balancing of adverse impacts of development against the benefits.
38. Therefore whilst I acknowledge that the development would be situated in an accessible location, I have found that the proposed development would be detrimental to the character and appearance of the surrounding area and the living conditions of the future occupiers, and insufficient parking for future residents. Consequently there would be conflict with the Framework and these factors all weigh heavily against allowing the proposed development.
39. The Framework makes clear however that there are three elements to sustainability, these being environmental, economic and social. The proposed development would provide some economic benefit to the wider area during the construction process and two additional units of housing would have a positive influence in terms of the social benefits. However these benefits would be very minor.
40. However, to my mind the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. The proposals cannot therefore be considered to be sustainable development.

**Other matters**

41. I have also considered the information submitted by the appellant in relation to flood risk and damage, ecology and access. However none of these matters have led me to reach a different conclusion.

**Conclusion**

42. For the reasons given above and taking all other matters into consideration, I conclude that the appeal should be dismissed.

*Karen Radford*

**INSPECTOR**