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## Appeal Decision

Site visit made on 13 October 2015

**by G P Jones BSc(Hons) MA MRTPI**

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

**Decision date: 23 November 2015**

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**Appeal Ref: APP/R3325/W/15/3100543**

**Rear of The Burrows, High Street, Sparkford, Yeovil BA22 7JH**

- 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 & Mrs Nigel Tucker against the decision of South Somerset District Council.
  - The application Ref 14/05052/FUL, dated 10 November 2014, was refused by notice dated 11 March 2015.
  - The development proposed is residential development of 11 dwellings.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of 11 dwellings at the rear of The Burrows, High Street, Sparkford, Yeovil BA22 7JH in accordance with the terms of the application, Ref 14/05052/FUL, dated 10 November 2014, subject to the conditions set out in the attached schedule.

### Application for Costs

2. An application for costs was made by Mr & Mrs Nigel Tucker against South Somerset District Council. This application is the subject of a separate Decision.

### Preliminary Matter

3. The appellant has submitted a Unilateral Undertaking (UU) which provides financial contributions towards meeting the need for the enhancement and maintenance of off-site playing space, sport and recreation facilities arising from the development. The UU also seeks to ensure that the proposed four affordable housing units are secured as such in perpetuity. In addition, the UU refers to a payment of £13,664 Community Infrastructure Levy (CIL) contribution towards infrastructure, education, environmental and community facilities. A CIL charging schedule has not yet been adopted by the Council, although I am mindful that the Council has indicated the date for adoption of a charging schedule as being 30 June 2016.
4. The Council has agreed to the measures contained in the UU. I consider that the measures in the submitted UU are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the National Planning Policy Framework (the Framework).

## **Main Issues**

5. The main issues are whether the proposal represents a sustainable form of development that accords with relevant development plan policies concerning residential development, and whether the proposal would be commensurate with the scale and character of the settlement of Sparkford.

## **Reasons**

*Whether the proposal represents a sustainable form of development that accords with relevant development plan policies concerning residential development*

6. The Council's reasons for refusal cited non-compliance with policies SS2 and SS5 of the South Somerset Local Plan, 2006-2028, adopted March 2015 (LP). Policy SS5 relates to delivering new housing growth and contains a table that states the total housing requirement for 'rural settlements, which would include Sparkford, to be 2,242 houses, of which an additional housing requirement is given as 911 across the entire District's rural settlements.
7. As the proposal is for housing the relevant criteria of policy SS2 are that 'development in rural settlements (not Market Towns or Rural Centres) will be strictly controlled and limited to that which ... creates or enhances community facilities and services to serve the settlement; and/or meets identified housing need, particularly for affordable housing'.
8. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development, and 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. Paragraph 14 of the Framework stipulates that where the development plan is absent, silent or out of date, 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 Framework taken a whole or where specific policies in the Framework indicate development should be restricted.
9. In this instance the Council has recently acknowledged that it does not have a 5 year housing land supply. Consequently, the policies in the LP for the supply of housing are considered to be out of date. Therefore, in accordance with paragraphs 14 and 49 of the Framework, I accord limited weight to policies SS2 and SS5 of the LP insofar as they relate to housing proposals, and take as my starting point the consideration that permission should be granted for this proposal unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
10. Therefore the question remains as to whether the proposal represents a sustainable form of development, for which there is a presumption in favour in accordance with the guidance contained within the Framework. The test in policy SS2 of the LP regarding sustainability is actually more rigorous than the Framework, as it requires development to increase the sustainability of a settlement in general. However, for the reasons I have already identified, I accord only limited weight to policy SS2.
11. Paragraphs 7 and 8 of the Framework refer to three, mutually dependent dimensions to sustainable development: economic, social and environmental. The development would be centrally located within the village and there would

be easy access to the services the village has to offer, which include a public house, church, village hall, Spar shop and also to local employment opportunities. The development proposes a range of housing types including two bungalows and four affordable housing units that would be secured as such in perpetuity via the UU. Furthermore, the choice of external materials would be in keeping with the character and appearance of the area.

12. The location for the proposed housing does not have any significant habitat value at present and a landscaping scheme would add environmental benefits in terms of additional tree and hedgerow planting. Therefore I consider that overall this proposal would provide social, economic and environmental benefits such that it would represent a sustainable form of development.
13. As regards the matter of identified local need that is referred to in policy SS2 of the LP, a Neighbourhood Plan has not been completed and neither has the Council provided a calculation as to the number of houses that should be required in Sparkford itself.
14. As regards the matter of the creation or enhancement of community facilities or services that is also referred to in policy SS2 of the LP, the appellant in the submitted UU has proposed a contribution towards community facilities, including sums for their long term maintenance. Whilst the Council is satisfied with the wording of the UU, it has raised concerns that the UU would only accord with the standard provisions for open space payments and would not create additional community facilities.
15. The UU would provide for a payment towards the maintenance of a number of community facilities. I consider that in these circumstances this would fulfil the requirements of this element of Policy SS2 of the LP in that these monies would enhance the existing community facilities.
16. The alleged lack of local support for this proposal has been cited, and this would be contrary to that element of Policy SS2 of the LP that requires that 'proposals should generally have the support of the local community following robust engagement and consultation'. However, a lack of local support has to be balanced against the absence of a Neighbourhood Plan for this area, and the lack of a five year housing supply which renders policy SS2 of the LP out of date. I accept the Council's assertion that for the rural settlements, which include Sparkford, development needs to be strictly controlled. However, I consider that the specifics of this proposal mean that it would represent a sustainable form of development for which there is a presumption in favour, as indicated in paragraph 49 of the Framework.

*Whether the proposal would be commensurate with the scale and character of the settlement of Sparkford*

17. The appeal site is a field that lies directly behind some properties that are located on the north-western side of the High Street. The site is accessed via a strip of land that runs between The Burrows and a block of 4 terraced properties, and which serves a car parking area that lies to the rear of these terraced properties. The appeal site is bounded on three sides by mature vegetation and consequently the proposed housing would be quite well screened when viewed from the High Street.

18. The village of Sparkford generally has a linear form with the majority of properties being located on either side of the High Street that runs through the settlement. In addition, there are areas of housing that are set off from the High Street, including the recent housing scheme nearing completion at the northern end of the village.
19. The Council contends that this number of new dwellings, in combination with other housing proposals that have been approved, would have an unacceptable impact on the character and appearance of the settlement. The appellant has calculated that, if approved, the 11 dwellings that are proposed would take the amount of recent or approved dwellings in Sparkford to 53 in total. However, the Council has acknowledged that each case needs to be treated on its merits and no absolute limit on the numbers of new housing has been provided.
20. The location of the proposed development would be such that it would be in a well-screened location and yet also within the heart of the village. I am mindful of the fact that there has been recent housing development in the village, and further housing is to be developed. However, given its location, scale and design I consider that the additional development that would arise as a result of this proposal, when considered cumulatively with other proposals, would be commensurate with the scale and character of the settlement. As such, and irrespective of the limited weight that I accord to policy SS2 due to the lack of a demonstrable five year housing supply, I consider that the proposal would accord with that element of Policy SS2 of the LP that requires development in rural settlements to be commensurate with their scale and character.

#### *Other matters*

21. The Council has referred to two appeal decisions that have been issued this year<sup>1</sup>. Whilst I am not aware of the full details of either of these cases I note that they are both in different locations to this appeal and inevitably their circumstances will differ from those of this appeal, including the matter of whether the Council can demonstrate a five year housing land supply. Consequently I have not attached significant weight to either of these appeals in reaching my decision.
22. Objections have also been received from some members of the public citing highway safety and drainage issues. It is alleged that the parking of cars along the High Street in Sparkford would make for a dangerous access to the proposed development as visibility would be limited. In support of this argument photographs have been provided that indicated cars parked within the vicinity of the site's access. However, I note that there was no objection to the proposals from the Council on highway safety grounds. Furthermore, at the time of my site visit there were no cars parked along this stretch of the main road. Whilst I appreciate that this only represents a snapshot of the situation at that particular time, nevertheless I was able to observe that the visibility in both directions at the junction of the access with the High Street was generally good. I therefore do not consider that this proposal would give rise to a significant impact on highway safety.
23. As regards the matters of drainage and sewerage, I have no substantive evidence from the Council that this proposal would have a significant effect on

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<sup>1</sup> Appeal references APP/R3325/A/14/2224839 and APP/R3325/A/14/2218660

either of these matters and I am mindful that Wessex Water did not object to the proposal, but did stipulate that certain requirements be met.

24. As regards the effect of the additional population on school places and medical services I have no substantive evidence to support either of these assertions. I consider that, from the evidence put forward in this appeal, the scale of the proposal would be such that it would be unlikely to give rise to increased demand for either school places or on medical services to an unacceptable degree.

### **Conditions**

25. In addition to the standard condition which limits the lifespan of the planning permission, the Council has suggested a number of conditions in the event that the appeal succeeds. I have considered these in the light of the advice contained within the Planning Practice Guidance (the PPG). In allowing the appeal I shall impose conditions accordingly, improving precision where necessary in accordance with the advice in the PPG.
26. A condition to direct that the development accords with the approved plans is required for the avoidance of doubt and in the interests of proper planning. Details of a surface water drainage scheme are required in order to prevent the increased risk of flooding, to protect water quality and ensure future maintenance can be provided. A condition to require details of an acoustic barrier is necessary in order to protect the living conditions of future residents in terms of noise from the nearby A303 trunk road.
27. A condition requiring the submission of details for the proposed estate roads, footways, paving, street lighting accesses, gradients, street furniture, sewers, drains and vehicle and cycle parking is required to ensure that appropriate highway safety and environmental considerations are met and the development would accord with the character and appearance of the area. A condition requiring accordance with specific details of parking and turning spaces, and their future retention as such, is required in the interests of highway safety. Conditions requiring details of the construction method of the access and internal layout to ensure they are properly consolidated and surfaced, and the access maintained as such, are necessary in the interests of highway safety.
28. A condition requiring the submission of a programme of archaeological work is required in the interests of properly recording any archaeological features that may be present. Conditions requiring details of reptile mitigation and the checking of vegetation for nesting birds during the nesting season are required in order to protect any reptiles or nesting birds on the site. A condition requiring details of external materials, hardstanding and boundaries is necessary in the interests of the character and appearance of the area. Details of tree and hedgerow protection measures and a landscaping scheme are required in order to protect any trees or hedgerows on site and to safeguard the character and appearance of the area.

### **Conclusion**

29. In the absence of both a Neighbourhood Plan and a demonstrable five year housing supply, I consider that any adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits. Therefore for the reasons

set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*GP Jones*

INSPECTOR

### **Schedule of conditions**

1. The development hereby permitted shall be carried out in accordance with the following approved plans: TC1345/1d, TC1345/2d, TC1345/3d, TC1345/4b, TC1345/5b, TC1345/6, and TC1345/7b.
2. The development hereby permitted shall not be commenced until such time as a surface water drainage scheme (including a full drainage masterplan and associated drainage calculations) has been submitted to, and approved in writing by the local planning authority. Thereafter the scheme as approved shall be fully implemented and subsequently retained, in accordance with the timing and/or phasing arrangements embodied within the scheme, or within any other period as may be subsequently agreed, in writing, by the local planning authority.
3. The development hereby permitted shall not be commenced until such time as details of an acoustic barrier in relation to road noise from the A303 has been submitted to and approved in writing by the local planning authority. The barrier shall be fully erected and subsequently retained, in accordance with the timing and/or phasing arrangements embodied within the approved details, or within any other period as may subsequently be agreed in writing by the local planning authority.
4. The proposed estate roads, footways, footpaths, tactile paving, verges, junctions, street lighting, sewers, drains, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, street furniture, and car, motorcycle and cycle parking shall be constructed and laid out in accordance with details to be approved in writing by the Local Planning Authority before their construction begins. For this purpose, plans and sections, indicating as appropriate the design layout levels, gradients and materials and method of construction shall be submitted to the local planning authority.
5. The dwelling hereby permitted shall not be occupied until parking and turning spaces as detailed on Drawing No TC1345/2d and in accordance with Somerset County Council parking standards have been provided and constructed within the site. 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.
6. The development hereby permitted shall not be commenced, other than in relation to the provision of an access, until a properly consolidated and surfaced access has been constructed, details of which shall have been submitted to and approved in writing by the local planning authority. The access shall be constructed in accordance with the agreed details and shall be retained in the agreed form thereafter at all times.
7. The proposed internal layout, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and the existing highway.
8. No development hereby approved shall take place until the applicant, or their agent or successors in title, has secured the implementation of a programme of

archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

9. Unless a reptile specific survey has been undertaken in accordance with current best practice and has confirmed the likely absence of reptiles, the development hereby permitted shall not be commenced (including any ground works or site clearance works) until a mitigation plan or method statement detailing measures to avoid harm to reptiles, has been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and timing of the mitigation plan or method statement unless otherwise approved in writing by the local planning authority.
10. No removal of any vegetation that may be used by nesting birds, nor works to or demolition of any buildings or structures that may be used by nesting birds, shall be carried out between 1 March and 31 August inclusive in any year, unless previously checked by a competent person for the presence of nesting birds. If nests are encountered, the nests and any eggs or birds must not be disturbed until all young have left the nest.
11. No work shall be carried out on site until details of the following have been submitted to and approved in writing by the local planning authority:
  - a) details of materials (including the provision of samples where appropriate) to be used for the external walls and roofs;
  - b) a sample panel, to be prepared for inspection on site, to show the mortar mix and coursing of the external walls;
  - c) details of the recessing, materials and finish (including the provision of samples where appropriate) to be used for all of the proposed windows (including any rooflights) and doors;
  - d) details of all hardstanding and boundaries;
  - e) details of the rainwater goods, and eaves and fascia details and treatment.Thereafter the details as approved shall be implemented, unless agreed otherwise in writing by the local planning authority.

12. The development hereby permitted shall not be commenced until a detailed landscaping scheme has been submitted to and approved in writing by the local planning authority. This landscaping scheme 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, and details of any changes proposed in ground levels. All planting, seeding and turfing shall be carried out in accordance with the approved scheme in the first available planting and seeding season following the occupation of the first of the dwellings hereby permitted 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 a similar size and species, unless the local planning authority gives written consent to any variation.