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# Appeal Decision

Site visit made on 15 November 2016

**by R C Kirby BA(Hons) DipTP MRTPI**

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

**Decision date: 10 February 2017**

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**Appeal Ref: APP/D3315/W/16/3155452**

**Land to the south of Knapp Lane, North Curry**

- 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 Strongvox Homes against the decision of Taunton Deane Borough Council.
  - The application Ref 24/16/0007, dated 11 February 2016, was refused by notice dated 24 June 2016.
  - The development proposed is residential development of 20 dwellings (including 5 affordable dwellings) and provision of public open space, children's play area and allotments.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. During the course of the appeal, the Council adopted its Site Allocations and Development Management Policies Plan (SADMPP). The SADMPP therefore forms part of the Development Plan with the Taunton Deane Core Strategy (CS). Both parties were provided with the opportunity to comment on the implications of this as part of their appeal submissions. I have taken the comments received into account as part of my consideration of the appeal proposal.

## Main Issues

3. The main issues in this case are the effect of the proposal on the settlement strategy for the area and whether or not acceptable living conditions would be provided to the intended future occupiers of the proposed affordable dwellings, and neighbouring occupiers.

## Reasons

### *Settlement Strategy*

4. The appeal site is located on the north-western edge of North Curry on the southern side of Knapp Lane. It is a flat field and is enclosed on each side by a mature hedgerow boundary. To the west of the site, beyond the landscaped boundary is a public right of way which links Knapp Lane with Chapel Close, Town Farm and The Pavement beyond. Beyond the public right of way are agricultural fields. Residential development adjoins the site to the north east and south east.
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5. The proposal is for a residential development of 20 dwellings, public open space, equipped play area and allotments. Vehicular access is proposed from Knapp Lane and a pedestrian link in the southern corner of the site to the adjoining public right of way would be provided. Five of the twenty dwellings would be affordable units. A surface water attenuation pond is proposed as part of the drainage strategy for the site.
6. North Curry is identified as a Minor Rural Centre in the CS. Policy SP1 of the CS identifies requirements for at least 250 dwellings to be shared between a number of villages, including North Curry. The SADMPP allocates land to meet the housing requirements in the CS and includes detailed development management policies. Within the SADMPP, the appeal site is identified as an allocated site for around 20 dwellings under Policy MIN7. The site extends to approximately 2 hectares. The design brief for the site, as included in the SADMPP, and the supporting text to the policy make it clear that housing should only be located on the north eastern half of the site. The remaining half should be a recreational buffer, and should include informal open space, sustainable drainage, play area and allotments.
7. Numerous representations have been made about the suitability of the appeal site for new housing. However, such concerns would have been considered as part of the examination of the SADMPP. The site is now an allocated site within the SADMPP and it is on this basis that I have considered the appeal.
8. In that the appeal proposal is for 20 dwellings, of which 5 would be affordable, and that a footpath link would be provided to the existing right of way adjoining the site, it would comply with Policy MIN7 of the SADMPP. However, the Council has calculated that 8 of the new dwellings would be within the area identified as the landscaped and recreational buffer under Policy MIN7. In this regard there would clearly be conflict with the wording of this policy, a matter that is not disputed by the appellant.
9. However, it is clear that an objective of Policy MIN7 is to provide a suitable buffer between development upon the site and the adjoining countryside, to help to assimilate the site into the open countryside beyond. The appellant submitted a Landscape and Visual Appraisal<sup>1</sup> (LVA) with the planning application which assessed the effect of the scheme from various receptor points. I note the concerns raised in respect of the LVA. However, I understand that the receptor points were agreed with the Council. This is not disputed.
10. From the observations I made on my site visit, I agree with the findings of the LVA that the impact of the scheme on the wider landscape would be limited and localised. This is as a result of established landscaping in the area, distance between the site and sensitive receptors and land forms. The new dwellings would not be intrusive in the wider landscape, including from nearby footpaths, roads and from North Curry Ridge, designated as a Special Landscape Feature. Furthermore, where the site is visible, the new dwellings would be viewed in the context of the built form of the village. They would not be unduly prominent in the wider landscape.
11. Whilst the proposed buffer would be less than that envisaged by Policy MIN7, I find that it would be of a sufficient depth and size to soften the impact of the

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<sup>1</sup> Tyler Grange (9 February 2016)

built development upon the site, particularly when viewed from the adjoining public footpath and from higher ground in the area. Furthermore, the open space buffer would be capable of accommodating strategic planting within it. There would also be space for landscaping around the site's boundaries. Such landscaping would serve to reduce the visual impact of the scheme on close up views from the adjoining public footpath and from Knapp Lane, within the vicinity of the appeal site, and from further afield.

12. In light of the foregoing, whilst there would be limited conflict with the wording of Policy MIN7 of the SADMPP, I find that there would no conflict with its aims. The scheme would not be intrusive in the wider landscape, the proposed open space would provide a suitable landscaped buffer between the built development on the site and the adjoining open countryside to assist in assimilating it into the countryside beyond. I have no reason to reach a different conclusion to the Council's landscape officer who found that the scheme could be assimilated into the local area with only minimal landscape and visual effects<sup>2</sup>.
13. I therefore conclude that in respect of the first main issue that the proposal would not conflict with the settlement strategy for the area as set out in CS Policy SP1. Although there would be limited conflict with SADMPP Policy MIN7 in that the development would extend into the southern half of the site, the harm that would be caused to the wider landscape would be limited and could be suitably mitigated. The principle of developing the site as proposed is therefore acceptable.

#### *Living Conditions*

14. The Council is concerned that the rear parking court to the affordable units would result in noise and disturbance to their intended future occupiers and to nearby occupiers in Town Farm. The courtyard would provide parking for 11 vehicles in close proximity to the rear garden boundaries of properties in Town Farm. Whilst there would be likely to be a change in levels between the parking area and properties in Town Farm, it is reasonable to assume that there would be some form of boundary treatment along the rear of the parking spaces. This matter could be controlled by way of a planning condition. This would be likely to mitigate nuisance caused by headlights. In terms of noise nuisance from vehicles, I am not convinced that having regard to the number of parking spaces, the residential use of the site and the distance between the properties in Town Farm to their rear boundaries that the use of this area would be materially harmful to living conditions.
15. Furthermore, although the parking spaces would be close to the rear elevations of the affordable units, I am not convinced that the coming and going of vehicles would be so significant or materially different to cars driving along the access road to the development. In the absence of convincing evidence to demonstrate otherwise, I find that the relationship of the parking court to the affordable units would be acceptable. Its use by cars associated with the scheme would not be harmful to the living conditions of the intended future occupiers of these dwellings.
16. However, both the Council and interested parties have raised the size of the gardens of the affordable units as a concern. The submitted drawings indicate

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<sup>2</sup> Comments taken from Planning Officer's Report

that these units would have small gardens to the rear. Given that there would be a high probability that the 2 and 3 bed affordable units could be occupied by families, possibly with young children, I find that the restricted garden size would provide very limited space for the intended future occupiers to enjoy their private garden. The garden sizes would be likely to limit opportunities for outdoor play, particularly by young children who would be unlikely to use the open space on the site unaccompanied.

17. In light of the above, I conclude that acceptable living conditions would not be provided to the intended future occupiers of the proposed affordable dwellings, as a result of the size of the rear gardens. This would be in conflict with the core planning principle of the National Planning Policy Framework (the Framework) which requires that a good standard of amenity for all existing and future occupants of land and buildings should be secured. The letter from dch group confirming suitability of the affordable units and garden sizes does not lead me to conclude differently, nor does the proximity of the public open space and play area.

### **Other Matters**

18. The appellant asserts that the policies of the development plan relating to the supply of housing are not up to date (in this case CS Policies CP4 and SP1, and SADMPP Policy MIN7) because the Council is unable to demonstrate a 5 year supply of deliverable housing sites. It is asserted that the yields suggested by the Council are unlikely to be delivered because there are a number of deliverability issues with certain sites. On this basis, the appellant considers that a 4.3 years supply of housing sites can only be demonstrated.
19. My attention has been drawn to several appeal decisions as set out in the appellant's evidence. However, these decisions, with the exception of one, relate to different areas of the country. Whilst relating in part to the issue of housing land supply, it is likely that different housing requirements exist and planning policies. I am therefore unable to ascertain if the schemes referred to are directly comparable to that before me. Whilst the Inspector found that the Council could not demonstrate a 5 year supply of housing land when she determined the appeal on land to the east of Tudor Park, Taunton<sup>3</sup>, this was in 2013. I am not aware of the evidence that was considered at that time, however, given that it was over 3 years ago, it is reasonable to assume that things have changed relating to supply and deliverability in the intervening period. This decision is not therefore an indicator that the Council cannot demonstrate the necessary supply of housing land at this time. In any event, each planning application and appeal should be considered on its individual merits and this is the approach that I have taken.
20. The Council consider that it is able to demonstrate a 5 year supply of housing sites. It considers that the recent examination of the SADMPP confirms this. Whilst noting this, I am not aware of the evidence that was considered by the Examining Inspector, nor have I been provided with a copy of the Inspector's report relating to this matter. I do not therefore share the Council's view that the SADMPP is an indication that the Council can demonstrate a 5 year supply of deliverable housing sites. Furthermore, whilst I note that the Council could

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<sup>3</sup> Ref: APP/D3315/A/12/2177389

demonstrate a 5 year supply of housing sites in 2015<sup>4</sup>, I have not been provided with more recent figures to demonstrate this.

21. I have no reason to doubt that there may be deliverability issues in respect of certain sites as suggested by the appellant. However, I find that I have insufficient information before me to conclude whether or not the Council can demonstrate a 5 year supply of deliverable housing sites. In any event, the requirement to demonstrate a 5 year supply is not an upper limit. The Framework seeks to boost significantly the supply of housing. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. This is regardless of a Council's supply of housing sites. The Framework is a material consideration and the appeal proposal must be considered in these terms.
22. Paragraph 7 of the Framework advises that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 8 states that to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
23. The economic role of sustainability includes contributing to building a strong, responsive and competitive economy. The appeal scheme would provide jobs during the construction phase and the intended future occupiers would be likely to support local services and facilities, including those within North Curry. These amount to benefits in support of the scheme.
24. The social role of sustainability includes providing the supply of housing required to meet the needs of present and future generations and creating a high quality built environment, with accessible local services. The proposal would provide 20 new market and affordable dwellings on an allocated site, which is close to the services and facilities within the village, and which the intended future occupiers of the new dwellings could walk or cycle to. Open space and allotments would be provided which would contribute to supporting the well-being and health of the community.
25. I find that in the main, the scheme would provide a high quality built environment which would respect the character and appearance of the area. However, I share the Council's and interested parties' concerns that the plot sizes for the affordable units would result in a cramped form of development. This harm would be exacerbated by the siting of these units, projecting beyond the remainder of the scheme, and the resultant lack of integration to it. Furthermore, the size of the gardens relative to the built form would not reflect the otherwise spacious nature of the scheme or the spacious character of neighbouring development. This aspect of the proposal would result in harm to the character and appearance of the area, in conflict with the core planning principle of the Framework which requires that account should be taken of the different roles and character of different area. A high quality built environment would not result. There would be conflict with the social role of sustainability in this regard.
26. A further dimension of the environmental role of sustainability is moving to a low carbon economy. As mentioned above, given the proximity of the site to

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<sup>4</sup> Council's Strategic Housing Land Availability Assessment 2015 provided by the appellant, which identified a minimum 5.01 years supply of housing sites

local services, I find that the intended future occupiers of the scheme would be able to walk or cycle to them, rather than drive. The matter of ownership of the adjoining footpath is noted, however the provision of the footpath link could be addressed by way of a suitably worded planning condition in the event that the appeal was successful.

### **Planning Balance**

27. The appeal proposal would result in new market and affordable homes on an allocated site within the SADMPP. The appellant asserts that the scheme can be delivered and I have no evidence before me to demonstrate that this is not the case. The proposal would bring economic, social and environmental benefits. This carries significant weight in my overall Decision. On the other hand, the proposal would result in poor living conditions to the intended future occupiers of the affordable dwellings. Harm would also be caused to the character and appearance of the area as a result of the layout and plot size associated with the affordable dwellings. This brings the scheme into conflict with the core planning principles of the Framework and the social and environmental roles of sustainability. This harm would be demonstrable, long lasting and significant.
28. Given that the 3 roles of sustainability are mutually dependent, and that paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions, I conclude that the proposal would not comprise sustainable development for which the Framework indicates there is a presumption in favour. The benefits of the scheme would not outweigh the harm that would be caused. The planning officer's support for the proposal does not lead me to conclude differently.
29. Although not a reason for refusal, a Section 106 Agreement has been submitted which would make provision for affordable housing and the delivery, management and maintenance of open space and allotments. It is not however necessary for me to assess the Agreement, given that the proposal is unacceptable and I am dismissing the appeal for other reasons. The decision does not therefore turn on this matter.

### **Conclusion**

30. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

*R C Kirby*

INSPECTOR