The Planning Inspectorate

# Appeal Decisions

Site visit made on 14 September 2020

**by Ben Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date:29 September 2020**

**Appeal Ref: APP/J3720/W/20/3255336**
**Nursery House, Avon Dassett, Nr Southam, Warwickshire CV47 2AE**

- 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 Micheal Walter against the decision of Stratford on Avon District Council.
- The application Ref 20/00298/FUL, dated 5 January 2020, was refused by notice dated 11 May 2020.
- The development proposed is the change of use of two timber framed cabins from holiday lets to permanent dwellings.

## Decision

1. The appeal is dismissed.

## Procedural matters

2. The description of development was amended by the Council with the agreement of the applicant during the application process. I have therefore adjusted the description in the banner heading to reflect this.

3. The appellant explains that the cabins have been used by their extended family at weekends and the development has therefore already been undertaken. I shall take this into account in my decision.

## Main Issues

4. The main issues are:

   - Whether the appeal site offers a suitable location for new housing development having regard to national and local spatial housing policies, and

   - the effect of the proposed development on highway safety, with particular regard to the effect on vulnerable road users.

## Reasons

*Locational suitability*

5. The development plan for the district includes the Stratford-on-Avon District Core Strategy 2011-2031 (2016) (CS). Policy CS.15 of the CS seeks to direct residential development into a hierarchy of settlements, that is broadly based on the level of services provided and their capacity to support new residential

development. Consequently, most new housing is directed towards the main town of Stratford-Upon-Avon, main rural centres and two new settlements.

6. Policy AS.10 of the CS limits residential development in the countryside at sections (d) to (j). These only provide support for; residential conversions of brick or stone buildings that are of historic interest, when ancillary to an existing business, would consist of a replacement dwelling, would remove a bad-neighbour use, include the expansion of mobile home parks, be for agricultural worker's dwellings or be a dwelling of exceptional quality. Policies CS.15 and AS.10 are therefore generally consistent with the aims of the National Planning Policy Framework (the Framework).

7. The appeal site is around halfway between the villages of Fenny Compton and Avon Dassett. However, both cabins are amongst existing development. They are not therefore isolated, although the wider site is within the open countryside. The range of services available in Fenny Compton and Avon Dassett are not in evidence. However, on my visit I noted that both settlements are small. Both have a church and Fenny Compton, the largest of the two, includes a primary school.

8. Paragraphs 77-78 of the Framework seek to encourage development in rural areas that would enhance or maintain the vitality of rural communities. It supports development in villages that would allow them to grow and thrive, especially where it would support local services. It also recognises that development in one village may support another nearby settlement. However, neither Fenny Compton nor Avon Dassett would provide future occupiers with a substantive range of services. As a result, they would have to travel a significant distance to access day-to-day services. Consequently, the proposal would be of only a negligible benefit to the vitality of local settlements. Also, the adjacent highways do not include footpaths or streetlights. This would deter their use by pedestrians and cyclists. Future occupiers of the units of either cabin would have to travel a substantial distance to access goods and services. As such the majority of trips would be likely to be car borne. The proposal would thus result in the creation of residential uses with poor accessibility.

9. Policy CS.22 of the CS requires existing employment sites, and unimplemented approved employment uses, to only be redeveloped if the business would be no longer viable or appropriate. The submitted evidence illustrates that the appellant has not yet explored the viability of the approved use of holiday lets. The appellant explains that the timber framed cabins are incomplete and have not been used as holiday lets. He also explains that they are unsuitable for this use. However, the Policy requires evidence to show that the business use would be unviable before such an alternative use is agreed. Therefore, the reasons given would not address the policy requirement.

10. Accordingly, the proposed use of both cabins would not be a suitable location for new housing development having regard to national and local spatial housing policies. Subsequently, the proposal would conflict with Policies CS.15, AS.10, CS.20 and CS.22 of the CS. These require residential development to be in accordance with the spatial strategy, to discourage development in the open countryside unless it would meet set criteria, to only allow the conversion to dwellings if the principle is acceptable and for the loss of a business use to be justified.

*Highway safety*

11. The proposal relates to the use of two wooden cabins. The appeal sites 'A' and 'B' are located within a larger area of land in commercial use. This includes a connecting private road that would afford occupiers of the cabins access onto the Farnborough Road and the Avon Dassett Road. Both of these highways are relatively narrow, with gradient changes and some tight turns. The wider site includes a number of commercial operations and a dwelling. There are also several dwellings and commercial activities adjacent to the wider site edge. These surrounding uses create an established level of existing highway activity on adjacent roads. The proposal would create additional road user activity through both the residential use and especially throughout the winter period when a holiday let business would generally be dormant.

12. Policy CS.26 of the CS seeks to encourage a modal shift in new development towards more sustainable forms of transport. The County Highway Engineer noted that the location of the site would not provide suitable alternatives to a private car, placing additional pedestrians and cyclists onto unlit and unpaved local roads. However, the Framework requires decision makers to acknowledge that sustainable travel solutions will vary between urban and rural locations. As such, rural locations are more likely to be more dependent on the private car and less so on walking and cycling. Therefore, the proposal would be unlikely to significantly increase the proportion of new vulnerable road users on local roads.

13. Therefore, I am unconvinced that the proposal would add a significant amount of new traffic onto the local highway as the development would be of a limited scale. Moreover, it also seems that the proposal would result in the creation of only a limited number of additional vulnerable road users. The proposed use would therefore not have a meaningful impact on the safety of road users generally, provided that all road users exhibit the normal duty of care expected when using the public highway. Therefore, the proposal would be unlikely to result in an unacceptable impact on highway safety.

14. Accordingly, the proposal would satisfy Policy CS.26 of the CS, which seeks amongst other things, for development to require that its scale is appropriate for the function and standard of the roads serving the area.

**Other matters**

15. The appellant has offered to accept a planning condition requiring the cabins to only be used by his extended family. However, paragraph 55 of the Framework requires planning conditions to meet the required tests. These require conditions to be enforceable, precise and reasonable in all other respects. I am unconvinced that such a condition, as offered, would be reasonable or enforceable. This would not therefore address the conflict identified with the development plan.

**Conclusion**

16. For the above reasons, the appeal is dismissed.

*Ben Plenty*

INSPECTOR