



Appeal Decision

Site visit made on 22 December 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2021

Appeal Ref: APP/J3720/W/20/3259160

Site adjacent to Flaxlands, Pittern Hill, Warwick Road, Kineton CV35 0JE

- 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 Rev Richard and Mrs Olive Wilde against the decision of Stratford on Avon District Council.
 - The application Ref 20/00540/FUL, dated 24 February 2020, was refused by notice dated 29 June 2020.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the site represents an appropriate location for housing development, having regard to local and national policy; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Housing development

3. The appeal site is within the village of Kineton, and comprises the detached house 'Flaxlands', its garden, and a parcel of open land to the west. The site lies on the B4086 road, and heading west from the centre of Kineton Flaxlands is the last dwelling in the village. The appellants currently live in Flaxlands, but wish to build a three-bedroom dwelling on the open land to the west which they would then occupy.
4. Policy CS.15 of the 2016 Stratford on Avon Core Strategy ('the Core Strategy') identifies Kineton as a main rural centre. For such centres it indicates that development will take place on allocated sites identified in the Area Strategies, on sites identified in a Neighbourhood Plan, and through the redevelopment and re-use of suitable land and property within their built-up area boundary. Policy H1 of the 2016 *Kineton Neighbourhood Development Plan to 2031* ('the KNDP') states that within the Kineton settlement boundary the development and reuse of land and buildings for housing will generally be supported.

5. Both the Core Strategy and the KNDP pre-date the most recent (February 2019) version of the National Planning Policy Framework ('the Framework'). However, there is no substantive evidence before me to indicate that these policies relating to the provision and location of housing and which are most relevant to this appeal are incompatible with the Framework. Accordingly, I give them full weight in my decision.
6. The 'red line' site boundary straddles the settlement boundary defined in the KNDP, and the proposed dwelling would be outside the settlement boundary for Kineton. The policies map for the Core Strategy has a slightly different boundary for Kineton, showing the site of the proposed dwelling within the settlement boundary. However, the Core Strategy was adopted in July 2016 and the KNP made in October 2016, and planning legislation requires that conflict between development plan policies must be resolved in favour of the document which has more recently become part of the development plan¹. Although the appellants contend that 'there is a dispute [about] the exact position of the development boundary', on the basis of the submitted evidence I am in no doubt that for the purposes of the development plan, and therefore determining this appeal, the proposed dwelling would be outside the settlement boundary.
7. Policy CS.15 of the Core Strategy states that within and adjacent to settlements, development may include small-scale community-led schemes brought forward to meet a need identified by that community. The April 2019 *General and Local Housing Needs* section of the Council's Development Requirements Supplementary Planning Document ('the SPD') provides further guidance on how that is assessed, setting out four criteria for such schemes.
8. The first criterion is that local support is demonstrated, ordinarily by the written support of the town or parish council. In this case Kineton Parish Council has objected to the scheme. The appellants have submitted eight letters of support from friends and neighbours within the village but, although they therefore suggest that 'the Parish Council cannot be deemed to speak for the whole local community' it is clear to me that the scheme is not community-led as described in the development plan.
9. The second criterion is that the scheme responds to an identified local need. The most recent Housing Need Survey ('HNS') for Kineton, which dates from 2013, identifies a need for a 2 or 3-bedroom house for local market ownership. Given the age of the HNS, it is quite likely that the local need requirement has changed since it was prepared. The SPD recognises that new housing needs are likely to arise other than those which have been identified in a formal survey, and in such cases advises that the local need should be justified by the applicant and supported by the town or parish council. Again, I note the opposition of Kineton Parish Council to this scheme. Although I recognise the desire of the appellants to secure themselves what they would consider to be a more suitable property for their retirement, I do not find that the proposal complies with the requirements of the SPD in respect of an identified local need.
10. There is no dispute between the main parties that the proposal complies with the SPD's third and fourth criteria; the appellants have an established connection to the parish, and the proposed development would be small scale.

¹ Section 38(5), Planning and Compulsory Purchase Act 2004

However, even if the proposal had complied with all four criteria, the SPD advises that the tenure and occupancy of all affordable and all local market homes, including single local market dwellings, should be controlled in perpetuity via a planning obligation. There is no such mechanism before me, and therefore the future occupancy of the proposed dwelling could not be controlled to ensure that it remained available for people meeting local occupancy requirements.

11. The appellants have stated that the dwelling would be a self-build development, although it was not described as such in the original planning application. Among other things, the Self-Build and Custom Housebuilding Act 2015 (as amended) allows individuals wishing to build their own home to register their interest in acquiring a suitable plot of land. That Act also makes provision for Councils to maintain a register of people who are seeking to acquire a serviced plot, and to have regard to the demand for custom build housing when exercising functions relating to planning. I have not been provided with any evidence to the extent of the demand for or supply of self-build housing plots within the Stratford on Avon District. Importantly however, the Act does not provide for the approval of self-build plots regardless of, or as an exception to, the other provisions of the development plan.
12. Neither the Core Strategy nor the KNDP includes policies specifically addressing self-build housing. Although the Council drew my attention to the Site Allocations Document Preferred Options document published for consultation in October 2020, this is at an early stage of preparation and its draft policies consequently carry only very limited weight. However, for reasons I have set out above the proposal does not comply with other requirements of the adopted development plan in relation to the provision and location of housing. Had I come to a different view and found the proposal acceptable in principle as a self-build development, in my experience ensuring that a proposal meets the definition of self-build and custom housing is a matter normally dealt with by way of a section 106 agreement or a Unilateral Undertaking. In this case there is no mechanism before me which would secure the self-build status of the housing.
13. The appellants have also drawn my attention to planning permission granted for the conversion of former riding school buildings to office/industrial uses outside the settlement boundary shown in the KNDP². No further information has been provided, and it is not clear from the appellants' evidence precisely what conclusions I am invited to draw from this development. However, as it appears to be a planning permission for a different use in a different location it carries negligible weight in favour of the proposal before me.
14. Taking all of the foregoing points together, because of its location outside the settlement boundary I conclude that the appeal site would not be an appropriate location for housing development, having regard to local and national planning policy. The proposal therefore conflicts with Policy H1 of the KNDP and Policy CS.15 of the Core Strategy, as set out above.

Character and appearance

15. The parcel of land on which the proposed dwelling would be built is on the lower eastern slopes of Pittern Hill, surrounded by pasture alongside the B4086

² LPA reference 20/02557/FUL

as it descends into Kineton from the north west. On passing Flaxlands and the appeal site, there is a clear transition between the agricultural character and appearance of the countryside, and the built-up area of Kineton itself. The 2011 Kineton Landscape Sensitivity Study ('the KLSS') describes the area including the appeal site as separating the settlement from the farm complex further up the hillside a short way west of the appeal site. It indicates that the area has a high/medium sensitivity to housing development because of the likelihood of development being visually divorced from Kineton and significantly extending the settlement into the countryside.

16. The proposed dwelling would have a ridge height some 2.5m or so higher than that of Flaxlands, and would be set on land rising above the existing house. It would therefore be in a prominent location beyond the existing built-up area. Images submitted by the appellants show the site of the proposed dwelling hidden from the road by tall and mature hedge borders, although my observations at the time of my site visit suggested a different picture with more recent, and much lower and thinner, hedgerows, allowing greater views across the site. While the hedgerows will grow back and are likely to become taller and thicker thereby providing more screening, the proposed dwelling would nevertheless have an urbanising effect on the countryside in a sensitive location at the edge of the village. It would also be seen from the east when travelling from within Kineton, from where it would be less well-screened, if at all, by the hedgerows.
17. The proposed dwelling would be a dormer bungalow, but the appellants have indicated that they would not object to making the proposed dwelling single storey by bringing guest bedrooms and shower room downstairs. This goes beyond a minor amendment which could be dealt with by a condition within the scope of this appeal had the proposal otherwise been acceptable, but in any case this would not in my view address the fundamental harm caused by extending the settlement into the countryside. It was also suggested that a dormer bungalow would have less of a visual impact than would have been the case had the proposal been for a two-storey dwelling. However, that a hypothetical alternative development might have had a greater detrimental effect on the character and appearance of the area does not carry weight in favour of this scheme.
18. Overall, I conclude that because of its urbanising effect on the countryside the proposed development would be harmful to the character and appearance of the area. The proposal therefore conflicts with Policies CS.5 and CS.9 of the Core Strategy, and with Policy E2 of the KNDP. Together these policies seek to ensure that development is well designed, and protects landscape character, quality, and the setting of settlements including the juxtaposition of village edges and open countryside.

Other Matters

19. The appellants' appeal statement at one point appears to suggest that the Council does not have a five year supply of housing land, although no figures were provided, and the same document later refers to the Council having a five year housing supply. However, the Council's evidence indicates that, at 31 March 2020, it could demonstrate a 7.08 year supply of deliverable housing sites. As I have described in paragraph 5 above, I consider that the policies which are most important for determining the application are not out-of-date.

Consequently the 'tilted balance' described in Paragraph 11(d) of the Framework is not engaged.

20. The Government's objective is to significantly boost the supply of housing and the proposal would provide a modern home in a location with adequate access to services within Kineton. I acknowledge that the proposed dwelling would, or could, incorporate various features and technologies designed to reduce its environmental impact such as solar panels, grounds source heat pumps and electric car charging points. It would provide modest financial benefits during construction and occupation, and accommodation for the appellants into their old age. However, given the very small scale of the proposal, any economic, social and environmental benefits arising from the scheme would be limited, and would not outweigh the other harm I have found.

Conclusion

21. The proposal would conflict with the development plan taken as a whole. There are no material considerations, including those of the Framework, which indicate that the decision should be made other than in accordance with the development plan.
22. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector