



Appeal Decisions

Site visit made on 16 March 2021

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th July 2021

Appeal Ref: APP/G2815/W/20/3259061 (Appeal A)

3 Spinney Close, Warmington PE8 6TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Sarah Bateman (OCS Developments) against the decision of East Northamptonshire District Council.
 - The application Ref 20/00419/OUT, dated 20 March 2020, was refused by notice dated 26 June 2020.
 - The development proposed is outline application for two serviced residential plots (self/custom-build) with access as a matter for consideration.
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Appeal Ref: APP/G2815/W/20/3265988 (Appeal B)

3 Spinney Close, Warmington PE8 6TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Sarah Bateman (OCS Developments) against the decision of East Northamptonshire District Council.
 - The application Ref 20/01114/OUT, dated 03 September 2020, was refused by notice dated 03 December 2020.
 - The development proposed is outline application for two serviced residential plots (self/custom-build) with access as a matter for consideration.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. Both appeals are for outline planning permission with approval sought at this stage for access only, with layout, appearance, landscaping and scale reserved for future approval. I have, therefore, taken the layout shown in the submitted plans as indicative only, with the exception of the vehicular access.
4. The appeals relate to the same site and essentially the same scheme. They only substantively differ in the detail of their proposed accesses. Appeal A proposes an access on the western boundary of the site, directly onto the public highway at Spinney Close. Although I note the appellant's preference for an access directly onto Spinney Close, Appeal B also includes an alternative plan where the access is on the eastern boundary, joining a shared access drive. I have considered each proposal on its own individual merits. However, in the interests of brevity and clarity, I have dealt with them together in my reasoning, except where otherwise indicated.

5. The East Northamptonshire Local Plan Part 2 (the LPP2) has not yet been found sound. I have not been provided with any substantive details regarding to what extent there are unresolved objections to any policies. Consequently, I am not able to attach more than very limited weight to the policies within the LPP2.
6. On 1 April 2021, East Northamptonshire Council ceased to exist and became part of the unitary authority known as North Northamptonshire Council. The statutory provisions, set out through Regulation 26 of The Local Government (Boundary Changes) Regulations 2018, allow for any extant development plans to have effect as if adopted by the new Unitary Authority, and for the Unitary Authority to adopt, revise, replace or prepare a plan relating to an area of a predecessor Council. It is also the case that the provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 20084 and the Local Government (Boundary Changes) Regulations 2018 mean that Local Plans, in the name of, and covering the same area as, LPAs that existed prior to 1 April 2021, may continue to come forward until such time as a plan covering the whole unitary authority is adopted. For the purposes of these appeals, the administrative changes make no difference to my reasoning or the outcome of this decision.
7. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021, after the Council had determined the application. I am required to consider the appeals based on the current Framework. The policies of the Framework that are material to these appeals have not changed fundamentally. As such, it is not necessary to revert to the parties further.

Main Issues

8. The main issues in these appeals are:
 - (i) whether the appeal site would be a suitable location for the proposed development, having regard to the development plan and national policy and the effect of the proposals on the character and appearance of the area.

Reasons

9. The site is located at the south-western edge of Warmington, off the eastern side of Spinney Close. The appeal site comprises an area of open land adjacent to Spinney Close and associated with the dwelling at 3 Spinney Close. The western boundary of the site with Spinney Close includes a stone wall, recent hedge planting and several mature trees. A single storey converted barn is located to the south of the site. The dwelling at no 3 and a large single storey outbuilding (that was under construction at the time of my site visit) adjoin the site to the east. An existing private drive serving no 3, and several other dwellings, adjoins the site to the north. The surrounding local vernacular buildings, the spaces between, and the fields beyond, gives the surrounding area a distinctly edge of rural settlement character. The open space of the appeal site adjacent to local vernacular buildings, in combination with its boundary trees and stone wall, contributes positively to this character, providing a softer and more comfortable transition between the village and open countryside.

10. Policy W1 of the Warmington Neighbourhood Plan (2019) (WNP) confirms, amongst other things, that outside the village boundary, residential development will not be supported except for certain exemptions. There is no dispute between the main parties that the site is outside of, but adjacent to, the village boundary defined in the WNP. As such, the site is within the open countryside for planning purposes. There is also agreement that future residents would have acceptable access to nearby services within the village and that the site should not be described as isolated. I see no reason to disagree on these matters.
11. I have had regard to the consultation response of the Council within the WNP Consultation Statement¹ that states the settlement boundary as defined in the Rural North, Oundle and Thrapston Plan (2011) (the RNOTP) is out of date as it was drawn to more stringent criteria than the North Northamptonshire Joint Core Strategy (2016) (CS) requires. I have also had regard to the Inspector's finding in the Glapthorn² appeal that policy conflict due to the settlement boundary defined in the RNOTP be given less weight given the RNOTP predates the Framework.
12. It has also been drawn to my attention that the WNP Examiner Report states that if the WNP is reviewed at some point, the position of the village boundary in the area to the south of Church Street should be revisited³. Notwithstanding these considerations, it is a plan-led system and the WNP has recently been found sound (albeit against an earlier version of the Framework). The WNP states that one of its policy objectives is to protect the setting of the village by maintaining the existing settlement boundary and defining criteria that proposed new development outside the boundary must meet to be supported. WNP Policy W1 does not, however, wholly prohibit development outside of the village boundary, or give blanket protection to the open countryside, and it continues to accord with the Framework in these regards. The policy does not undermine the continued relevance of locating development where it will enhance or maintain the vitality of rural communities. As such, I give significant weight to Policy WNP Policy W1.
13. The dwelling at no 3 and its associated outbuildings are set significantly back from Spinney Close. Whilst the gable flank of the barn conversion to the south adjoins Spinney Close, its small scale and rural utilitarian form, in combination with the surrounding fields and substantial open space of the appeal site, allows it to nestle comfortably in the wider open countryside setting of the village. These factors lead me to concur with the previous Inspector's finding⁴ that the site is read and experienced as land falling outside the built-up area of the village.
14. I have found that the open space of the appeal site contributes positively to the character of the area. Whilst I have had regard to the appellant's LVIA, I find that 2 additional dwellings on the site would result in a more abrupt and densely built-up transition between the village and the open countryside. Removal of sections of the stone roadside wall and the loss of vegetation at the new access onto Spinney Close would be detrimental to the character of the area. I note that, with regards to Appeal B, the Council has withdrawn its

¹ Warmington Neighbourhood Plan 2019 – 2031 Consultation Statement (May 2019)

² Appeal Ref: APP/G2815/W/16/3149683

³ Paragraph 7.37

⁴ Appeal Ref: APP/G2815/W/19/3230410

objection to the effect of the proposal on the character of the area subject to the access being from the private drive. I concur that the optional proposed access onto the private drive would not be harmful to the character of the area. Nevertheless, whether the access would be direct onto Spinney Close or via the existing private drive, the proposals would cause harm by projecting into, and having an urbanising effect upon, land defined as open countryside that contributes positively to the character and appearance of the area.

15. Where there is appropriate evidence for housing need outside the defined village boundary, WNP Policy W1 allows for development subject to a range of criteria, including being located immediately adjacent to the village boundary. The appellant asserts that there is an identified need for bungalows within the village, as found in the Housing Needs Survey⁵ (dated January 2016), and referred to in paragraph 5.4 of the WNP. Given the age of the survey, its findings are significantly out of date and of very limited weight. As such, there is no appropriate evidence, including locally identified need, for accessible bungalow housing (designed to be DDA/Lifetime Homes compliant) to be provided outside the village boundary of Warmington. The proposals, therefore, conflict with WNP Policy W1 by virtue of the site's location outside of the village boundary.
16. CS Policy 11 (The Network of Urban and Rural Areas) confirms amongst other things that development will be distributed to strengthen the network of settlements in accordance with their roles. In rural areas development will be limited to that required to support a prosperous rural economy or to meet locally arising need, which cannot be met more sustainably at a nearby larger settlement (criterion 2a). Small scale infill development will be permitted on suitable sites within villages where this would not materially harm the character of the settlement (criterion 2b). The policy also confirms that Neighbourhood Plans may identify sites within or adjoining villages to help meet locally identified needs (criterion 2c) and that other forms of development will be resisted in the open countryside unless there are special circumstances as set out in Policy 13 (Rural Exceptions) or national policy (criterion 2d).
17. Supporting paragraph 5.17 to CS Policy 11 advises that small scale infill development on suitable sites within villages is to be within the main built-up areas of the village and on land which is bounded by existing built curtilages on at least two sides. As set out above, I find that the site falls outside the built-up area of the village and therefore does not comply with criterion 2b.
18. The proposals are for open market, self-build dwellings. The Planning Practice Guidance (PPG) states⁶ that, in relation to self-build and custom housebuilding (SBCH), relevant authorities should consider how local planning policies may address identified requirements for SBCH to ensure enough serviced plots with suitable permission come forward. Support for SBCH is set out in CS Policy 30 (Housing Mix and Tenure) criterion (g) where it states that proposals for individual and community custom-build developments that are in line with the spatial strategy will be supported. The development plan is not, therefore, silent on this matter.

⁵ A Detailed Investigation into The Housing Needs of Warmington (January 2016) by Midlands Rural Housing

⁶ Paragraph: 025 Reference ID: 57-025-20210508, Revision date: 08 02 2021

19. Whilst the WNP does not have a policy for SBCH, the PPG is clear that this isn't a requirement, advising⁷ that relevant authorities can support Neighbourhood Planning groups where they choose to include SBCH policies in their plans. The WNP is read as part of the wider development plan and its policies regarding housing development do not preclude delivery of SBCH in accordance with CS Policy 30. Given the site's location outside of the village boundary, however, the proposals are not in line with the spatial strategy and are not, therefore, afforded support by CS Policy 30 criterion (g). Nevertheless, where insufficient SBCH permissions have been given to meet demand in accordance with the statutory duty, then this will be a material consideration in favour of granting permission and I return to this matter later.
20. The appellant asserts that there is policy support for the provision of SBCH in the reference to national policy within CS Policy 11 criterion 2d. National Policy in this regard is set out at paragraph 62 of the Framework, where it states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, amongst others, people wishing to commission or build their own homes).
21. Footnote 28 to Framework paragraph 62 notes that local authorities are subject to duties under sections 2 and 2A of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) (the Act) to have regard to the Register and to give enough suitable development permissions to meet the identified demand. Neither Framework paragraph 62 (including footnote 28), nor the PPG advice on SBCH, however, represent national policies giving, unqualified, carte blanche support for SBCH in the open countryside that overrides other development plan or national policy conflicts. As such, in this instance, given the identified policy conflicts, I am not persuaded that the proposals meet CS Policy 11 criterion 2d.
22. Taking all the above factors into account, I conclude that the site is not a suitable location for the development proposals and harm to the character and appearance of the area would result. In those regards the proposals would conflict with Policies 8, 11 and 30 of the CS, and Policies W1, W3 and W7 of the WNP which, taken together, amongst other things, require development to be distributed to strengthen the network of settlements in line with the spatial strategy and to respond to local character, conserving important local features such as established trees and historic stone walls. The proposals would also conflict with the Framework which requires the planning system to be genuinely plan-led and decisions to, amongst other things, recognise the intrinsic character and beauty of the countryside⁸, ensuring developments are sympathetic to local character⁹. Furthermore, the proposals would conflict with the National Design Guide advice contained within Policies I1 and C1 that well-designed new development responds to existing local character and surrounding context.

⁷ Paragraph: 025 Reference ID: 57-025-20210508, Revision date: 08 02 2021

⁸ Framework Paragraph 174 (b)

⁹ Framework Paragraph 130 (c)

Other Matters

Self-build and Custom Housebuilding

23. I have only limited evidence before me to determine whether the Council have complied with their duties under the Act. The appellant's evidence on the Council's SBCH Register indicates that there is significant and ongoing registered demand for SBCH plots within the District. I have been referred by the appellant to the Government's SBCH monitoring data which show that the Council has only granted 74 permissions¹⁰ set against 93 entries on the register in total (for the periods 2016, 2016-17, 2017-2018, 2018-19). The PPG states that, 'At the end of each base period, relevant authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period.'¹¹ However, there is no substantive up to date evidence before me with regards to SBCH permissions granted by the Council.
24. The Custom and Self Build Demand Assessment Framework Report¹² (December 2018) on this matter advises that the Council's rates of supply of SBCH plots falls below the potential demand indicated by modelling. I note that the emerging LPP2 includes a SBCH policy (EN32) to provide such housing within the Council's future housing strategy. Nevertheless, the limited evidence before me suggests insufficient permissions for suitable serviced plots of land have been granted by the Council to meet the demand for SBCH within the Register. As such, I find that the Council has not satisfactorily demonstrated it has met its duty under Section 2A of the Act.

Heritage

25. S66(1) of the LBA requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. The site would be within the setting of the Grade II Listed Buildings: the Malt House and attached outbuildings; and the stables and attached outbuildings approximately 20m east of Elms Farmhouse. I have had regard to the Council's Conservation Officer's comments that the layout of the dwellings shown on the plans would be at odds with the traditional character of the above Listed Buildings. The layouts on the submitted plans are, however, indicative. The Council has removed its objection with regards to the effect of the proposals on the setting of the listed buildings. Given the matters still reserved, the size of the site, and the separation distance to the above listed buildings, I see no reason to disagree.

Highways

26. The proposals are supported by a Highways Report that shows an access onto Spinney Close to the specification required by the Local Highways Authority. The County Highway Authority raises no objection to the proposals subject to securing an access to such a specification. I see no substantive reason to disagree and am satisfied an appropriate access directly onto Spinney Close could be secured by condition. Whilst I have considered the alternative access

¹⁰ Between 31 October 2018 and 30 October 2019

¹¹ PPG Paragraph: 023 Reference ID: 57-023-201760728, Revision date: 28 07 2017

¹² East Northamptonshire Custom and Self Build Demand Assessment Framework (December 2018) – Three Dragons.

onto the private drive, proposed as part of Appeal B, I do not find this matter to be determinative in my decision.

Planning Balance

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise. I have identified that, in this case, the proposals do not accord with development plan policies that require development to be distributed to strengthen the network of settlements in line with the spatial strategy and to respond to local character. I find that being outside the village boundary and within the open countryside, the appeal proposals are not in accordance with the development plan when taken as a whole. I give the identified development plan conflicts significant weight.
28. I have considered the rulings, permissions and appeals referred to me by both the appellant and Council. The permission¹³ granted by the Council for the conversion of the barn to the south of the site related to an existing building rather than new build. It is not therefore directly comparable to the current proposals. I note the assessment of the Council's Officer in that case, but I have, in any case, reached my own conclusions on the appeal proposals based on the evidence before me.
29. I have also had regard to the appeals referred to me by the appellant, including those at Land off Hepworth Road¹⁴, Tree Tops¹⁵, Corner Mead¹⁶, and The Meadows¹⁷. In each of these allowed appeals for self-build housing, the development is outside of any defined settlement boundary. I have had regard to the Inspectors, in these cases, giving substantial or significant weight to the delivery of SBCH plots where Councils have not met their duty under Section 2A of the Act.
30. Whilst the current proposals would make only a limited contribution to the Government's overall objective of significantly boosting the supply of homes, given the Council's shortfall in granting SBCH permissions, I also afford significant weight to the delivery of 2 self-build dwellings. The proposals are supported by the Framework requirement for the needs of groups with specific housing requirements to be addressed.¹⁸
31. I note that in the Corner Mead appeal, the development plan was found to be silent on the provision of SBCH and, as such, out of date, triggering the tilted balance. In relation to the current appeals, I have not found the development plan to be silent or the most important policies for determining the application, particularly with reference to relevant policies within the WNP, to be out of date. The policies referred to in the refusal reasons are broadly in line with the aims of the Framework, in so far as they seek to focus development in the most sustainable and accessible parts of the District, and to protect the intrinsic character and beauty of the countryside.

¹³ LPA Ref: 14/02164/FUL

¹⁴ Appeal Ref: APP/G2435/W/18/3214451, North West Leicestershire Council

¹⁵ Appeal Ref: APP/G1630/W/20/3250825, Tewkesbury Borough Council

¹⁶ Appeal Ref: APP/H1840/W/19/3241879, Wychavon District Council

¹⁷ Appeal Ref: APP/P1615/W/18/3213122, Forest of Dean District Council

¹⁸ Framework paragraphs 60 & 62

32. I also note that in the Tree Tops appeal, the Council were found to be unable to demonstrate a deliverable five year housing land supply. I have no substantive evidence before me to suggest that that is the case in relation to the current appeals. The 2020 Housing Delivery Test¹⁹ results indicate that the Council managed to deliver 97% of the total number of homes required across the District within the previous three years. As such, the tilted balance, as set out in paragraph 11 of the Framework, is not engaged in this instance.
33. The appeal at Hepworth Road related to 30 SBCH plots, a far greater contribution to SBCH than the current proposals. In the appeal at The Meadows, the Inspector did not find any associated harm to the character and appearance of the area.
34. The above referred appeals include different circumstances to the current appeals and that limits their direct comparability. I have, however, given these allowed appeals moderate weight in favour of the proposals. Notwithstanding this, I have reached my own conclusions on the proposals based on the evidence before me.
35. I acknowledge that the proposals would result in some economic and social benefits, including through their construction and as a result of a slight increase in spending and patronage of services in the local area contributing to the vitality of a rural community. There would also be social benefit in providing homes that are accessible for all, in a location with acceptable access to local facilities by sustainable transport modes. The contribution from two dwellings would nevertheless be relatively limited.
36. The appellant has highlighted that the proposals would make effective use of land for development by reusing land that has been previously developed. The Framework, however, is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places. As such I give this consideration limited weight. I also give very limited weight to the New Homes Bonus given the limited number of dwellings proposed.
37. As to environmental effects, the proposals would cause harm by projecting into, and having an urbanising effect upon, land designated as open countryside that contributes to the transitional edge of rural settlement character of the area. I afford that harm significant weight.
38. The recent appeal dismissal on the site is also a significant material consideration given its substantial comparability. I afford that earlier appeal decision²⁰ significant weight against the current proposals given the Inspector's findings that harm would result by virtue of the urbanising effect of two dwellings on the site.
39. I have had regard to the concerns of interested parties, including regarding the effect of the proposals on living conditions. In principle, I am satisfied that an appropriately designed scheme could be achieved at reserved matters stage to ensure appropriate living conditions are maintained at nearby properties.
40. Overall, I find that the benefits associated with the proposals would not outweigh the harms identified above, and there are no considerations which

¹⁹ Housing Delivery Test 2020 – Published 19 January 2021

²⁰ Appeal Ref: APP/G2815/W/19/3230410

indicate that the appeals should be determined other than in accordance with the development plan.

Conclusion – Appeal A and Appeal B

41. For the above reasons, both Appeal A and Appeal B are dismissed.

S D Castle

INSPECTOR