



Appeal Decision

Site visit made on 9 June 2021

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Appeal Ref: APP/G2815/W/20/3260223

The Fieldings, Main Street, Tansor, Peterborough, PE8 5HS

- 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 Mr Duncan Foster against the decision of East Northants District Council.
 - The application Ref 20/00752/OUT dated 11 June 2020, was refused by notice dated 21 August 2020.
 - The development proposed is described on the application form as "Outline application with all matters reserved except access for the erection of a single dwelling and garage with enlargement of existing access".
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Decision

1. The appeal is dismissed.

Procedural matters

2. The proposal seeks outline planning permission, with all matters other than access reserved for future consideration.
3. Since the appeal was submitted, a revised version of the Framework¹ has been published. Both main parties have been given the opportunity to comment on this and where applicable, I have taken their responses into account.
4. The appellant has referred to a previous appeal decision ('the previous appeal') where an Inspector accepted that the Council had a housing land supply of 4.28 years². However, the Council states that it subsequently lodged an appeal to the High Court challenging this, following which the Secretary of State conceded that the Inspector had erred in their interpretation of the definition of a deliverable site and the decision was quashed³. As a consequence, the Council asserts it has a current housing land supply figure of 6.25 years (based on data updated from its 2019 Annual Monitoring Report, which was endorsed by its Planning Policy Committee on 17 December 2019). I have not been presented with any evidence from the appellant that disputes this updated figure, aside from the quashed appeal decision, which I have given limited weight in view of the error relating to what constitutes a deliverable site and the implications this would have for calculating housing land supply. As a consequence, I consider there to be insufficient substantive evidence before me to conclude that the Council does not benefit from the housing land supply

¹ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, July 2021.

² Ref APP/G2815/W/19/3232099 dated 24 January 2020.

³ *East Northamptonshire Council v SSHCLG & Lourett Developments Ltd.* [2020]

figure it states it now has or that there has been a change in the demand for land, and I have determined the appeal on this basis. In any event, even if this appeal decision had not been challenged by the Council, a significant period of time has elapsed since it was made by the Inspector and I would not as a consequence have considered it appropriate to base the Council's current housing land supply position solely on the basis of that previously determined in January 2020.

Main issue

5. The main issue is whether the development is in an appropriate location, with particular regard to the adopted development plan settlement hierarchy.

Reasons

6. The appeal site primarily consists of an overgrown garden with detached outbuilding to the rear of 'The Fieldings', a modern detached bungalow that fronts onto Main Street ('the host property'). It is contained on three sides by mature hedges and trees, beyond which to the north-east and south-east lies open agricultural fields.

Whether the development is in an appropriate location

7. Policy 11 of the Core Strategy⁴ states that development will be distributed in accordance with the roles identified in Table 1, namely that of Growth Towns, Market Towns, Villages and Open Countryside. Policy 13 of this document identifies exceptions to the spatial strategy set out in Policy 11.
8. Paragraph 5.18 of the Core Strategy states that in order to clarify the application of criteria 2b and 2c of Policy 11, Local Plans may define village boundaries, taking account of the character of the village. In the case before me, the primary part of the appeal site where the proposed dwelling and its garden is to be located falls outside the settlement boundary for Tansor as identified in the local Rural Plan⁵, and within the open countryside for planning purposes. As a consequence, and irrespective of the site being bound by existing built curtilage on two sides, the development would not be capable of constituting a small scale infill development in accordance with criteria 2b of Policy 11 and paragraph 5.17 as it does not fall within a village and would therefore be in conflict with this policy. This is reinforced by the appellant in their statement, and Inspector for the previous appeal, both of whom conclude that the development does not fall within the main built-up part of the village.
9. There is also no substantive evidence before me: - (a) that the development is needed to support a prosperous rural economy; (b) that there is a local need for the development in this precise location in the form of a local needs survey, which cannot be met more sustainably at a nearby larger settlement; (c) that the Council does not have an up-to-date housing land supply in excess of 5 years (with appropriate buffer); or (d) that the dwelling will be offered on an affordable housing basis as part of a 'rural exception' scheme. Furthermore, the development has not been justified by the appellant on the basis of it being of an exceptional quality and innovative design and neither is there any evidence that it would result in a dwelling for a rural worker that needs to be near their

⁴ North Northamptonshire Joint Core Strategy 2011-2031, Adopted July 2016, North Northamptonshire Joint Planning Unit.

⁵ Inset 39 of the Rural North, Oundle and Thrapston Plan, Adopted July 2011, East Northamptonshire Council.

place of work, such as an agricultural dwelling. As a consequence, I conclude that the proposal would conflict with Policies 11 and 13 of the Core Strategy.

Planning balance

10. Although the Core Strategy and Rural Plan are both over 5 years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
11. Policies 11 and 13 offer an open and balanced approach to development in the countryside that accords with the objectives of the Framework. I therefore consider these policies up-to-date and that the proposal conflicts with the development plan when taken as a whole.
12. In support of the appeal, my attention has been drawn by the appellant to other developments permitted nearby in Tansor. I recognise that the dwelling and garage permitted behind Lornel⁶ has parallels to the scheme before me in that it falls outside the settlement boundary, but am of the view that the physical characteristics of this development are not comparable because it utilises an existing access between dwellings leading to 'The Old Railway' (a residential property), as opposed to a backland scheme where a new dwelling uses and shares the existing access for the property it is sited immediately behind (as is the case for the scheme before me). I am also of the view that the principle of this approved scheme should not be allowed to justify similar proposals as this would fundamentally undermine the spatial strategy of the development plan, which seeks to concentrate development within the boundaries of defined settlements. Turning to the other examples referred to by the appellant, these are not comparable to the appeal scheme as they differ in terms of size, scale and character, being for an ancillary residential outbuilding and conversion of an existing building, and not a new-build residential dwelling. I have as a consequence considered the scheme on its own merits.
13. The appellant also states that the proposed dwelling would not be publicly visible from outside the site and they would be agreeable to a condition to provide additional landscaping. However, I cannot be certain that such landscaping would be retained in perpetuity, but in any event, I do not consider the lack of visibility of a development to be a sound basis upon which to justify a scheme that conflicts with one of the fundamental provisions of a core strategy, namely its spatial strategy, as this could be repeated too easily and often for similar proposals which would further undermine adopted development plan policy.
14. The appellant has questioned whether the previous removal of permitted development rights from the site in 1994 should still apply. However, even if these rights were reinstalled following a new application, there would be a considerable difference in impact on character between the presence of ancillary residential outbuildings permitted under these provisions and a new self-contained dwelling. I do not therefore consider that the former should set any kind of precedent for the latter.

⁶ Planning Permission 17/01055/FUL

15. The appellant asserts that the development makes use of an underutilised parcel of land on a brownfield site. However, I have not given substantial weight to the scheme in accordance with Paragraph 120(c) of the Framework as I do not consider it to be suitable brownfield land for the reasons relating to its edge of settlement countryside location and neither do I consider it to fall within a settlement for planning purposes. I recognise that the appeal site appears underutilised, but am of the view this is due to the personal choice of the owner and not because the existing garden to the host dwelling (which includes the appeal site) is disproportionately large or unmanageable.
16. I am not of the view that the scheme would result in an environmental improvement. However, the appellant has referred to the absence of any objections from the Council on the grounds of a harmful impact to the character and appearance of the area. Be that as it may, the absence of such harm does not remove the need to ensure a sustainable approach to development in accordance with the spatial strategy of the development plan.
17. I recognise that the scheme would result in benefits from; - (a) a quickly-deliverable contribution towards the Council's housing land supply; (b) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in Tansor and the wider surrounding area; and (c) local employment during construction. However, given that only 1 dwelling is proposed, and the extremely small range of facilities at Tansor, I consider these benefits to be of limited value and that the adverse impacts of the scheme would outweigh these, when assessed against the policies in the development plan and Framework when taken as a whole.
18. Paragraph 79 of the Framework states that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services, and this is what the adopted Core Strategy and Rural Plan have achieved and make provision for by directing new development to within defined settlement boundaries. Furthermore, Paragraph 12 of the Framework makes it clear that that the development plan is the starting point for decision-making and that where an application conflicts with an up-to-date development plan, permission should not usually be granted, unless material considerations in a particular case indicate otherwise. The scheme before me is in clear conflict with the development plan and to allow it would therefore undermine a fundamental principle of the planning system;- that of it being genuinely plan led.
19. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

Conclusion

20. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR