



Appeal Decision

Site visit made on 4 July 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2022

Appeal Ref: APP/Y2810/W/21/3289258

Hillcrest, Moulton Road, Northampton, Northamptonshire NN6 9SH

- 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 and Mrs Tom Linell against the decision of Daventry District Council.
 - The application Ref WND/2021/0173, dated 19 May 2021, was refused by notice dated 2 August 2021.
 - The development proposed is Construction of new dwelling with associated access and garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the site is a suitable location for housing development with respect to local and national policies,
 - The effect of the proposed dwelling on ecological and arboricultural interests, and
 - Whether there are other material considerations sufficient to outweigh any harm identified in respect of the first and second issue.

Reasons

The suitability of the site for housing

3. The West Northamptonshire Joint Core Strategy Local Plan 2011-2029 (part 1) (2014) (JCS) establishes the Council's approach to the distribution of housing across the borough. The JCS includes a rural housing target to deliver around 2,360 dwellings, as per policy S3 within the plan period. I understand that this has been met. Whilst the spatial strategy includes an allowance for development in rural areas, it seeks to focus most new development towards Daventry, Towcester and Brackley. JCS Policy R1 identifies that development within rural areas is guided by its rural settlement hierarchy. This favours development within primary service villages over secondary service villages, then to 'other villages' and finally small settlements/hamlets. This approach is in accordance with the National Planning Policy Framework (The Framework) to locate development that can gain access to infrastructure and facilities.

4. The site is around 600 metres from Holcot, an “other village” as defined by policy RA3 of the Settlements and Countryside Local Plan (Part 2) (2020) (LP). Other villages, such as Holcot, provide access to a limited range of goods and services. The site is therefore some distance from even a small settlement and well beyond its existing confines. Accordingly, the appeal site is within the open countryside for policy purposes.
5. LP policy RA3 (B) explains that development, beyond the confines of settlements, would only be acceptable provide it (i) met an identified need (through an up-to-date Housing Needs Assessment), (ii) where it would support an essential service or (iii) would maintain the vitality of the local economy. Due to its distance and the services available in Holcot, the proposal would make only a negligible contribution towards the vitality of this settlement. As such, none of these exclusions would be satisfied.
6. Furthermore, JCS policy R1(G) states that development outside the confines of a settlement would only be permitted in limited circumstances. These include where it would involve the reuse of buildings; enhance or maintain the vitality of a rural community; or contribute towards and improve the local economy. The policy also explains that once the rural housing requirement has been met further housing will only be permitted in circumstances set out at R1(G) (i)-(v). These relate to cases where such development would result in environmental improvements; would be required to support an essential local service; has been informed by effective community involvement; is a rural exception site; or has been agreed for development through a Neighbourhood Plan.
7. The companion text for policy R1 supports development that is brought about by local communities to address local needs. It explains such development could be identified within community led plans, such as through Neighbourhood Plans, to deliver on the future vision of the village. The text emphasises that such plans should reflect the views of the whole community and be based on robust evidence of need. It also states that development proposals for growth would need to be informed by a community involvement exercise, undertaken in accordance with the district’s Statement of Community Involvement.
8. Although the appellants have engaged with the Parish Council and gained some local support, this does not reflect a community wide endeavour and it has not been designed to address a community wide need. Also, the evidence is not clear that the consultation was undertaken in accordance with the Council’s Statement of Community Involvement. As such, the community engagement exercise undertaken, is insufficiently broad in transparency or scope to demonstrate full engagement to satisfy the requirements of policy R1.
9. Accordingly, in not complying with the Council’s locational policies for housing, the site would not be a suitable location for a dwelling. Consequently, the proposal would conflict with JCS policies R1(G), SA, S1(D1), S3 and S10, LP policies SP1(G), RA6, RA3 and the Framework with respect to matters of location. These policies seek, among other matters, to limit development in rural areas and be located where services and facilities can be easily accessed.

Trees and ecology

10. The appeal site is a parcel of land that forms the rearmost part of a long garden of a dwelling within the open countryside. The site is in a heavily

wooded location. Trees within the site create a group that makes a positive contribution to the verdant character of the surrounding area.

11. The appellant's Tree Survey Report¹, submitted in support of the appeal, identified 15 trees and 6 tree groups on site. Of these, 8 trees are category B and 6 category C. It also found 3 tree groups to be category B and 3 to be category C, affording the site a moderate quality in terms of tree cover. The Assessment found that the majority of trees would need to be removed to facilitate development, with only a small number being usefully retained. Nevertheless, it also advised that mitigation, in the form of replacement native planting, would be adequate to offset the loss.
12. Although the loss of tree cover is regretful, these are moderate to low quality trees. Furthermore, tree cover would be retained on the northern boundary, which is most exposed to views of the wider countryside, maintaining the verdant setting of the site. Also, the site is of sufficient size to accommodate new planting, that could have been secured by planning condition if had been minded to allow, to ensure the proposal integrated well with its rural setting.
13. The appellant's Preliminary Ecological Appraisal², again submitted in support of the appeal, found the site to be of little biodiversity interest consisting of non-native tree species and poor-quality grassland. No roosting bats were found within the woodland, but it was identified that this could be suitable for nesting birds. No evidence of protected species was found within the site. It concluded that the loss of the trees and grassland would have no significant impact on local biodiversity. It advised that mitigation measures, secured by condition, would be sufficient to offset the loss and enhance the biodiversity of the area.
14. As the Council has not provided a Statement of Case it is not known whether it finds that the appellant's submitted assessments address its concerns with respect to trees and ecology. Nonetheless, the surveys have been undertaken by professionals and both appear to come to reasonable conclusions based on the surveys. Therefore, based on the evidence before me, and without any contradictory evidence. I see no reason to challenge or disagree with the conclusions of either report. Therefore, in this regard, the proposal would accord with JCS policies BN2, S10(i) and LP policies SP1(G), ENV10(A) and (B), the Council's Biodiversity SPD and the Framework. These policies seek, among other matters, for development to maintain biodiversity assets and protect and enhance the natural environment.

Other material considerations

15. A member of the appellants' family lives at Hillcrest and has a progressive debilitating mental disease. This means that she requires visits from her family and external agencies for regular support and care. She will be likely to require greater care in future years. The appellant explains that the proposal would enable family members to live on a separate plot to the rear of the existing dwelling to provide frequent contact and care.
16. The proposal is supported by several local residents and the Parish Council. Nonetheless, the proposal does not directly provide a facility for an individual who requires care. This limits the weight that can be afforded to the circumstances of the proposal. Instead, the scheme is for a dwelling that would

¹ Tree Survey Report, by RGS Arboricultural Consultants, dated October 2021

² Preliminary Ecological Appraisal, by Phillip Irving, dated September 2021

be unfettered by planning conditions otherwise limiting how it could be occupied. Consequently, although I appreciate that the additional accommodation would provide daily support, what is before me is not ancillary accommodation but a separate dwelling.

17. Furthermore, although recognising that the option of an annex may present some difficulties to the family members, I am unconvinced that the existing dwelling could not be adequately adapted to meet their needs. Also, I am unconvinced that an existing property, located closer to the family member, could not be found that would meet the Appellants' sensitive requirements.
18. The family member has a protected characteristic as set out in Section 149, of the Public Sector Equality Duty (PSED), contained in the Equality Act 2010. The PSED sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. As such, I am obliged to have due regard to this consideration in my assessment of the positive effect of the proposed development on the neighbouring occupier's wellbeing. The proposal would give the family member direct benefits of regular support and care. I have therefore afforded greater weight to the benefits of the proximity of family to the individual's wellbeing as required by the PSED.
19. Nonetheless, even with additional weight applied to this effect, whilst I sympathise with the position the family finds itself in, there is no over-riding reason to allow the erection of a permanent dwelling to address the appellants' family member's personal circumstances. As such, this does not amount to a material consideration of sufficient magnitude to outweigh the primacy of, and conflict found with, the development plan.

Other Matters

20. Land at North Farm was subject to an approval for a five-bed dwelling that the Council found was a design of exceptional quality. Also, a dwelling at Moulton Lodge barn was approved for conversion under permitted development rights. These, and other examples referred to by the appellant, illustrate that the Council has approved some dwellings in the countryside. However, these were approved due to specific reasons that do not apply here.
21. The proposal would not result in harm to the open character and appearance of the surrounding countryside and would not harm highway safety. However, an absence of harm in these respects can only be considered as neutral factors in the planning balance.

Conclusion

22. The proposal would conflict with the Council's spatial housing strategy and the development plan when taken as a whole. Therefore, for the reasons given, I conclude that the appeal should not succeed.

B Plenty

INSPECTOR