



Appeal Decision

Site visit made on 29 November 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2022

Appeal Ref: APP/M2840/W/22/3300972

Suffolk Villa, Rushton Road, Rothwell NN14 6HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr M Harrison against North Northamptonshire Council.
 - The application Ref NK/2022/0051, is dated 24 January 2022.
 - The development proposed is the change of use from open countryside (sui generis) to residential garden (C3) and the siting of a mobile home ancillary to the main dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the submission of the appeal against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission, the Council has clarified the position it would have taken on the application if it had had the opportunity to make the decision. The appellant has had the opportunity to comment on this information and has therefore not been prejudiced. I have therefore determined the appeal on this basis.
3. The appellant disputes that the appeal site does not form part of his residential garden. However, the appellant has sought planning permission for the proposal as described in the description of development, which involves the change of use of land to residential garden. I also note that the application form states that the work or change of use has not started. I have therefore determined the appeal on this basis.
4. The land edged red on the submitted Location Plan and Block Plan do not correspond. Given the additional annotation included on the Block Plan, I have taken the appeal site to be that outlined in red on the Block Plan. I have therefore determined the appeal on this basis.

Main Issues

5. The main issues are:
 - whether the principle of the development complies with local and national policy in relation to the Council's locational/settlement strategy and to protect the character of the countryside;
 - the effect of the proposed development on the character and appearance of the surrounding area; and

- the effect of the proposed development on the living conditions of future occupiers.

Reasons

Location of the Proposed Development

6. The host dwelling is located on a rural road outside the settlement of Rothwell, with the appeal site located behind the host dwelling. Therefore, the appeal site falls within the open countryside. Policy 11 of the North Northamptonshire Joint Core Strategy 2011-2031 adopted 2016 (CS) sets out the locational strategy for new development and seeks to ensure that the majority of new development is within the growth towns, market towns and villages of North Northamptonshire. Outside of these 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. Other forms of development will be resisted in the open countryside unless there are special circumstances as set out in Policy 13 or national policy.
7. The proposed development comprises the change of use of land from open countryside to residential garden and for the siting of a mobile home that would be occupied by the appellant's son and his family, ancillary to the main dwelling known as Suffolk Villa.
8. Policy 13 of the CS outlines a closed list of developments that may be permitted in the rural area. Part (1) of the policy is not applicable to the proposed development as the appeal site does not adjoin an established settlement. Instead, it is separated from Rothwell by open fields. Part (2) of the policy provides a closed list of two forms of residential development that may be acceptable in the open countryside away from established settlements, namely (i) individual dwellings of exceptional quality or innovative design, and (ii) dwellings for rural workers at or near to their place of work in the countryside that can meet financial, functional and viability tests. The proposed development would not comply with either of these exceptions.
9. Policy RS4 of the Kettering Site Specific Part 2 Local Plan, adopted 2021 (LP) restricts development in the open countryside to a closed list of exceptions. I have already found that the proposed development would not comply with Policy 13 of the CS, whilst Policies 25 and 26 of the CS are not applicable to the proposed development. The proposal does not involve the replacement or re-use of an existing building. The proposed development therefore does not comply with any of the exceptions. Furthermore, the proposed development would not comply with the closed list of exceptions listed within paragraph 80 of the National Planning Policy Framework (NPPF).
10. To allow the proposed development in the open countryside would harm the Council's aims to strengthen the network of settlements, to discourage developments where public transport is more limited and there is a reliance on the private car, and to protect the rural character of the open countryside by limiting new development. Therefore, in reference to the first main issue, the location of the proposed development would be contrary to Policies 11 and 13 of the CS and Policy RS4 of the LP, which together, seek to control development outside of defined settlements to protect the countryside. In addition, the proposal would not comply with the NPPF in this regard.

Character and Appearance

11. The proposed development would result in an increase in the size of the domestic garden of the host dwelling by including part of the grassed area of land to the rear that is within the appellant's land holding. It would include the siting of a 15.5m x 6.7m mobile home with a mono-pitch roof, the colour of which could be conditioned to ensure that its visual impact was reduced. The boundaries of the appellant's landholding are planted with young hedgerows that would partially screen the mobile home from the surrounding area. Furthermore, the host dwelling and existing outbuildings would help to screen the proposed mobile home from Rushton Road. To the west of the appellant's landholding is a wooded area, whilst the boundary to the adjacent field to the east is heavily vegetated. I am not aware of any public footpaths that cross the adjacent field to the rear of the appeal site. Therefore, the proposed development is unlikely to be highly visible from public vantage points.
12. However, the appeal site is currently devoid of development, consisting of part of a grassed area. It is irregular in shape and includes an unusually narrow spur to one corner. A section of the grassed area excluded from the site edged red would separate the appeal site from the host dwelling, the size of which would be unlikely to be suitable for any meaningful agricultural or equestrian use. The proposed domestic garden and mobile home would be sited some distance from the host dwelling on a higher ground level and therefore would appear isolated rather than an integral part of the existing domestic garden or host dwelling.
13. The proposed mobile home, by virtue of its materials and siting would represent an incongruous and alien feature within the rural landscape. The change of use of the appeal site to residential garden could also result in its character altering, with the inclusion of such domestic paraphernalia as tables and chairs, children's play equipment and washing lines. The proposed development would therefore result in an intrusive incursion into the open countryside, which would be harmful to the rural character of the locality.
14. In reference to the second main issue, the proposed development would adversely affect the character and appearance of the surrounding area, contrary to Policy 8(d)(i) of the CS which, amongst other things, seeks to respond to the site's immediate and wider context and local character and draw on the best of that local character.

Living Conditions of Future Occupiers

15. Suffolk Villa comprises a detached dwellinghouse that has been previously extended to the side and rear. In addition to the dwelling, there is a large outbuilding that is used by the appellant for his hobby and planning permission¹ has been granted for an HGV operating centre for one vehicle that operates from land to the side/rear of the host dwelling.
16. The land to be changed to residential garden would be sizeable and would provide ample space for future occupants of the mobile home as well as the occupiers of Suffolk Villa. It would therefore not represent an overdevelopment of the site. Furthermore, the appeal site, together with the existing residential curtilage of Suffolk Villa, would provide ample space for such things as off-

¹ Planning Ref KET/2002/0684

street parking and bin storage facilities, details of which could be conditioned accordingly. The steep bank adjacent to the existing hobby building could be appropriately fenced to ensure the safety of future occupiers of the mobile home, details of which could be conditioned accordingly.

17. The mobile home and the proposed residential garden would be sited adjacent to the approved HGV operating centre. The HGV operating centre is run by the appellant and his son. In that regard, the appellant would have full control of the operation of business so as not to detrimentally affect the living conditions of future occupiers of the mobile home.
18. However, I have been provided with limited information in respect of the planning permission for the HGV operating centre and it is unclear from the evidence before me whether the commercial use could be sold separately from Suffolk Villa. Nor do I have a mechanism before me that would tie the proposed development, the HGV operating centre and Suffolk Villa together. On this basis, I am therefore unable to conclude that the living conditions of the future occupiers of the site would not be adversely affected by the adjacent HGV operating centre.
19. In reference to the third main issue, the proposed development could have a detrimental effect on the living conditions of future occupiers, contrary to Policy 8(e)(i) of the CS which seeks to protect amenity by not resulting in an unacceptable impact on the amenities of future occupiers by reason of noise, vibration, smell, light or other pollution, or overlooking. I do not find the proposed development would be contrary to Policy 8(b)(ii), as parking and manoeuvring could be achieved by an appropriately worded condition.

Other Matters

20. I am mindful of the appellant's concerns regarding the Council's handling of a previous planning application² and their dispute over whether the land already comprises residential garden. However, my decision is concerned with the planning merits of the proposed development as described within the description of development.

Conclusion

21. For the above reasons, having considered the development plan as a whole and all other material considerations, I conclude that the appeal is dismissed.

A Berry

INSPECTOR

² Planning Ref NK/2021/0829