



Appeal Decision

Hearing held on 19 September 2023

Site visit made on 19 September 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2023

Appeal Ref: APP/M2840/W/22/3313880

**Stoke Farm House, Ashley Road, Stoke Albany, Northamptonshire
LE16 8PZ**

- 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 under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Brodie against North Northamptonshire Council.
 - The application Ref: NK/2022/0297 is dated 5 May 2022.
 - The application sought planning permission for the erection of one house with farm office and garage without complying with a condition attached to planning permission Ref KE/87/49, dated 25 March 1987.
 - The condition in dispute is No 5 which states that: *The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, locally in agriculture as defined in section 290(1) of the Town and Country Planning Act 1971 or in forestry or a dependant of such a person residing with him or her (but including a widow or widower of such a person).*
 - The reason given for the condition is: *In order to safeguard agricultural interests.*
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one house with farm office and garage at Stoke Farm House, Ashley Road, Stoke Albany, Northamptonshire LE16 8PZ in accordance with the application Ref NK/2022/0297 dated 5 May 2022, without compliance with the conditions previously imposed on planning permission Ref KE/87/49 dated 25 March 1987.

Application for costs

2. At the Hearing the appellants, Mr and Mrs Brodie made an application for costs against North Northamptonshire Council. This application is the subject of a separate decision.

Procedural Matters

3. The description of development in the banner heading above differs from that within the planning application form as it includes reference to the type of development that is being applied for. However, the altered description of development was agreed between the main parties during the application process. I have therefore used this description in my formal decision.
4. 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, and prior to the Hearing, the Council clarified the position it would

have taken on the application if it had had the opportunity to make the decision. The appellant had the opportunity to comment on this information in written submissions prior to the Hearing and has therefore not been prejudiced.

5. The main issue below is based on the putative reason for refusal set out within the Council's statement. However, at the Hearing, the Council conceded that Policy 13 of the North Northamptonshire Joint Core Strategy 2011-2031 ('the CS'), was not relevant to the appeal proposal as the site was not within the open countryside. Considering this, it was confirmed that the Reading Agricultural Consultants' report and the appended appeal decisions ('the RAC report') would be of little relevance to the appeal proposal as it was largely based on CS Policy 13. Therefore, I attach limited weight to the RAC report.
6. At the Hearing the documents listed at the end of this decision were submitted by the Council to clarify an omission within Table 2 of the RAC report in that the New Stone House example was located within the open countryside and not within the settlement boundary of Cranford as stated. Copies of these documents were provided at the Hearing and time was provided to allow the appellants to comment. Therefore, they have not been prejudiced by the inclusion of this additional information.
7. I have therefore determined the appeal on the basis of the above matters.

Background and Main Issue

8. Planning permission¹ for the erection of one dwelling was approved by the Council and was restricted by Condition 5 of the decision notice to be occupied by an agricultural or forestry worker, including any dependants, or the widow or widowers of such a worker. A lawful development certificate² concluded that the appellants' occupation of the appeal property complied with Condition 5 as they were last employed in agriculture.
9. When the development was originally approved by the Council, the appeal site fell within the countryside where there was a restriction on new dwellings. At the Hearing the Council disclosed that one such exception was for rural worker's dwellings and that is why Condition 5 was imposed on the decision notice. In 2021, the Council adopted the North Northamptonshire Council Kettering Site Specific Part 2 Local Plan ('the LP') and the settlement boundary for the village of Stoke Albany was amended. Consequently, the appeal site now falls within the settlement boundary of Stoke Albany.
10. The appellants object to the imposition of the condition as new open market dwellings within the settlement boundary of the village can, subject to meeting certain criteria, be considered acceptable under Policy 11(2) of the CS and Policies RS1 and HOU1 of the LP. Consequently, they consider the condition is not reasonable or necessary.
11. The Council contend the condition is reasonable and necessary as the appellants have failed to establish that there is no longer an essential need for the dwelling to be an agricultural or forestry worker's dwelling.

¹ Planning Ref KE/87/49

² Planning Ref KET/2017/0982

12. Taking the above into consideration, the main issue is whether the condition is reasonable and necessary having regard to whether the appeal site is an appropriate location with regard to local and national planning policy and whether there is an essential need for housing for workers solely or mainly employed, or last employed, locally in agriculture or forestry, including by a dependant, or a widow/widower.

Reasons

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determination to be made under the Planning Acts must be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for North Northamptonshire Council comprises the CS and the LP.
14. The appeal site is within the settlement boundary of Stoke Albany. CS Policy 11(2)(b) permits small scale infill development on suitable sites within villages; LP Policy RS1 requires development within the village of Stoke Albany to include the re-use, conversion or redevelopment of existing buildings within the defined settlement boundary, as shown on the policies map, or be classed as infill development within the defined settlement boundary; and LP Policy HOU1 generally accepts in principle windfall and infill development within settlement boundaries, including the complete or partial redevelopment of residential garden land, providing there is no erosion to the character and appearance of the area and no detrimental effects to the environmental quality, amenity and privacy enjoyed by existing residents.
15. Infill development is defined within the Glossary of the LP as “the development of vacant or under-developed land within main built-up areas of towns and villages on land which is bounded by existing built curtilages on at least two sides, such as the filling of a small gap in an otherwise substantially built-up frontage”.
16. The appellants contend that the dwelling would accord with the development plan if approved today, as it would comprise either the re-use of an existing building or infill development within a village. CS Policy 11(2)(b) and LP Policies RS1 and HOU1 do not require the occupation of such dwellings to be restricted to an agricultural or forestry worker. This was agreed by the Council at the Hearing and is therefore not disputed by the main parties. This attracts significant weight.
17. The development plan contains no policies or justification for the removal of agricultural/forestry worker’s occupancy conditions, nor does the National Planning Policy Framework. I recognise that it is usual for an agricultural appraisal to be submitted to demonstrate that an occupancy condition is no longer reasonable or necessary. However, this is normally because an unencumbered dwelling within the open countryside would be contrary to the development plan where-as, in this instance, the appeal site is located within the settlement boundary of a village. Furthermore, it would be unreasonable for the appellants to be required to prove there is no need for the occupancy condition when the Council accepts that the dwelling without the condition would accord with CS Policy 11(2)(b) and LP Policies RS1 and HOU1.
18. I accept that the re-drawing of the village’s settlement boundary did not take into consideration the host dwelling’s agricultural/forestry occupancy condition.

However, this has had no bearing on my consideration of the main issue. While the Council raise concern that the removal of the condition may result in a requirement for a new agricultural worker's dwelling, this would be a matter for the Council to judge based on the merits of that case and against CS Policy 13.

19. For the reasons detailed above, the condition is not reasonable or necessary as the appeal site is an appropriate location with regard to local and national planning policy and consequently the appellants did not need to demonstrate an essential need for housing for workers solely or mainly employed, or last employed, locally in agriculture or forestry, including by a dependant, or a widow/widower.

Other Matters

20. While the existing dwelling falls outside the Albany Conservation Area ('the CA'), a small section along the road frontage falls within it. Therefore, I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The Grade II* listed "The Old House" and the Grade II listed village hall and attached house are within proximity of the appeal site. Therefore, I also have a statutory duty under Section 66(1) of the Act to have special regard to the desirability of preserving the listed buildings or their setting or any features of special architectural or historic interest which the listed buildings possess.
21. The CA covers the historic core of the village which encompasses various historic buildings predominantly constructed of stone, narrow lanes and small areas of open space. The Old House comprises a manor house circa 14th century, with later additions, while the village hall and attached house dates from 1871. The dwelling at the appeal site is existing and the proposal would not alter its appearance. Therefore, the removal of the disputed condition would not harm the significance of the CA or the setting of the listed buildings.

Conditions

22. The main parties agreed at the Hearing that if I am minded to allow the appeal, none of the conditions attached to the original decision would need to be reimposed. These related to the timeframe for commencing the development; the submission and approval of external materials; that the materials should use local stone to match neighbouring buildings; and the submission, approval and implementation of a scheme of landscaping. The dwelling is existing, is constructed of stone that matches the neighbouring buildings, and is set within mature landscaped grounds. Therefore, I agree with the main parties that it is not necessary for me to reimpose any conditions.

Conclusion

23. For the reasons given above, having considered the development plan as a whole and all other material considerations, I conclude that the appeal should succeed without compliance with the conditions previously imposed on the planning permission.

A Berry

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Scott O'Dell MRTPI BA(Hons) MA	Fisher German LLP
Mr Chris May LARTPI LLB	Howes Percival LLP
Mr Brodie	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Olawale Duyile	North Northamptonshire Council
Ms Olivia Wojniak	Reading Agricultural Consultants

DOCUMENTS SUBMITTED AT THE HEARING

1. A copy of the officer report for planning Ref: NK/2022/0061 at New Stone House, Duck End, Cranford
2. A copy of the decision notice for planning Ref: NK/2022/0061 at New Stone House, Duck End, Cranford