



Appeal Decision

Site visit made on 20 February 2024

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2024

Appeal Ref: APP/W2845/W/23/3325605

Land North West Longdown Lane, Barby, Rugby

- 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 Ross Middleton against the decision of West Northamptonshire Council.
 - The application Ref WND/2022/1063, dated 21 November 2022, was refused by notice dated 22 May 2023.
 - The development proposed is change of use and conversion of existing agricultural building to form 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Ross Middleton against West Northamptonshire Council. That application is the subject of a separate Decision.

Preliminary Matters

3. I have taken into account the revised version of the National Planning Policy Framework ('the Framework') published in December 2023. While there have been changes to paragraph numbers since the previous iteration, the parts of the Framework most relevant in this case have not significantly changed. I am satisfied, therefore, that the revised version of the Framework does not raise new considerations necessitating further submissions from the parties.
4. The development plan for the area includes the West Northamptonshire Joint Core Strategy Local Plan (Part 1) 2014 (JCS), the Settlements and Countryside Local Plan (Part 2) For Daventry District 2011-2029 (2020) (LP2), and the Barby and Onley Neighbourhood Development Plan (2016) (NDP).
5. The appellant submitted an appeal decision¹ to the Planning Inspectorate on 10 April 2024. I have accepted that appeal decision as late evidence given that it would not have been possible to submit it within the prescribed time limits set out in the appeal timetable. I have taken that appeal decision into account in reaching my decision.

¹ APP/W2845/W/23/3323851

Main Issues

6. The main issues in this case are: (a) the effect of the proposal on the character, appearance and natural habitats of the area; (b) whether the proposal would accord with development plan and national policies relating to the location of development; (c) the effect of the proposal on highways safety; and (d) whether or not, in the overall planning balance, there are material considerations that would justify the granting of planning permission.

Reasons

Character, Appearance and Natural Habitats

7. The site is located at the northern edge of an agricultural field. It is in the open countryside, as defined by the Council's Proposals Map, adjacent to the southern settlement boundary of Barby. An unmade track and public right of way (PROW) runs along the northern boundary of the site. This track provides vehicular access to the site and extends eastward onto Longdown Lane adjacent to the crossroads with Daventry Road and The Ridgeway. The wider agricultural field within which the barn sits extends to the south-west and is generally bounded by mature hedgerows, including many trees. A small paddock containing a water tower and communications mast is located to the north of the site, open fields to the east, a fishery to the west, and the village sports field to the south-east across Longdown Lane.
8. The barn is timber framed and is clad with metal corrugated sheeting on 3 sides and on its shallow sloped mono-pitch roof. The barn has a rectangular footprint and is accessed via its open south-eastern elevation that was, at the time of my site visit, secured by a patchwork combination of timber panels and metal gating. A yard area enclosed by timber fencing adjoins the barn to the south and east. At the time of my site visit, the yard area appeared to be used for storage, including items such as a tractor, machinery, wooden logs, fence panels and trailers.
9. The barn's northern, eastern, and western elevations are prominent in views from the adjacent PROW. During winter, filtered views of the southern elevation of the barn are possible from Longdown Lane. Views of the site from Longdown Lane would be largely screened at other times of the year provided the boundary hedge is not trimmed. Any significant trimming of the Longdown Lane boundary hedgerow would, however, allow clear views of the site from the highway.
10. The barn is of a functional utilitarian design and has an appearance typical of many modern agricultural buildings commonly found within rural countryside locations. The agricultural appearance of the barn, in part, results from the paucity of windows and doors in the corrugated metal sides, an arrangement clearly reflective of the buildings functional agricultural design. Although the adjacent water tower and communications tower somewhat urbanise the immediate surroundings of the site, they are clearly separated from the site by existing boundaries and the PROW. As such, the barn sits comfortably within the wider field that is representative of the predominantly agricultural and open landscape surrounding Barby. It is not uncommon to find sporadic buildings such as the barn, and those associated with the fishery and recreation field, in the open countryside surrounding a village. The site, given its agricultural character, therefore assists in the village's comfortable transition to the open

countryside and is visually understood as being on the edge of, but outside of, the village.

11. Whilst the proposal would retain the overall form of the barn, the installation of fenestration would domesticate and harmfully jar with the agricultural character of the building and surrounding field. The proposed lawn, patio and parking area, in combination with new domestic activity with its associated paraphernalia and parked cars, would further exacerbate the discordant domesticating effect of the development. Whilst additional boundary planting is proposed, native planting appropriate to the local landscape would not fully screen views of the site during winter. The visual intrusion of the development would be most harmful from the adjacent PROW, but would also be evident from Longdown Lane, particularly in winter or following hedge trimming of the field boundary.
12. I acknowledge that the items currently stored on the site results in a yard that appears somewhat unkempt. However, the presence of such storage within yard areas in the rural landscape is not unusual and is accepted as justified by the functional requirements of rural enterprises. The development, in contrast, would be read as an incongruous residential encroachment into the wider agricultural field, detrimental to the visual amenity and rural landscape character of the site and its surroundings, significantly harmful to the open countryside setting of the village.
13. As such, the development would be harmful to the character and appearance of the area contrary to LP2 Policy ENV1 and NDP Policy BO-D2. Taken together these policies support proposals that, amongst other things, seek to preserve and enhance the character of the village, maintaining the distinctive character and quality of the area's landscapes. Furthermore, the proposal would fail to be sympathetic to local character and would not recognise the intrinsic character and beauty of the countryside as required by the Framework.
14. The Council's third refusal reason also refers to the loss of natural habitat and conflict with LP2 Policy ENV5 (Biodiversity). The Council's submissions do not clearly set out how the development would conflict with Policy ENV5. There is no objection from the Council's specialist consultees with regards to ecology subject to a recommended condition relating to external lighting and an informative in relation to great crested newts. Nevertheless, the appellant has provided no substantive evidence that demonstrates a biodiversity net gain would be achieved against the current baseline. Consequently, the proposals conflict with LP2 Policy ENV5 which, amongst other things, seeks to achieve a net gain for biodiversity.

Location

15. JCS Policy S1 provides the starting point for the spatial strategy across West Northamptonshire Council. It reflects JCS Objective 11, stating that development will be concentrated primarily in and adjoining the principal urban area of Northampton, with development of a lesser scale located in and adjoining the sub regional centre of Daventry. The policy confirms that the development needs of the rural service centres of Towcester and Brackley will also be provided for and that new development in the rural areas will be limited.

16. Barby is a secondary service village located in the rural area of Daventry and the appeal site is outside the settlement confines of the village. The spatial strategy for rural areas is reflected in JCS Policy R1. Within the rural area of Daventry, Policy R1 identifies a need for 2,360 dwellings between 2011-2029. It identifies that the distribution of the rural housing requirement will be subject to the rural settlement hierarchy of the LP2 and that development is only permitted outside of existing village confines in certain circumstances. The Council advises that the rural housing target set by Policy R1 has been met. The appellant, however, asserts that the 2360 dwelling target is not a cap and that it makes no allowance for up-to-date local evidence in housing needs surveys, or those needs arising from the self-build and custom housebuilding (SBCH) register.
17. JCS Policy R1 does not cap housing at the 2360 target, but states that once the housing requirement for the rural areas has been met, further development is only permitted where certain criteria are achieved, including where it (i) would result in environmental improvements on a site; or (ii) is required to support the retention of or improvement to essential local services that may be under threat; and it (iii) has been informed by an effective community involvement exercise prior to the submission of a planning application; or (iv) is a rural exception site that meets the criteria set out in Policy H3; or (v) has been agreed through an adopted neighbourhood plan.
18. The appellant asserts that the development will result in significant environmental improvements and re-use previously developed land. The JCS and Framework definitions of previously developed land (PDL) exclude land that is or was last occupied by agricultural or forestry buildings. As such, the site does not represent brownfield or PDL. I acknowledge that the site's location on the edge of the village means that the dwelling would not be isolated. The proposal would not, therefore, conflict with paragraph 84 of the Framework. Future residents would be able to access and support the services and facilities within the village by sustainable transport modes. There is no substantive evidence before me, however, to demonstrate that the dwelling is required to support the retention of, or improvement to, essential local services that may be under threat as required by JCS Policy R1(ii).
19. I have not been provided with any substantive details to demonstrate ecological enhancements to the site would be delivered by the development when compared against the current baseline. As I have found the development would also result in significant harm to the character and appearance of the area, the development would not meet the JCS Policy R1(i) requirement for environmental improvements on the site.
20. LP2 Policy RA2 specifies the circumstances where development outside the defined confines of the village would be acceptable, including (Bii) where the development provided would clearly meet an identified local need identified through an up-to-date Housing Needs Survey or Housing Needs Assessment where it is demonstrated that this could not otherwise be met within the defined village confines. The policy also sets out criteria (C) that all development, within or outside the confines of the village, shall meet. These include protecting the form, character and setting of the village, as well as protecting the integrity of garden or other open land that makes an important contribution to the form, character and setting of the settlement, amongst other considerations.

21. LP2 Policy RA6 states that the intrinsic character, beauty and tranquillity of the open countryside will be recognised. The policy also provides a list of the forms of development that will be supported in the open countryside outside of the confines of villages, including (v) the re-use of redundant or disused buildings that lead to an enhancement to the immediate setting; or (xi) development that otherwise accords with policies RA1, RA2 and RA3; or (xii) rural exception sites which comply with JCS Policy H3 (Rural Exception Sites).
22. The appellant's submissions indicate that the building has been utilised largely for year-round storage purposes, of machinery, hay / feed and other plant in association with the wider operations of the landholding. Whilst the size of the building may make it unsuitable for some agricultural uses, I am not persuaded that the building is redundant or disused.
23. JCS Policy H3 supports the provision of affordable housing to meet identified local needs in rural areas on exception sites. The policy requires that schemes must either be purely affordable housing or mixed tenure schemes, and that arrangements for the management and occupation of affordable housing must ensure that it will be available and affordable in perpetuity for people in local housing need.
24. The appeal statement promotes the proposal on the basis of a self-build dwelling which provides an affordable opportunity to meet an identified housing need in the local area. The Framework states that self and custom-build properties can provide market or affordable housing. The Framework defines affordable housing to include housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. This definition includes homes provided through shared ownership and relevant equity loans.
25. The appellant refers to the conclusions of the Barby and Onley Housing Survey (HNS) (2019) as providing evidence for the local need for the development. The appellant advises that no dwellings have been delivered in the parish to meet the needs profile in the conclusions of the HNS. In contrast, the Council advises that several permissions for new dwellings have been granted since the HNS was published which may have addressed the need as identified in 2019. The Council has not, however, provided any substantive evidence to demonstrate the local need identified within the HNS has been met.
26. The HNS states that the responses to the survey that were completed by respondents expressed a current or future housing need within the next five years. Insofar as the HNS provides a picture of future needs, the usefulness of that information is effectively time limited to August 2024. As such, whilst the circumstances of the respondents may have changed considerably since the publication of the HNS, I do not consider the HNS to be out of date.
27. The HNS concludes that there is a local need for 28 dwellings across a range of tenures and sizes, including 2-bed dwellings and a self-build 3-bed dwelling. In the absence of any substantive evidence to the contrary, the HNS remains the most up-to-date evidence regarding local housing need. As such, whilst accepting local accommodation needs or aspirations may have changed since the HNS, I find the proposed 2-bed self-build dwelling would contribute to an identified local need provided relevant occupancy criteria were secured by an appropriate legal mechanism.

28. The appellant is registered on the Council's SBCH register and I note that it is the appellant's current intention to utilise the Government's Help to Build programme to assist in funding the build proposed. I am satisfied that utilisation of the Help to Build programme, where no interest is charged on the equity loan for the first 5 years, meets the Framework definition of affordable housing.
29. Footnote 29 to Framework paragraph 63 reminds that under section 1 of the Self Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) (the Act), local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own SBCH. Footnote 29 also notes that local authorities are subject to duties under sections 2 and 2A of the Act to have regard to the SBCH register and to give enough suitable development permissions to meet the identified demand.
30. The appellant asserts that a legal mechanism is required to ensure that self-build permissions are developed in a manner that accords with the legal requirements of SBCH set out in the Act. The appellant argues, therefore, that the Council's approach to monitoring the number of SBCH permissions granted / dwellings delivered is flawed given it counts permissions without such a legal mechanism. The Council have not addressed this matter in their appeal submissions. Consequently, in the absence of representations from the Council regarding this matter, I am not persuaded that the Council has satisfactorily demonstrated that it has met its duty under Section 2A of the Act.
31. I have not, however, been presented with a completed legal agreement that would ensure the development meets the Framework definition of affordable housing through the intended utilisation of the Help to Build programme, or through some other qualifying equity loan, or through meeting other relevant criteria. Neither have I been presented with a completed legal agreement that would ensure the permission would contribute to meeting the Council's duty under Section 2A of the Act, or that would ensure appropriate occupancy criteria are defined and enforced to meet identified local need.
32. I have had regard to the appellant's suggestion to impose a planning condition which ties the occupancy of the proposed dwelling to them for a period of three years post occupation. However, the Planning Practice Guidance (the Guidance) advises that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. An appropriately worded legal agreement would bind the necessary requirements in relation to delivering a SBCH dwelling, affordable housing, and meeting local needs, to successors in title (should the property be sold in future). A personal permission would not, therefore, be justified in this instance.
33. As such, in the absence of a completed legal agreement, the method of securing an affordable self-build dwelling that meets local needs is unacceptably vague. I cannot, therefore, be certain that the development would provide a self-build dwelling that would be affordable and/or meet an identified local need. The proposal is not, therefore, supported by JCS Policies R1 and H3, NDP Policy BO-H2, or LP2 Policy RA6. Furthermore, given I have found the development would represent harm to the character and appearance of the area, it would also conflict with Policy RA6 in so far as it seeks to protect the intrinsic character of the open countryside.

Highway Safety

34. The Council's highway concerns are due to the limited visibility afforded to vehicles using the existing access track to the site where it joins with the bellmouth of Longdown Lane. On my site visit, I noted that the alignment of the access track with Longdown Lane, in combination with existing boundary planting, severely limited visibility to the south-west along Longdown Lane. Whilst the access track may provide only private vehicular access, it is also a public right of way. The limited visibility splay and adjacent crossroads, combined with the public and private users of the track, represents a heightened risk of accidents and collisions.
35. I have had regard to the appellant's submissions questioning the robustness of the data in relation to personal injury collisions. I note that the appellant considers 2 'serious' records and 3 'slight' incidents for the Longdown Lane / Daventry Road / Ridgeway junction over a 5-year period does not amount to a 'significant pattern of collisions at this junction'. The Local Highway Authority (LHA) advises, however, that the recorded accidents represent only those incidents involving personal injury and the police. Furthermore, the LHA identifies the crossroads as a known problem location. As such, I find that the incident record, in combination with the LHA assessment of the highway network, is indicative of a significantly heightened risk of accidents in the vicinity of the crossroads.
36. The appellant advises in their planning statement that, in terms of entrances, the wider holding is generally accessed from Longdown Lane, and that the barn complex takes access from the track which delineates the northern boundary of the landholding. The appellant also advises that the existing storage use of the site generates daily vehicular trips. The proposed dwelling would generate the occupier's daily movements in an out of the site, and those of visitors, delivery vehicles, and service vehicles. However, neither the appellant nor the Council have provided a detailed comparative breakdown of existing and proposed trips using the northern boundary access. In the absence of this information, given the established risk of accidents at the crossroads noted above, I cannot be certain that the development would not increase the scope for conflicts between pedestrians, cyclists, and vehicles, detrimental to highway safety.
37. I have had regard to the appellant's suggestion that a planning condition to prevent the movement of agricultural vehicles through the northern boundary of the site could be attached to any permission. Given that the wider holding is generally accessed from Longdown Lane, it is not clear that such a condition would make a significant difference to expected trips using the northern access track.
38. As such, in the absence of robust trip generation evidence to the contrary, I find the development would represent an unacceptable impact on highway safety contrary to LP2 Policy CW1, NDP Policy BO-GP1, and contrary to the provisions of the Framework, including paragraphs 115, 116 and 135.

Planning Balance

39. I have had regard to the many allowed appeals² involving SBCH referred to me by the appellant. In particular, I have had regard to the weight given by Inspectors to the delivery of SBCH plots where Councils have not met their duty under Section 2A of the Act. Whilst I have not been provided with the full details of the referred appeals, the provision of SBCH in all but one of those cases (a permission in principle case) was secured by a planning obligation within a legal agreement. As such, the circumstances of those appeals were distinctly different to the current appeal and I afford limited weight to them in my decision.
40. Whilst I cannot be certain that the development would provide a self-build dwelling that would be affordable and/or meet an identified local need, I acknowledge that that is the appellant's clearly demonstrated intention. The Council has not, however, engaged in a proper or meaningful manner with the appellant's efforts to provide an appropriate legal agreement. Without a completed legal agreement securing the development as a self-build dwelling that would be affordable and/or meet an identified local need, only very limited weight can be given to the proposal's contribution to meeting the Council's duty under Section 2A of the Act, and to addressing identified local need.
41. I have also had regard to the fallback scenarios put forward by the appellant, including the continued agricultural use of the site and the development that could occur under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015. There is, however, no substantive evidence to indicate that there is a significant probability that the fallback scenarios put forward by the appellant would occur should this appeal be dismissed. Notwithstanding this, even where certain additional harms may arise from the future agricultural use of the site, those harms may, overall, be offset by associated benefits. I have therefore attached only limited weight to the fall-back scenarios presented.
42. In support of the appeal, my attention has been drawn to a permission granted at Yelvertoft³. However, I do not have full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. From the information before me, whilst the edge of village location of the Yelvertoft development is comparable to the circumstances of this appeal, the details of the current appeal are materially different in terms of design and setting. Furthermore, I have not been provided with full details in relation to the planning application at Land Adj Bridle Lodge⁴. As such, these planning applications have limited bearing on my decision, and I have assessed this appeal on its own merits based on the entirety of the evidence before me.
43. The delivery of a 2-bed dwelling would make a limited contribution to housing supply and to addressing the needs of groups with specific housing requirements. The site is a short walk from various facilities, including public transport stops, the village school, and a recreation field. Economic and social

² APP/J1860/W/22/3294214; APP/G2435/W/18/3214451; APP/P1615/W/18/3213122; APP/J2210/W/21/3276978; APP/W3520/W/23/3316136; APP/Z2830/W/21/3280200; APP/W1850/W/19/323735; APP/W0530/W/23/3322754; APP/W2845/W/23/3323851

³ DA/2020/0549

⁴ WND/2023/0026

benefits would be derived during construction and as a result of a slight increase in spending in the local area. The dwelling would contribute to the vitality of a rural community. However, as the proposal is for only a single dwelling, the benefits identified attract limited weight.

44. The appellant asserts that the development plan does not address the matter of individual self-build plots such that the 'tilted balance' at paragraph 11(d) should be engaged. Notwithstanding the lack of a legal agreement ensuring the development would be self-build, engagement of the 'tilted balance' does not change the statutory status of the development plan as the starting point for decision-making. Furthermore, it is also important to recognise that where development plan policies are out-of-date, this does not mean they have no weight in the decision-making process.
45. From my reading of the policies cited in the Council's refusal reasons, they are broadly consistent with the Framework. They echo: Framework paragraph 11(a) in terms of promoting a sustainable pattern of development that improves the environment, supporting rural settlements with local services; paragraphs 135 and 174 in terms of recognising the intrinsic character and beauty of the countryside; paragraph 180 in terms of biodiversity; and Framework paragraphs 115, 116 and 135 in terms of requiring development to create safe places that do not have an unacceptable impact on highway safety.
46. The development would cause harm by projecting into, and having an urbanising effect upon, land designated as open countryside that contributes to the attractive rural setting of Barby. I afford that harm substantial weight. Furthermore, social and environmental harm would result due to the heightened risk of conflicts between pedestrians, cyclists, and vehicles, detrimental to highways safety.
47. The development plan contains policies to facilitate the delivery of housing, which could include appropriately located self-build plots. Furthermore, the development plan policies do not represent a blanket ban on new housing in the rural areas and there is no dispute that the Council can currently demonstrate a deliverable supply of housing of more than 5 years. As such, I give significant weight to the above identified conflicts with the Framework and relevant development plan policies with regards to the Council's spatial strategy, character and appearance, biodiversity and highways safety.
48. Whilst the Framework aims to significantly boost the supply of housing to address the needs of groups with specific housing requirements, when read as a whole, the Framework does not suggest this should happen at the expense of other considerations. Therefore, given the harms identified, even if a legal mechanism was before me that secured the development as a self-build dwelling that would be affordable and/or meet an identified local need, the adverse impacts of granting planning permission in terms of harms to character, appearance and highways safety would significantly and demonstrably outweigh the identified benefits when considered against the policies of the Framework taken as a whole.
49. The proposal would conflict with the development plan when read as a whole and there are no other considerations that outweigh that identified conflict. Even if the development was secured through a legal agreement as a self-build dwelling that would be affordable and/or meet an identified local need, the consequent policy support and increased weight afforded in favour of the

proposal, including by virtue of its contribution to meeting the Council's duty under Section 2A of the Act, would not be sufficient to outweigh the identified conflicts with the development plan with regards to character, appearance, biodiversity and highways safety.

Conclusion

50. For the reasons set out above, and having had regard to all other matters raised, the appeal is dismissed.

S D Castle

INSPECTOR