



Appeal Decision

Site visit made on 6 March 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/J3720/W/23/3314541

Land west of Avon Dassett Road, Fenny Compton CV47 2FW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Hamlin Estates against the decision of Stratford-on-Avon District Council.
 - The application Ref is 21/03339/OUT.
 - The development proposed is the erection of 4 no Custom and Self-Build Houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with only access sought for approval. I have therefore had regard to the submitted drawings on an indicative basis in so far as they relate to the matters reserved matters.
3. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. Both parties have had an opportunity to comment on the revised Framework and so have not been prejudiced by this change. I have thus had regard to the latest version of the Framework in determining this appeal.
4. Since the determination of the planning application, the Fenny Compton Neighbourhood Development Plan 2021-2031 (NDP) has been made and therefore carries full weight in the determination of the appeal. The appellant has had the opportunity to comment on the relevance of policies contained in the NDP referred to by the Council in their submissions.
5. A signed Unilateral Undertaking (UU), pursuant to Section 106 of the Town and Country Planning Act 1990, has been submitted during the appeal. The UU, which would take effect should planning permission be granted, would secure the dwellings as self-build units, as well as a financial contribution towards highway works.
6. The third refusal reason relates to highway safety. However, the Council has confirmed in its appeal statement that this could be overcome by highway improvement works, that could be secured by the UU should the appeal be allowed. Accordingly, matters relating to highway safety should not form a main issue of the appeal.
7. Several emerging policies in the Site Allocations Plan (June 2022), have been highlighted by the parties as relevant to the appeal proposal. However, I am

not aware of any outstanding objections to the policies referred to and given the early stage of the plan these policies are of limited weight.

Main Issues

8. The main issues are the effect of the proposed development on:

- the character and appearance of the area, including the setting of the Fenny Compton Conservation Area, the Ironstone Hill Special Landscape Area and the significance of the ridge and furrow field form as a non-designated heritage asset; and
- whether the development would preserve the setting of Rectory Farmhouse, a Grade II listed building.

Reasons

Character and appearance

9. The appeal site comprises an area of open agricultural land beyond the main built-up area of Fenny Compton and is immediately outside the Fenny Compton Conservation Area (the CA). The significance of the CA is derived in part from the buildings within the village which comprise of a range of styles and ages, including several buildings of architectural and historic importance. The site forms part of a larger network of fields which extend beyond the appeal site and provide an important contribution to the rural character of the surrounding area and rural qualities of the edge of the settlement. The rural character and undeveloped nature of the appeal site makes a positive contribution to the setting of the CA. The relationship between the village and its agricultural setting, including views out of the CA towards the surrounding open countryside, also contribute to the significance of the CA.
10. The site is located within the Ironstone Hill Special Landscape Area (SLA). Such areas are defined as comprising of a rolling landscape dominated by arable land with pockets of permanent pasture with ridge and furrow. The nature and appearance of the appeal site and its surroundings accord with these characteristics. Views across the site are also identified as a 'valued vista' in Figure 20 of the NP. They form part of the green vista, which looks directly at the ridge of the Burton Dassett Hills and picks up Fenny Compton Hill, Gredenton Hill Fort, the Beacon, Magpie Hill, and the edge of Northend village.
11. The indicative site layout shows that the proposed dwellings would be arranged in a linear form fronting Avon Dassett Road, separated from the rear boundaries of the neighbouring residential properties by a small parcel of intervening land. While the final layout, and details of scale and appearance are not before me, the proposal would nonetheless extend the developed area of the settlement beyond the extent of the built-up form of the village into the open countryside.
12. The visual impact of the proposed dwellings, including the associated access, parking and other residential paraphernalia, upon the rural appearance of the site would be considerable. Moreover, the development would be visible on the approach to the village from where it would appear as a dominant urban feature that would contrast markedly with the open fields that adjoin it.

13. I note the appellants assertion that the proposed development would not extend the built-up area of Fenny Compton any further south than the existing development on this edge of the settlement. However, the land on the opposite side of the road, which comprises an enclosed mature garden and associated incidental outbuildings, is sympathetic to the rural character of the area and would not justify the proposed visual incursion that would arise because of the appeal proposal.
14. Consequently, the proposed development would appear as an anomalous feature within the otherwise open context of the agricultural setting of the village. Moreover, it would extend the built development into the open countryside, where it would be seen both in views towards the village and outwards from it towards the open countryside beyond, which would significantly diminish the rural character of the appeal site and the contribution it makes to the character and appearance of the area, including the setting of the CA, and the SLA.
15. The site comprises a ridge and furrow field form, the presence of which is an important component of the wider landscape of which the site, together with the surrounding agricultural land, forms part. The feature is a non-designated heritage asset (NDHA), the significance of which is derived from its role in medieval arable farming practices. It contributes significantly to the rural character and appearance and the understanding of the area. The Framework requires at Paragraph 209 that the effect of an application on the significance of a NDHA should be taken into account in determining an application and requires a balanced judgment having regard to the scale of any harm or loss and the significance of the asset.
16. My attention is drawn to an appeal decision at Land at Oakley Farm, Cheltenham¹ where the Inspector found the ridge and furrow to be of a low significance due to it being a fairly common feature in the area. However, the precise details of the case are not before me that I may be able to draw comparisons with the appeal scheme such that my conclusions thereon may change. In any case, each development proposal is to be considered on its own merits.
17. While the appeal proposal would affect only a modest proportion of the wider parcel of ridge and furrow, it would nonetheless result in the irreparable loss of the historic landform in this location, which would have a moderate effect on the significance of the NDHA.
18. For the foregoing reasons, the proposal would harm the character and appearance of the area, including the significance of the CA arising from harm to its setting which is derived from the rural landscape in which it sits. Accordingly, it would fail to preserve or enhance the character of the CA. However, this harm is less than substantial in the Framework's terms, as it relates to only a small part of the setting of the CA. In accordance with advice in the Framework, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, I will consider this matter later. The proposal would also have a harmful effect on the distinctive character and appearance of the SLA and the significance of the NDHA.

¹ APP/B1605/W/21/3273053

19. For the foregoing reasons, the proposed development would conflict with Policy CS.5 of the Stratford-on-Avon District Core Strategy 2011-2031 (CS) which among other things seeks to maintain the landscape character and quality by ensuring new development takes place in a manner that minimises and mitigates its impact, and the high quality design aims of Policy CS.9 of the CS that, among other things, require development to enhance the sense of place, reflecting the character and distinctiveness of the locality. The proposal would also fail to accord with Policy CS.8 of the CS which sets out that the historic environment will be protected and enhanced and CS.12 of the CS which seeks to protect the high landscape quality of the SLA, by resisting development proposals that would have a harmful effect on their distinctive character and appearance.
20. The proposal would also conflict with Policy NA1 of the NDP which requires development proposals falling within the scope of specific vistas to demonstrate how they have regard to, are appropriate to, and are designed to integrate with the topography and the distinct character of the vista landscape, having particular regard to impacts on the settings of heritage assets, village approaches and settlement edges, and Policy HE1 of the NDP which requires development proposals that affect a heritage asset and/or its setting, to assess and address their impacts and any mitigation in accordance with NPPF requirements and demonstrate how they will conserve or enhance the historic environment.

Setting of the listed building

21. The appeal site is close to Rectory Farmhouse, an attractive Grade II listed building (LB). The significance of the LB is informed by its architectural and historic interest as a building dating back to the early 18th century. The LB is experienced within the setting of the residential development within Grants Close. In addition, due to its proximity and functional relationship with the LB, the surrounding agricultural land, of which the appeal site forms part, also contributes to its setting.
22. The proposed development would result in the loss of part of the agricultural land close to the LB, this would diminish the setting of the LB and the contribution that it makes to its significance. I therefore conclude that the proposal would fail to preserve the setting of the LB and its significance as a heritage asset. The harm caused would be less than substantial, which, as set out in the Framework, should be weighed against the public benefits of the proposal. I shall return to this matter later.
23. In light of the above considerations, I therefore find that the proposal would be contrary to Policy CS.8 of the CS which, among other things, seeks to protect and enhance the district's historic environment for its inherent value and for the enjoyment of present and future residents and visitors. It would also conflict with Policy HE1 of the NDP which sets out that development proposals should demonstrate how they will conserve or enhance the historic environment.

Planning Balance

24. The proposal would extend the built form of the settlement into an area of open countryside, which, for the reasons set out, would cause harm to the character and appearance of the area, the SLA, and the significance of the

ridge and furrow as a NDHA. Furthermore, I have found that the proposal would result in harm to the significance of the CA arising from development in its setting, and would fail to preserve the setting of the LB. The Framework sets out that any harm to, or loss of, the significance of a designated heritage asset requires clear and convincing justification. In terms of the Framework, the harm would be less than substantial, but would nevertheless be of considerable importance and weight.

25. The Self-build and Custom Housebuilding Act 2015 places a statutory duty on the Council to keep a register of individuals and associations of individuals who wish to acquire serviced plots of land to bring forward self-build and custom housebuilding projects, to which it is required to have regard and to give enough suitable development permissions to meet the identified demand. The Planning Practice Guidance (PPG) recognises the benefits of self-build and custom housebuilding (SBCH) which it sets out helps diversify the housing market and increase customer choice. The Framework also supports the delivery of a variety of land coming forward, including small sites, to meet the needs of groups with specific housing requirements, including for those people wishing to commission or build their own homes.
26. The scheme would provide 4 SBCH units. Notwithstanding the absence of an identified need for SBCH in the NDP, there is an acknowledged shortage of such provision in the district. The Council's Self-build and Custom-build (SCB) Housing Demand & Supply Position on 31 October 2022, dated January 2023, sets out that there is a substantial shortfall between demand and supply of SBCH dwellings. Evidence indicates that, while the supply of SBCH has increased year on year, demand for plots continues to grow at a seemingly faster rate, which means there is likely to remain a considerable gap between supply and demand. In such circumstances, the fact that the proposed development would deliver 4 SBCH units is a clear public benefit which attracts significant weight.
27. My attention is drawn to the support for the provision of SBCH development on sites not allocated for such development which are adjacent to built-up area boundaries at local service villages, set out in Policies SAP3, SAP5 and SAP6 of the emerging Site Allocations Plan. However, given the early stage of the plan I can only attribute these policies limited weight.
28. There is no dispute that the CS does not contain policies that directly address SBCH. The appellant therefore suggests that, given the lack of specific policies relating to SBCH, paragraph 11 d) of the Framework is therefore engaged. Nonetheless, there are policies in the CS which are clearly relevant to the appeal proposal, including Policies CS.5, CS.8 CS.9 and CS.12, referred to in the Council's refusal reasons. Collectively, these policies seek high quality design, including character and distinctiveness, landscape quality, and heritage assets. They are consistent with the aims of the Framework, including conserving and enhancing the natural environment, recognising the intrinsic character and beauty of the countryside, including landscape setting, and the need to conserve and enhance heritage assets as an irreplaceable resource. Therefore, this is not a situation where there are no relevant development plan policies and as such paragraph 11 d) does not fall to be considered on this basis.

29. The proposal would accord with the aims of the Framework which recognise the contribution small sites, which are often built out relatively quickly, can make to meeting the housing requirement for an area, and that opportunities should be sought to support such sites for SBCH, in order to promote the development of a good mix of sites. Furthermore, the provision of 3 and 4 bedroom SBCH properties could meet the needs for both families and those looking to downsize, in a location where future occupiers would have access by means other than the private car, to services and facilities within Fenny Compton. There would also be economic benefits both during construction and in the future, albeit these would be modest given the small scale of the development.
30. While I note the appellant's willingness to install an interpretive board to explain the relevance of the ridge and furrow and the nearby hillfort, this would attract limited weight in favour of the proposal.
31. The appellant contends that the proposed highway works would have benefits to the wider community in terms of road safety. Even if these were welcomed by some interested parties, there is no compelling evidence that the existing situation is inherently unsafe. I therefore attribute this limited weight.
32. In combination these public benefits carry substantial weight. Such benefits are to be weighed against the harm to heritage assets that would arise from the proposal. That is a matter of considerable importance and weight, and the Framework indicates that great weight should be given to the conservation of designated heritage assets. In this context, the weight of the public benefits of the proposed development would not be sufficient to outweigh the harm to the significance of the heritage assets in this case.

Other Matters

33. Reference has been made by the appellant to a number of appeal decisions which were allowed. The site at Land at St Peters Street, Caxton² differs to the proposal before me in terms of its effects on heritage assets and landscape. The Inspector found that the development in that case would preserve the setting of the nearby heritage assets and would not harm the character and appearance of the countryside and subsequently concluded that the harm arising from the development, in terms of the conflict with relevant policies, was outweighed by the combined weight of its benefits.
34. The appeal at Killingdown Farm, Little Green Lane³, which was not for SBCH, was for a much larger development, where the Council was unable to demonstrate a 5 year supply of deliverable housing land. In that case the Inspector found that, notwithstanding some conflict with certain policies, the proposal would comply with the development plan as a whole and should be approved. As these schemes differ from the appeal proposal in terms of nature, scale and/or site context, from the evidence before me, they do not appear to be directly comparable, as such the weight to be attached to these is limited.
35. I appreciate that my approach differs to that of the Inspector in the appeal at Land to the Rear of Barlwych Cottage, Hill Furze, Fladbury⁴ where it was considered that paragraph 11 d) of the Framework was relevant as the Council did not have adopted policies regulating the provision of SBCH. However,

² APP/W0530/W/21/3282234

³ APP/P1940/W/21/3280443

⁴ APP/H1840/W/20/3257218

having regard to the evidence before me now, and the particular circumstances of the case, I have found that this policy does not apply here.

36. The appellant contends that Historic England raised no objection to the development on heritage grounds, however, even in the absence of an objection, this does not lead me to another conclusion, given the harm I have found.
37. I note the appellant's comments regarding the way in which the application was considered by the Council, in particular the alleged lack of specialist advice from internal consultees, however this is not determinative in my consideration of the appeal.
38. There have been a number of representations about various other matters but, as I am dismissing the appeal, no adverse impacts in those regards would arise from my decision.

Conclusion

39. The proposal would offer significant benefits in terms of SBCH where there is an identified undersupply. Set against this, I have found that the development would adversely affect the character and appearance of the area, including the high landscape quality of the SLA. It would also cause harm to the setting of the CA and LB as heritage assets, and the NDHA itself, to which I attribute significant weight. When taken all together the proposal would fail to accord with the development plan as a whole. Moreover, material considerations, including benefits of the scheme in terms of the provision of SBCH units, are of insufficient weight to justify granting planning permission contrary to development plan policies.
40. for the foregoing reasons, I conclude the appeal should be dismissed.

E Worley

INSPECTOR