



Appeal Decision

Site visit made on 3 June 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2024

Appeal Ref: APP/J3720/W/23/3336035

Land to the northeast of Banbury Road, Gaydon, Warwickshire CV35 0HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Lone Star Land Limited against the decision of Stratford-on-Avon District Council.
 - The application Ref is 22/03728/PIP.
 - The development proposed is Permission in Principle for the Residential Development of land for four Self and Custom Build Dwellings.
-

Decision

1. The appeal is allowed, and permission in principle is granted for the Residential Development of land for four Self and Custom Build Dwellings at land to the northeast of Banbury Road, Gaydon, CV35 0HQ in accordance with the terms of the application, Ref 22/03728/PIP.

Preliminary Matters

2. The appeal seeks permission in principle. This consent route has 2 stages. The first establishes whether a site is suitable in principle for development and the second is for detailed assessment of the proposals. This appeal relates to the first stage, so the scope of considerations is limited to location, land use and the amount of development proposed. It is undisputed that the site would accord with matters of 'amount of development proposed'. As such, I shall focus on matters of location and land use alone and have determined the appeal accordingly.
3. The Council's Draft Site Allocation Plan (DSAP) has been subject to Regulation 18 consultation, but I understand has not yet been submitted for examination. The National planning Policy Framework (The Framework) explains, at paragraph 48, that weight can be afforded to emerging policies based on the stage of preparation of the plan, the extent of unresolved objections to a policy and the degree of consistency with the Framework.
4. DSAP policies SAP.6 (Meeting Self-build and Custom housebuilding needs) and SAP.7 (Built-up boundaries) have been identified as relevant to this proposal. These policies support the provision of such development on unallocated sites that are adjacent to the built-up boundaries of Local Service Villages. However, due to the stage of the Plan's adoption, I have afforded only limited weight to these policies.

Main Issue

5. The main issue is whether the appeal site is an acceptable location and land use for housing having regard to local and national policies.

Reasons

6. The Stratford-on-Avon Core Strategy [2016] (CS) establishes the Council's spatial housing strategy. CS policy CS.15 identifies that the distribution of development is based on a balanced dispersal with Stratford-upon-Avon and Main Rural Centres accommodating most new development. Beneath these, Local Services Villages are considered suitable for restricted housing as specified in CS policy CS.16. The supporting commentary to CS policy CS.15 explains that Local Service Villages (or Centres) have been assessed and placed within one of four categories based on the range of services available to each centre. In all other (smaller) settlements, development is restricted to small-scale community led schemes which meet a local need.
7. Gaydon, is classed as a category 4 settlement, where only a limited range of goods and services are available. CS policy CS.16 establishes the numerical distribution of housing across the district with category 4 settlements receiving 400 dwellings within their boundaries, with no more than 8% being delivered on any individual site.
8. CS policy AS.10 relates to development outside the built-up areas of settlement boundaries, and to development in the countryside and small villages. This policy seeks to maintain the vitality of rural communities and a strong rural economy, through making provision for a range of activities and development in the rural parts of the district. For new residential development the policy would support community led, small-scale housing schemes within the boundary of Local Service Villages (criteria a and b). In the open countryside, residential development is confined to a closed list of residential activity, none of which the proposal would comply with (criteria c-j).
9. The site is outside a settlement boundary, adjacent to a small village. It is adjacent to a row of linear development which forms part of the settlement. Cottage Farm and its associated businesses and the Showman Event Support business (behind Cottage Farm) are adjacent to the other side of the site. However, the farmhouse and rural businesses are of substantially different character to the noted formal edge of the settlement and as such the site is deemed to be in the open countryside for policy purposes. The site is not isolated as it is next to existing houses, but it is not particularly well located for access to services and facilities, due to the category level of Gaydon.
10. As the appeal site is outside the settlement boundary it would conflict with the Council's spatial housing policies. As such, the proposed development would be an unsuitable location for residential development and would therefore conflict with CS Policies CS.1, CS.15, CS.16 and AS.10 and the Framework. These require, when taken together, that development should be located so that it contributes towards the maintenance of sustainable communities within the district and for development to offer access to sustainable travel.

Other Matters

11. The proposal is described as a self-build project. The Self-Build and Custom Housebuilding Act 2015 (the Act) requires local planning authorities to establish

and publicise a register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. Section 2A, of the Act, requires a local authority to grant sufficient self-build permissions to be in keeping with local need as set out on the self-build or custom housing (SBCH) register.

12. The CS does not include any SBCH related policies and due to this inconsistency, the Framework is an important material consideration on this matter. Paragraph 70(b), of the Framework, supports small sites to come forward for self-build and custom-build housing. The Framework also supports the delivery of a variety of land coming forward to meet the needs of groups with specific housing requirements including for those people wishing to commission or build their own homes. The benefits of SBCH are recognised by the Planning Practice Guidance (PPG) finding that it helps to diversify the housing market and increase customer choice.
13. As indicated by the Council's self-build register, there is a shortfall of available plots for self-build and custom house building. Therefore, based on the submitted evidence I conclude that the Council is failing to meet its statutory duty with respect to the delivery of plots for SBCH dwellings.
14. The PPG is clear that at the permission in principle (PIP) stage it is not possible to secure a planning obligation or to impose conditions. Nonetheless, the Council could adequately secure this type of housing at the TDC stage to ensure that the initial owners would have primary input into the final design and layout of the dwellings.
15. Furthermore, Section 2A(5) of the Act defines 'development permission' as both planning permission or permission in principle, demonstrating that SCBH can be delivered through the PIP route. The description of development would limit the occupancy of the building to SBCH tenancy. The PPG, and the 1990 Act¹ advise that the technical details consent must be in accordance with the relevant PIP. As such, a subsequent TDC to this PIP would need to demonstrate how it would deliver the SBCH to be approved. This requirement could be secured by a suitable legal mechanism. This would guarantee the site's delivery for the specialist type of housing. As such, this site would assist the Council in its delivery of SBCH sites and help address its existing shortfall. Accordingly, the benefit of the proposed delivery of SBCH is attributed substantial weight in the planning balance.
16. The Council has submitted several appeal decisions that have found that a planning obligation cannot be applied to a PIP and thus could not secure the required self-build housing. However, I have found the Appellant's evidence and legal advice to be compelling and this aligns with the guidance and requirements of the Act. Furthermore, each case must be considered on its own merits and the full details of the submitted appeal decisions is not in evidence to enable me to draw any clear comparisons to this appeal.

Planning Balance and Conclusion

17. The Framework seeks to boost the supply of housing. It also seeks to promote walking, cycling and public transport and for the planning system to actively manage patterns of growth in support of these objectives. The proposal would

¹ 1990 Town and Country Planning Act, section 70(2), 2ZZA

result in harm to the Council's spatial housing policies and therefore conflict with CS Policies CS.1, CS.15, CS.16 and AS.10.

18. In contrast, the proposal would deliver 4 self-build dwellings that would assist in the provision of housing in the area. The site is adjacent to a settlement boundary, which is served by a footway and would provide a natural extension to the village and offer connectivity benefits to future occupiers. The proposed dwellings could be delivered relatively quickly, making a rapid positive contribution to the local supply of housing in the area. Despite the Council's ability to demonstrate it has a 5-year supply of housing this weighs in favour of the scheme. The proposal would deliver economic benefits both during and post construction and would provide some social benefits. These benefits weigh in favour of the proposal and demonstrate that the proposal would accord with the Framework when taken as a whole.
19. The conflict with the development plan is reduced to modest only, as the identified policies are silent with respect to the provision of SBCH and do not account for the statutory duty to provide such housing. The importance of this type of housing, as established by the Framework, is clear. As such, the benefits of the proposal, with particular merit afforded to SBCH, would outweigh the moderate weight afforded to the conflict with the development plan.
20. Accordingly, the appeal is allowed and permission in principle is granted.

Ben Plenty

INSPECTOR