



Appeal Decision

Site visit made on 4 June 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2024

Appeal Ref: APP/W2845/W/23/3334513

Land to the east of Portway, Aynho, OX17 3AP

- 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 Lone Star Land against the decision of West Northamptonshire Council.
 - The application Ref is WNS/2022/1391/OUT.
 - The development proposed is the erection of a single Self and Custom Build Dwelling and associated infrastructure (all matters reserved except for access) at land to the East of Portway, Aynho.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is in outline form with only 'access' to be considered along with the principle of development. All other matters are reserved for subsequent consideration.
3. The appeal documents include a draft (signed but undated) Section 106 Unilateral Undertaking (UU) to the Council which in general terms seeks to limit the construction and subsequent occupation of the dwelling, if permitted, to a Self and Custom Build dwelling for occupation by a person with a Local Connection as defined in the UU.

Main Issues

4. The main issues are:
 - Whether the proposal meets the requirements of Policy LH5 of the Council Local Plan part 2 in respect of custom and self-build housing;
 - The effect on the character and appearance of the area;
 - Whether the need and supply for 'self and custom' housing provides overriding justification; and
 - Whether there is a legal mechanism in place to ensure that the intended occupiers of the dwelling meet the 'Local Connection Test' applicable to such housing.

Reasons

5. The appeal site forms part of an open field currently growing a cereal crop which lies on the eastern side of Portway, a local road which encloses residential development to the west. To the north of the appeal site runs a hedgerow with mature trees and a public right of way/footpath and a sportsground with a small pavilion at one side and some childrens' play equipment. The appeal site and surrounding land form part of a Limestone Plateau area as set out in the Landscape Character Assessment. It is proposed to erect a Self and Custom Build Dwelling. The appeal scheme includes a 'Plot Passport' designed to provide guidance on design matters at detailed stage if the principle of development is acceptable.

Policy context

6. It is clear from the detailed references to the development plan policies raised by the parties that the appeal site lies outside of the defined settlement boundary for Aynho and in the open countryside. The principle of the erection of a dwelling here would normally be contrary to the strategy set out in Policies R1 and LH1 of the South Northamptonshire Part 2 Local Plan.
7. However there are a number of exemptions set out in Policy LH1 and Policy LH5 deals with 'Self and Custom Built Homes'. Further, the policy is subject to a number of criteria including that the site must be 'immediately adjoining' the confines of a defined service centre or village. Aynho is a recognised village.

Whether immediately adjoining the settlement

8. Locally the existing edge of the built up area of the village is Portway and there is a fundamentally different character between the residential form of the housing development along the west of this road and around Portway Gardens compared to the open field which includes the appeal site and the mainly open recreational ground adjacent to it. Although the narrow end of the appeal site contains a limited frontage to the Portway the overall extent of the site lies well away from the built-up part of the village. There would not be a visual or functional relationship with a two storey house here and the established built-up area of the village.
9. Having regard to the visual and physical nature of the site and its wider surroundings I find that it does not lie immediately adjacent to the confines of the village. Rather a single dwelling here would be a clear intrusion into the rural landscape of the Limestone Plateau rather than complement or be a natural extension of the confines of the village.
10. In terms of the access to the site I note that the Highway Authority did not raise objection to the application and I considered at the visit that the visibility spays could be formed without having much effect on the mature roadside hedge.
11. I have had regard to the planning permission for a self and custom build dwelling at Greens Norton as referred to by the appellant/agent where he says that this plot does not abut the settlement confines. However, from the information provided it appears to me that that settlement boundary has a 'dog-leg' near this point and while the site appears to have a

frontage opposite the boundary line the eastern edge of the site is about a plot width away from the north-south element of the boundary line. Moreover the approved plan appears to show that there is a dwelling on this land (as indicated as No.18). I am therefore not surprised that the Council concluded that that site was contiguous with the village and fitted in with the existing grain of development. These circumstances are quite different to those applying to the current appeal scheme.

12. I conclude on this issue that the appeal proposal does not lie immediately adjoining a defined village and does not meet the criteria set out in Policy LH5.

Effect on character and appearance

13. The appeal site is generally well screened by existing vegetation along Portway but there is an extensive view from the access to the site over the wider field on the plateau land to the enclosing woodland. The adjacent sports field is also characterised by an open and well landscaped setting.
14. In the general context of self or custom build housing I recognise that by definition an acceptable self or custom build unit would be likely to have some visual impact beyond the confines of a settlement. However, in this case I find the change to the present landscape form to be significant and harmful. The visual impact of a new dwelling here would likely be very prominent to the local area in views around the junction with Portway Gardens, the entrance to the recreation ground and from the public footpath and it would be very much at odds with the present rural landscape character. While I note that the field that includes the appeal site is not classed as 'important open land' in the Aynho Village Design Guide or Conservation Area Appraisal, it does contribute to the landscape setting of the village in a positive way.
15. On this basis the proposal does not accord with Policy R1 of the Core Strategy Local Plan (Part 1) as it would be harmful to open land which is particularly significant to the form and character of the village.

Need and supply of sites

16. The Council refers to its annual monitoring report on Self Build and Custom build (January 2023). Within this the aggregate number of people on the Register of people seeking such plots within the (reorganised) district are set out by year since 2016 and are compared to the number of plots granted planning permission for custom and self-build in each base period. In each year bar one the supply exceeds the 'demand' and in the year with a shortfall (2019-2020) the deficiency is very small (at four units) and possibly reflects the temporary changes brought about by the Covid restrictions applying about that time. On the face of it the Council's evidence demonstrates an adequate supply of sites to meet the demand indicated in the Register.
17. The appellant's agent contests that every small planning permission granted should count as a serviced plot and also highlights that there is double counting such as with separate entries for 'outline permission' and 'reserved matters' relating to the same site. Moreover, it is not clear to me which of the permissions referred to by the Council have been

assessed as exceptions under policy LH5 and have a legal agreement in place to ensure that the development is restricted to someone with a local connection as per the policy.

18. This doubt restricts the weight that I can place on the Council's assessment and I find on the evidence put forward that it is more likely that there is an undersupply of self-build housing plots at the moment.

Appropriate legal mechanism.

19. The terms of the Section 106 UU put forward by the appellant have been agreed with the Council and would normally satisfy the tests of having a 'local connection' and other occupational requirements set out in Policy LH5. However, I cannot give the UU full weight at the moment as it is not dated and therefore not properly executed. The second reason for refusal therefore remains outstanding.

Other Matters

20. One of the objections to the development put forward by Aynho Parish Council is that the proposed dwelling will have a negative impact on views of St Michael's Church from the public footpath but I was not able to see this particular view at my site visit. Perhaps the vegetation has grown up and come into leaf since the submitted photograph was taken. Other residents raise concern about additional traffic generation but I note that the highway authority does not object to the proposal and I concluded at the visit that the access would have adequate visibility and the extra traffic arising from a single dwelling would not have a severe effect on the highway network. Concerns are also raised about the effect on wildlife but there is insufficient evidence before me to consider this aspect as a determinative issue.

Planning balance

21. On the main issues I have found that in the circumstances of the site the proposed dwelling would not immediately adjoin the existing built-up edge and confines of the village and as such would be beyond the scope of policy LH5 in favour of self and custom built homes. The proposal for a two storey dwelling would also be a visual and physical intrusion into an important open area which contributes positively to the rural setting of Aynho. In addition there is also not an appropriate mechanism in place to secure a local connection although this aspect could be rectified with a properly endorsed UU if the principle of development had been acceptable.
22. I find that the proposal conflicts with the relevant parts of the development plan on the strategy for new housing development.
23. This has to be balanced with other considerations. In particular I have found that it has not been established that the Council can demonstrate an adequate supply of sites for custom and self-build homes at the moment to meet the local demand for such housing. However even if I were to give this aspect significant weight I find that it does not outweigh the conflict with the development plan and the local environmental harm that would arise and which would have an adverse effect on the village in the long term.

24. Although there could be a small economic benefit locally from the construction phase and subsequent occupation of the dwelling, as well as an opportunity for a small gain in biodiversity, overall the proposal would not result in an acceptable form of sustainable development as set out in the National Planning Policy Framework (the Framework).
25. The proposal would conflict with the Framework and the development plan when both are read as a whole and this conflict is not outweighed by any other consideration. This indicates that the appeal should not be allowed.

Conclusion

26. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR