



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: 26 June 2024

Appeal Ref: APP/W2845/W/23/3332733

Land West of Farthinghoe Road, Hinton in the Hedges, Northamptonshire, NN13 5NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kear Fuller against the decision of West Northamptonshire Council.
 - The application Ref is WNS/2022/2302/FUL.
 - The development proposed is the erection of a new self-build residential unit.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A draft (signed but undated) Section 106 Obligation/Undertaking involving the relevant parties is submitted with the appeal documents. In general terms the draft Obligation covenants that the owner will carry out the development in accordance with the Council's 'self-build and custom housebuilding' policy and have a 'Local Connection' as defined in the policy. I have had regard to this draft in the fourth main issue below.

Main Issues

3. The main issues are:
 - Whether the proposal accords with the strategy in the development plan;
 - Whether the site 'immediately adjoins' a settlement;
 - Whether the need and supply of self-build and custom sites provides over-riding justification; and
 - Whether the proposed self-build unit would be constructed and occupied by a person with a Local Connection.

Reasons

Background

4. The appeal site comprises a rectangular area of land which lies on the edge of the village of Hinton-in-the-Hedges. Immediately to the west of the site and in the appellant's ownership are two large barns storing agricultural contracting farm machinery (the first allowed on appeal). It is proposed to erect a self-built dwelling in the form of a bungalow for the appellant who is seeking to downsize

from his larger house in the village and develop the farm and contracting business.

Policy context and development strategy

5. From the detailed policy aspects set out in the main parties' representations it is clear that in policy terms the appeal site lies in the countryside away from the recognised built up extent of the village. A new dwelling here would normally be considered to be in conflict with the strategy set out in Policy SS1 of the South Northamptonshire Local Plan (Part 2). However this policy also sets out a number of exceptions and the relevant one to this appeal is LH5 concerning Self and Custom Build Homes. This generally supports new units on sites 'immediately adjoining the confines' of service centres and villages including Hinton-in-the-Hedge. The critical issue in the appeal is whether the proposed site for the bungalow immediately adjoins the confines of the village.

Whether 'immediately adjoining'

6. At the site visit I noted the presence of the housing along Farthinghoe Road which forms the local confines of the village. The properties here tend to have large and well landscape gardens with a roadside hedge but nevertheless a domestic and suburban character prevails. The access to the appeal site leaves Farthinghoe Road at a point where the road makes a 90° bend and the gates to the site are set back from the frontage. The land to the east and north of the appeal site is large open fields interspersed with hedgerows and have no buildings and this is a clear rural landscape character to this neighbouring land. Even with the presence of the agricultural buildings to the west of the appeal site the other land in the appellant's ownership is an open meadow and the prevailing character is of undeveloped countryside. The appeal site would be almost wholly enclosed by other open land.
7. I find that based on the visual and physical character and juxtaposition of the confines of the village edge the bungalow proposed would not immediately adjoin it but would be an intrusion into open countryside.
8. The Council refers to the appeal site as being isolated in open countryside. In my view the site is not isolated in the meaning given in *Braintree*¹ but it is visually separated from the village and functionally it would appear to be more connected with the agricultural units than the established area of housing. I have taken account of the new house being erected at The Paddock further to the north along Farthinghoe Road but this appears to me to be a site immediately adjoining the village confines and would have accorded with Policy LH5.
9. The appellant refers to many other cases elsewhere and to Court decisions on the interpretation of the words 'adjoining' and 'immediately' which I have had regard to in forming my judgement on the facts of this case and I have given these words their ordinary meaning.
10. Overall on this issue I find that the proposed self-build bungalow would not meet the terms of Policy LH5 as it would not lie immediately adjoining the confines of Hinton-in-the-Hedges.

¹ Braintree District Council V SSCLG [2018] Civ 610

Need and supply of self and custom build housing

11. In terms of the need and supply of self and customer build sites the Council refers to its Annual Monitoring Report of 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 at 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.
12. The appellant's agent contests that every small planning permission granted should count as a serviced plot and supplies a legal opinion in support of this argument. Moreover, it is not clear to me which of these permissions 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.
13. This doubt restricts the weight that I can place on the Council's assessment and positive conclusion on the need for and supply of self-build housing plots.

Legal mechanism for securing Local Connection

14. Part S of Policy LH5 indicates that proposals for custom and self-build dwellings will have to demonstrate a local connection and the relevant part of the Council's Housing SPD indicates that an appropriate legal mechanisms for this would be a Section 106 Obligation. The draft Obligation submitted by the appellant would achieve this but I cannot give the one submitted full weight at the moment as it has not been dated and therefore properly executed.

Planning balance

15. On the main issues I have found that the proposal would not accord with the relevant part of the strategy set out in the development plan as it would conflict with the provisions of Policy LH5 for self-build and custom housing as the site of the bungalow would not immediately adjoin the confines of the village but would be an incursion into open countryside. Further in relation to the part of the policy concerning an appropriate legal mechanism regarding a local connection, the draft Obligation does not secure this. If the principle of the development had been otherwise acceptable the appeal decision could have been delayed subject to the Obligation being dated and executed but this additional work was not necessary.
16. The conflict with Policy LH5 has to be balanced with other considerations. I have concerns about the completeness of the Council's assessment of the need for and supply of self-build and custom sites as being too general regarding all small housing permissions. However even if I was to apply significant weight to this, that would not override the fundamental conclusion that a bungalow on the appeal site would not extend the settlement in a natural form but would be an intrusion into the countryside. The National Planning Policy Framework (the Framework) indicates in paragraph 180 (b) that planning decisions should

contribute to and enhance the natural and local environment by (*inter alia*) recognising the intrinsic character and beauty of the countryside.

17. I have taken account of the appellant's reasons for building a new property including his wish to continue to live locally and downsize from his present property. Nevertheless I find that the other considerations put forward do not outweigh the policy conflict that I have identified. I conclude that the conflict with the development plan and the Framework, when both documents are read as a whole, are not outweighed by any other consideration and this indicates that the appeal should not be allowed.

Conclusion

18. For the reasons given above the appeal should be dismissed.

David Murray

INSPECTOR