



Appeal Decision

Site visit made on 17 July 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/M2840/W/24/3341144

7 Home Close, Dingley, LE16 8QU

- 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 and Mrs Phillip Brown against the decision of North Northamptonshire Council.
 - The application Ref is NK/2023/0493.
 - The development proposed is detached dwelling house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the appeal site would be a suitable location for housing with regard to local and national policies;
 - The effect of the proposal on the character and appearance of the surrounding area;
 - The effect of the proposed development on the living conditions of the existing occupants of 6 Home Close (No.6) with particular regard to noise and disturbance;
 - Whether or not the proposed development would provide acceptable living conditions for future occupants with regard to privacy; and
 - Whether sufficient information has been provided regarding the effect of the proposed development on biodiversity.

Reasons

Location of housing

3. The appeal site forms part of the garden to the side of 7 Home Close (No.7), a detached dwelling in a small cul-de-sac of similar properties in the small village of Dingley. The proposal is for the erection of a two-storey, detached 3-bedroom dwelling with attached garage. Vehicular and pedestrian access would be off Harborough Road, not the cul-de-sac.
4. Policy 11 of the North Northamptonshire Joint Core Strategy 2011-2031¹ (the JCS) sets out the overarching spatial strategy for the distribution of

¹ Adopted July 2016

development based on the spatial roles of settlements listed in Table 1. Most development is to be focussed on Growth Towns such as Kettering and Market Towns such as Rothwell and Desborough. Villages will see some small scale development, and in the countryside development will be carefully managed. However, some small rural settlements with a dispersed built form may also be designated as open countryside where development will be limited.

5. The Council's spatial strategy and housing policies are in broad conformity with the aims of the Framework of promoting sustainable patterns of development and identifying opportunities for villages and other settlements to grow, supported by infrastructure and facilities, and in rural areas where it will enhance or maintain the vitality of communities.
6. Policy RS3 of the Kettering Site Specific Part 2 Local Plan² (the KSSP2) identifies Dingley as a 'Category C Village'. Due to their density and small number of dwellings such villages are considered scattered and dispersed in character and are not defined by a settlement boundary. Consequently, they are treated as being within the open countryside. Furthermore, due to their size and the limited range of facilities there are no allocations and no proposed growth, in order to maintain their scattered village designation. There is no dispute between the parties that Dingley is a scattered settlement in the open countryside.
7. KSSP2 Policy RS4 seeks to resist development in the open countryside unless one of three criteria are met. As the proposal is not for a replacement dwelling and does not involve the re-use of a redundant or disused building, then only the first criterion applies, namely that the proposal must meet the requirements of JCS Policies 13, 25 or 26.
8. JCS Policy 13 deals with development in the rural area as an exception to the spatial strategy set out in JCS Policy 11. As Dingley is defined as open countryside parts 2a) and b) of the Policy are relevant. However, the proposed dwelling is not of exceptional quality or innovative design and is not for a rural worker. Hence the proposal is contrary to Policy 13.
9. JCS Policy 25 deals with sustainable opportunities to develop and diversify the rural economy or support the ongoing viability of an existing business. The proposed dwelling is not put forward for any of the listed types of development and therefore does not comply with Policy 25. JCS Policy 26 allows sensitively located renewable and low carbon energy generation in the rural area as an exception. The proposal is not for this and is contrary to Policy 26.
10. As the proposal is none of the exceptions set out in JCS Policies 13, 25 and 26 it therefore follows that it would be contrary to KSSP2 Policy RS4.
11. I saw Dingley was a scattered settlement and had few facilities – a church, village hall and limited bus service along Harborough Road. Even if the site was an infill plot and within the physical confines of the built up limits of the village, Dingley is 'open countryside' for local plan policy purposes and, as described above, the proposal is not a rural exception. The proposal for a single dwelling would make little difference to the retention or provision of limited facilities in Dingley. To allow the dwelling would undermine the Council's spatial strategy for the location of housing in the rural area and villages such as Dingley. I am

² Adopted December 2021

mindful too that the Framework recognises that the planning system should be genuinely plan led. To develop the appeal site as proposed would also be at odds with, and would undermine public confidence in, the plan-led system.

12. The appeal site would therefore not be an appropriate location for development having regard to local and national planning policies. Accordingly, the appeal proposal would not accord with JCS Policies 13, 25 and 26 and SSP2 Policies RS3 and RS4 as set out above. The proposal would also be contrary to the Framework. It would be also contrary to JCS Policies 28 and 29 that reiterate that the distribution of new housing will be accommodated in line with the spatial strategy and with the housing requirements of the different parts of the Borough. KSSP2 Policy LOC1 states that settlement boundaries shown on the policies map will be used to interpret whether proposals are within or adjoining settlements. Being a Category C Village Dingley does not have a settlement boundary.
13. I acknowledge the appellant intends to move into the proposed dwelling so as to free-up No.7 for family members or others who want to stay in the village. However, there is no guarantee this would happen, nothing to ensure the dwelling would remain low cost and no proposed mechanism to secure the dwelling would be available for a local family. The appellant may well have retained the site as a building plot for a number of years and it may be easy to service, but this is of little relevance against the local and national housing policies that currently render the site an unsuitable location for housing.
14. Furthermore, from the submitted evidence the Council can demonstrate it has more than a 5-year supply of housing land. There is no substantive evidence before me to indicate a significant shortfall in the Council's housing supply or that there is a pressing need for 3-bedroom or 2-bedroom-with-office dwellings to justify a departure from policy. The appellant's environmental aspirations are laudable, such as solar gain, rainwater harvesting, installing energy-efficient lighting and other appliances, and using sustainably and locally sourced materials where possible. However, this is not uncommon these days and does not justify a departure from the development plan.

Character and appearance

15. Dingley is a village of broadly two halves separated by countryside. There is an older part comprising cottages located along Church Lane near Dingley Hall and the Church of All Saints. The more modern part of the village starts near the appeal site and is a linear arrangement of more modern housing either side of Harborough Road. Houses in this part of Dingley are on a broadly similar building line, fronting the road but set back from it with gardens and driveways. Despite variations in house design, there is a relatively uniform pattern of development and a spacious character and appearance to the village.
16. The appeal site is the side garden to No.7, which has a larger plot than others in Home Close and occupies a prominent location on the corner of Harborough Road and Braybrook Road. The dwellings in Home Close look inwards towards the cul-de-sac and hence present their rear gardens and mature landscaped boundaries to Harborough Road. The site is currently laid to lawn with a number of flower and vegetable beds. Being unbuilt, it acts as a transition between the linear built-up form of this part of Dingley and the verdant and broadly undeveloped section of Harborough Road that extends along the road

to the west before reaching the older part of the village at Church Lane. The appeal site hence positively contributes to the open character and appearance of the area.

17. The proposed two storey dwelling would be sited roughly in the centre of the plot, and the dwelling would face Harborough Road and be set back from it behind a driveway and parking area to the front. Despite a roof ridge line similar to adjacent dwellings, the proposed dwelling would be sited forward of the prevailing building lines of the existing dwellings No.6 and No.7. This would make the dwelling appear unduly prominent on this undeveloped corner and transitional location.
18. The retention of most of the brick boundary wall along Harborough Road, apart from the gap that would be created for the new vehicles access, and the hedgerow along Braybrook Road, would provide some degree of screening. I accept the proposal would not be an isolated form of development away from existing housing or involve an encroachment into adjacent fields, but its two storey form and siting would result in a development that would be out of character with the prevailing pattern of development and reduce the openness of this part of the village.
19. There are a mixture of house designs and styles in the village with brick and render and decorative front gables. The dwelling would have a simple dual pitched roof with the gable facing Braybrook Road. However, the small windows and a large solid to void ratio is not a prevailing characteristic of dwellings in the immediate vicinity and as a result the proposed dwelling would look out of keeping.
20. The proposed plans are annotated to show the dwelling would have a reconstituted blue-black slate roof and the attached garage would have a weathered orange pantile roof and a hipped roof. As a result the mismatch of roofing materials on the property itself would represent a poorly detailed dwelling on a prominent corner plot in the village that would be at odds with prevailing characteristics.
21. Drawing all the above points together I find the proposed dwelling would harm the prevailing character and appearance of the area. Accordingly, the proposal would be contrary to JCS Policy 8 and SSP2 Policy RS5. Collectively these seek, amongst other things, to ensure that development retains the village's open character and responds to the site's immediate and wider context and local character.

Living conditions of existing residents at No.6

22. The vehicular and pedestrian access to the proposed dwelling would be directly off Harborough Road through what is currently the back garden wall of No.7. As a result the access opening and driveway would be created immediately adjacent to the shared garden boundary with No.6. The driveway would lead to the proposed garage straight ahead and to a parking and turning area that would occupy the area in front of the proposed dwelling.
23. On my visit I was able to hear traffic noise from the nearby Harborough Road, and I accept that there is some degree of existing noise and disturbance from passing traffic. However, this is at some distance and is background noise. In contrast, the proposal would enable vehicular traffic, as well as attendant noise

and disturbance from idling engines, shunting and turning vehicles, car audio systems, voices and slamming doors, to be sited immediately adjacent to a boundary fence and garden area where residents should reasonably expect to be able to enjoy their garden. Even if residents are not in their garden, the proposal would still result in such noise and disturbance taking place close to the house itself and hence rooms of No.6, particular late at night or early in the morning. Moreover, there would be no restrictions on the days or times that occupants of the proposed dwelling would use the access and driveway.

24. The proposal would therefore introduce unpredictable and unacceptable noise and disturbance in close proximity to the garden and dwelling beyond what existing occupiers of No.6 could be reasonably expected to endure, and hence would harm their living conditions. An acoustic fence may help, but in the absence to any design details or specifications it would not, in my view, be adequate to overcome the general noise and disturbance from the overall comings and goings in close proximity to No.6.
25. Accordingly the proposal would be contrary to JCS Policy 8 that seeks to ensure quality of life and protecting amenity by ensuring development does not result in unacceptable impacts on the amenities of occupiers of neighbouring properties from, inter alia, noise.

Living condition of future residents

26. Part of the side garden of No.7 is currently overlooked by three, large, first floor windows at the rear of No.6, which appear to serve bedrooms. However, the garden of No.7 also extends beyond these overlooking windows and there is also an area of garden to the rear that backs onto Braybrook Road. This is an existing as-built arrangement, but means that existing occupants of No.7 have use of other parts of their garden such that privacy is not compromised.
27. In contrast, the proposal would see most of the side garden built on with the dwelling, garage and driveway. The only area of significant private garden for future residents would be a limited area to the rear of the proposed dwelling and garage, which would be overlooked by the bedroom windows of No.6.
28. Due to the angle of the boundary fence at this point, the distance from the bedroom windows to the boundary fence varies from about 7 metres at its closest, extending to about 14 metres. Future residents would be in line of sight of these large bedroom windows with no other areas of garden to retreat to, unlike existing occupiers of No.7. Whilst No.6 have some tall shrubs along part of the boundary, these are not within the control of the appellant or future occupiers.
29. Overall I consider that there would be an unacceptable degree of overlooking of the proposed garden area that would have a harmful effect on the privacy of future occupants. Accordingly the proposal would be contrary to JCS Policy 8 that seeks, amongst other things, to ensure development does not result in an unacceptable impact on the amenities of future occupiers by reason of overlooking.

Biodiversity

30. The Council is concerned that no information has been provided to demonstrate how the proposal would secure a biodiversity net gain (BNG), or at least no net loss of biodiversity.

31. The site is currently a garden and laid to grass with a number of well stocked flower and vegetable beds. The appellant could remove these at any time and landscape their garden in a different way. There is a hedge along the boundary with Braybrook Road and a tall brick wall along the boundary with Harborough Road.
32. Following the Environment Act 2021, the government announced that the requirement for at least 10% BNG came into effect on 12 February 2024, and applies to new planning applications regarding small sites from 2 April 2024. The application the subject of the appeal before me was determined before the 2 April 2024, therefore JCS Policy 4 and the Framework require that a net gain in biodiversity be sought.
33. The proposal would see a loss of the flower and vegetable beds as most of the site would be built on with the dwelling, garage and driveway. The submitted plans show that the existing boundary hedge along Braybrook Road would be retained and some new trees would be planted. However, no further biodiversity 'improvement' has been offered as part of the appeal, and there is no substantive evidence before me to demonstrate that there would be a net gain in biodiversity. In the absence of such, the proposal would be contrary to JCS Policy 4 and the Framework.

Other Matters

Listed buildings

34. The Council has indicated in its appeal documentation that the settings of nearby Grade I listed Dingley Hall³ and the Grade II* listed Church of All Saints⁴, Church Lane would be affected. Mindful of the statutory duty under section 66(1) of the Act, I have had special regard to the desirability of preserving their settings.
35. These buildings are located approximately 400 metres northwest of the site, in the older part of the village of Dingley along Church Lane (a private road). The Hall is a country house, now divided into dwellings/flats, and was originally a Pre-Reformation preceptory of the knights Hospitalers of St John and then a house for the Griffin family from 1550s until the late-18th century, and then for the Hungerford family. The Church dates from the 13th and 14th centuries and is located within a partly walled and secluded churchyard. It contains a number of monuments and tablets dedicated to the Griffin and Hungerford families. The Hall is set in extensive private landscaped grounds and the church is set within the enclosed and well-defined boundaries of the churchyard. I saw from the churchyard there were glimpses of the Hall, as well as some private access directly into the Hall's landscaped grounds.
36. In addition to the architectural and historic interests, group value and association, insofar as is pertinent to the appeal the special interest and significance of these assets is also derived from their immediate settings. Their wider setting is more limited as there is no intervisibility between the appeal site and the heritage assets due to the substantial separation distance and intervening topography and mature landscaping. Given the nature and extent

³ National Heritage List for England: list entry number 1294135 and known as "Flats 1, 2, 3, Porch House, Bell Tower, Cloisters, South Wing, Pediment Corner House and Tower House at Dingley Hall, Harborough Road."

⁴ National Heritage List for England: list entry number 1372349.

of the proposal, I consider that the settings of these designated heritage assets would be preserved, and their significance and special interests would not be harmed. Historic England and the Council have raised no concerns in this regard.

Third party representations

37. Occupants of 25 Harborough Road (No.25) on the other side of Braybrook Road, have concerns about being overlooked from the proposed dwelling. The west elevation of the proposed dwelling would face towards No.25 with two narrow first floor windows. One of these windows would serve an ensuite bathroom and the other would be a tertiary window to the largest bedroom, whose main window is on the rear/south elevation. Taking into account the narrowness of the proposed first floor windows, the oblique angle of view, the tall boundary hedges and solid gates around No.25, and the substantial separation distance there would be between the windows of the two dwellings, I am satisfied there would be no overlooking or loss of privacy to existing occupants of No.25.
38. The Parish Council has no objection. However, this does not diminish the harm that I have identified.

Conclusion

39. For the reasons given above, the appeal is dismissed.

K Stephens
INSPECTOR