



Appeal Decision

Site visit made on 30 December 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal Ref: APP/J3720/W/24/3349497

Rose Garden, The Tunnel, Farnborough OX17 1EH

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Neil and Sarah McNab against the decision of Stratford-on-Avon District Council.
 - The application reference is 24/00298/FUL.
 - The development proposed is described in the Application Form as 'to erect a new 1no. Self-Build Class C3 3-Bed Eco Dwellinghouse, Access, Landscaping and Associated Works on land at Rose Garden, The Tunnel, Farnborough OX17 1EH.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the Council's Decision Notice there is a reference to draft Policy SAP.6 of the emerging Revised Preferred Options Site Allocations Plan (SAP). In my application of paragraph 49 of the National Planning Policy Framework (the Framework), a plan at the preferred option stage is not at an advanced stage; is subject to further public and statutory consultation; and has not reached the point of being examined by an Inspector. The examination and further consultations and evidence discussed as part of the examination process could result in further changes, deletions and additions to emerging policies and accompanying text. Based upon this, the SAP would only attract limited weight.
3. I note that the both parties in their appeal documents reference the paragraphs of the National Planning Policy Framework 2023 (the Framework). Since the submission of the appeal, the 2023 version of the Framework has been superseded by the 2024 version which was published on the 12 December 2024. The wording of the relevant paragraphs of the new Framework remain unchanged from the 2023 version (except for new paragraph numbers) and therefore did not require to be reassessed by either party in relation to this appeal. I have considered the appeal on this basis and refer only to the updated 2024 Framework within my decision.

Application for costs

4. The appeal contains an application for costs which is made by the Appellant against Stratford-on-Avon District Council. This application is the subject of a separate decision.

Main issue

5. The main issue is whether the proposal would provide a suitable site for development, having regard to its location in conjunction with the Housing Strategy of the area.

Reasons

Site Description

6. The appeal site consists of an irregular shaped parcel of land that appears to be part of the larger gardens of Rose Cottage and has a separate access located along the A423. The A423 is a classified 'A' road which runs from Banbury to Southam and at the point of the appeal site, the road is travelling through land deemed to be outside any settlement boundary and within a countryside location. Whilst I appreciate comments that The Tunnel as a group of 3 dwellings could be classified as a settlement, it has no designated settlement boundary and so for the purposes of planning policy, the appeal site is within countryside. At the point of the beginning of the accessway to the appeal site, the A423 is a single carriageway in each direction with the speed limit of 50 miles per hour. To the north and south of the appeal site are detached dwellings, whereas opposite the road to the west and behind the site to the east are fields.

Housing Strategy

7. The Housing Strategy is guided by the Stratford-on-Avon Core Strategy (CS) Policy CS15 which seeks that all development should support a pattern of balanced dispersal in accordance with the distinctive character and function of sustainable locations across the district. The policy seeks that development be focussed towards the main town of Stratford-upon-Avon, Main Rural Centres, new settlements, local service centres, along with local service villages, large brownfield sites, all other settlements and local needs schemes. Additionally, the appeal site is part of the Fenny Compton Neighbourhood Plan (NP) where Policy DE2 seeks that housing is located within the built-up area of Fenny Compton as shown in the NP. Outside of these areas, development needs to comply with CS Policy AS.10 which contains a number of situations where a new dwelling may be appropriate within the countryside, such as a dwelling occupied for the rural economy, a community led scheme, or a dwelling in the open countryside which is of exceptional quality and design that makes a positive contribution to the area, amongst others.
8. Paragraph 83 of the Framework and relevant Case Law¹ shows that development in countryside locations can enhance or maintain the vitality of rural communities where they are suitably located, which may not only be associated with the closest settlement, but other settlements surrounding. The nearest settlement with services

¹ Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

for day-to-day needs to the appeal site is Fenny Compton, where the High Street of this settlement is approximately a kilometre away. Fenny Compton is a small settlement that is a Category 2 Local Service Village which has a public house, primary school, GP Surgery, Church, village hall and a supermarket. Despite this, the Council's planning policy does not place an emphasis or role on Fenny Compton in delivering housing with the area; however given that the area has a NP, The policy seeks a NP can provide the direction of growth in terms of housing. The NP does not provide support for housing at the appeal site and the Parish Council also objects to the scheme which illustrates that there is a lack of community need or support for the proposed scheme.

9. Having visited the site, I disagree with comments in the Planning Statement that the site provides alternative access arrangements to the private vehicle. It is clear that future residents would be dependant on the private car to access the appeal site. There are no footpaths on either side of the A-road, no nearby accessible bus stop, and vehicles are travelling at high speeds, particularly the curvature of the road near the appeal site means that pedestrians and cyclists would have great difficulty navigating access to and from the site. The locality lacks any street lighting so the appeal site would not be very navigable by persons with mobility impairments, pushchairs, or wheelchairs, amongst others. The lack of street lighting, levels of light during poor weather conditions and the need to navigate this road of 50 miles per hour would also be further reasons why the site would not be a suitable location which would offer genuine alternative access to the private vehicle.
10. I appreciate comments and suggested routes in the Appellant's Planning Statement, however suggested 'Route 1' which accesses Fenny Compton by road has the challenges identified above. The suggested 'Route 2' requires a future occupier to cross the A-road and walk along a canal towpath and Public Right of Way across fields with no street lighting or appropriate footpaths and would experience similar difficulties to Route 1 concerning cycling, and use by persons with mobility impairments, and pushchairs, amongst others. Whilst I appreciate comments that a bus stop is located at the Wharf Inn, which is 0.6 miles away, and more like a 10 minute walk as opposed to 5 minutes as stated in the Planning Statement, but the services are relatively infrequent with the accessibility to the bus stop difficult along a high speed road with no footpaths or street lighting. Whilst I appreciate that the proposed occupiers might work from home and not be as dependant upon local services, the assessment is made on the whole life of the dwelling and needs to consider future occupants who may have different needs and demands than the current proposed occupiers. That said, to allow new housing on an ad-hoc basis in other settlements with no services and facilities would undermine the Council's housing strategy for the location of housing to achieve sustainable patterns of development.

'Outstanding and innovative' considerations

11. I also note reference to CS Policy AS.10 which is akin to paragraph 139 of the Framework where the applicant seeks that the proposed scheme is 'truly outstanding or innovative' where such a scheme may be an exceptional circumstance within the countryside under paragraph 83 of the Framework and CS Policy AS.10. Whilst I appreciate that the position of the dwelling is not isolated in terms of paragraph 83 of the Framework, in order to be truly outstanding or innovative, a proposed scheme should reflect the highest standards in architecture,

and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. It is unclear which strand the Appellant seeks that the proposed scheme achieves, however the Planning Statement accompanying the original application states that the proposed scheme would be eco-friendly, carbon neutral, low energy with off-grid solar panels, ground source heat pump, double insulated to a Passivhaus standard, use of reclaimed materials, use of carbon neutral wood burner, low energy sewerage plant and heat recovery ventilation system. A Sustainability Statement² has been submitted to support the technologies and systems used.

12. I have had regard to the reasons for this which include the proposed scheme's architecture, how the building responds to its setting, use of materials, levels of air tightness and the use of sustainable technologies. The proposed scheme is commendable in seeking to achieve high standards, including that of sustainable and thermal technologies and the reduction of embodied carbon from using recycled materials. However, given advances in thermal efficiency and the growing number of dwellings obtaining the Passivhaus standard today, many of the systems and technologies mentioned are already being employed which is becoming a well-established technology. Consequently, these elements proposed would not be unduly innovative or outstanding.
13. The design of the dwelling has been carefully considered to take account of the context of the site. There is no reference as to whether the scheme has been assessed by a design panel, is undertaken by a leading architect in eco-friendly designs or how the building design has evolved as a result of these types of discussions. The design of the dwelling is not unique, it is quite simple and functional and seeks to emulate a typical vernacular of building found within many locations across the country. It would be relatively low scale and set back within the plot within its surrounding vegetated environment where there is an intention to undertake a net gain in biodiversity. The form and positioning of the dwelling along with a landscaping scheme responds to the building and the site.
14. That said, the proposal is essentially a local design response taking account of the features of the site and the surrounding context. The design itself is quite functional and modest, it does not incorporate any novel features or new concepts. Paragraph 135 of the Framework identifies that all development should add to the quality of an area; be visually attractive as a result of good architecture; should be sympathetic to the local character and landscape; establish a strong sense of place, optimise the potential of a site and create a high standard of amenity, amongst others. Those requirements apply to all development. The proposal would achieve those requirements but, for these reasons given, I am not persuaded that the proposed scheme would be 'truly outstanding or innovative' in accordance with the Framework or CS Policy AS.10. I do however afford the environmental merits of the scheme moderate benefit.

² Dated 17-07-2023

Self Build Housing and Paragraph 11d of the Framework

15. The Appellant's Application Form describes the proposal as a self-build dwelling which is defined by the Self Build and Custom Housing Act 2016 (SBCH). Councils are required to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in their area and publish it. Those authorities who hold a SBCH register have a duty to grant planning permission to enough suitable serviced plots to meet the demand for SBCH in their area. Despite having more than a 5 year supply of deliverable housing land, the Council confirms that as of July 2024 there was a shortfall of 2 SBCH plots, based on the total number of entries on the Register and a three-year rolling supply³.
16. The Framework identifies "people wishing to commission or build their own homes" as a distinct section of the community for which the size, type and tenure of housing needed should be assessed and reflected in planning policies. To address the need for SBCH, the Council is progressing its own Site Allocations Plan (SAP), which includes draft policies SAP.6 and SAP.7 for the provision and delivery of SBCH. Amongst other things, draft Policy SAP.6 will support in principle SBCH on unallocated sites within or adjacent to settlement boundaries of Main Rural Centres and Local Service Villages. Hence, the approach to the location of SBCH is broadly similar to the sustainability principles and locational criteria behind the Council's housing strategy and the Framework, that of building dwellings in locations with access to services and facilities.
17. The Appellant in their SoC states that in the absence of a policy for SBCH, there are no relevant development plan policies and the provisions of paragraph 11d) of the Framework should be applied. Whilst there is no specific policy concerning SBCH, this does not make the housing strategy policies out of date. Policies CS1 and CS15 distribute housing growth to a range of settlements and sustainable locations and this covers all types of housing. Similarly, the Framework indicates significant development should be focused on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes, and states that in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. Therefore, policies relevant to the appeal are broadly consistent with the Framework.
18. CS Policy AS.10 and NP Policy DE2 applies in this location and whilst it does not make provision for SBCH specifically, there is a strategic approach for distribution and the Housing Strategy also seeks that local communities subject to a NP to indicate where development should be located. Additionally, all other types of development not covered by a specific policy to be fully justified against the different scenarios that are discussed which seek to generate significant benefits to the local area and not be contrary to the overall development strategy for the district. Consequently, in this circumstance I do not agree that there are no relevant development plan policies and therefore the provisions of paragraph 11d) of the Framework are not engaged.
19. I have been asked within the Appellant's SoC to review a planning appeal⁴ where an Inspector found that the tilted balance of Paragraph 11d was engaged and did

³ 'Self-Build and Custom Housebuilding Position Statement Period to 30th April 2024', dated July 2024

⁴ Appeal Ref: APP/J3720/W/23/3327119 Dated 29 February 2024

outweigh the conflicts with the development plan. In this case the site was more connected to the outskirts of a settlement boundary, where there was not the clear conflict with the housing strategy and sustainability of the site as there is within this appeal. It would also appear that the Council have made inroads into reducing the SBCH need, given that the appeal at this time mentioned that the Council had a shortfall of 81 dwellings and today there is a shortfall of 2 dwellings⁵. Taking this into account, this example appeal decision is not analogous to the considerations of this appeal and does not assist in demonstrating the appropriateness of this appeal proposal.

20. Additionally, having read the appeal documents, there is no evidence such as a formal agreement or undertaking that secures the proposed building as a self-build dwelling. As there is no mechanism, the proposed dwelling is open-market housing contrary to the aims of the development plan and Framework already described above. Even if I were to give weight to the self-build nature as suggested by the Appellant and trigger the need to consideration of Paragraph 11d of the Framework, the adverse impacts of undermining the Council's housing strategy, when the Council has well over a 5-year housing land supply, would significantly and demonstrably outweigh the benefits I have outline above when assessed against the policies in the Framework taken as a whole.

Planning Balance

21. The applicant's SoC outlines a number of benefits of the proposal such as contributing to the supply of self-build housing; the deliverability of small sites; socio-economic benefits in terms of short term employment opportunities and expenditure locally from future occupants; increasing the viability of nearby settlements; and the development of underused or under-utilised plots. These benefits weigh moderately in favour of the development. I also note reference to the self-build nature of the site, the intention of which is only shown in the application form and accompanying documents, with no formal agreement submitted with the application or appeal. Given the healthy land supply position which also covers deliverability of self-build dwellings, I therefore afford only limited weight to the self-build nature of the site. There are also environmental benefits from the increased planting and landscaping, and the environmental credentials of the build which is afforded moderate weight as described previously.
22. Despite these benefits, the impacts of the proposed development are significant when taking into account the housing strategy for the area and the transport sustainability credentials of the site. The lack of suitable access to nearby services or facilities and large distances to cover on informal and inappropriate footways would be unlikely to deter the use of the private car. Consequently, the appeal location is not very sustainable or well-connected to facilities to give an overriding social or environmental benefit in this countryside location.
23. Therefore, taking these findings as a whole, I conclude that the location for the proposed development would not be made in accordance with the housing strategy, and whilst there are benefits of the scheme in terms of its environmental and economic credentials, these benefits do not outweigh the harms caused to the social

⁵ 'Self-Build and Custom Housebuilding Position Statement Period to 30th April 2024', dated July 2024

and environmental dimensions. The proposed scheme would therefore be contrary to CS Policies CS15 and AS.10, and NP DE2 as described previously.

Conclusion

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

J Somers

INSPECTOR