



Appeal Decision

Site visit made on 12 March 2025

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2025

Appeal Ref: APP/J3720/W/24/3349357

Land north of Red Horse Close, Middle Tysoe, Warwick CV35 0TL

- 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 John Roberts against the decision of Stratford-on-Avon District Council.
 - The application Ref is 23/03453/FUL.
 - The development proposed is custom and self-build dwelling including new pedestrian and vehicular access, garage, stables and landscaping scheme.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application the Government published a revised National Planning Policy Framework (the Framework). The parties have had the opportunity to comment on the relevance of the revised Framework to the appeal and I have taken the submissions received into account in my decision.
3. A Site Allocations Plan (SAP) local plan document is emerging, however based on the evidence this is at a relatively early stage of preparation and has yet to be submitted for examination. Therefore, I can attach only limited weight to the policies contained therein.
4. I am aware that the appeal site has been the subject of previous planning applications and a dismissed appeal. I have had regard to these insofar as they are relevant to the appeal which is before me.

Main Issues

5. The main issues are:
 - whether the appeal site is a suitable location for a dwelling, with particular regard to the development plan policies for the area; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Suitable location

6. Policy CS.15 of the Stratford-on-Avon District Core Strategy (2011 – 2031) (CS) sets out a strategy for the distribution of development in the area. It states that in Category 2 local service villages such as Tysoe development will take place on

sites identified in a Neighbourhood Plan and through small-scale schemes on unidentified but suitable sites within the Built-Up Area Boundaries (where defined) or otherwise within their physical confines. Within and adjacent to settlements development may include small-scale community-led schemes which meet a need identified by that community. The policy sets out a number of principles against which individual proposals will be assessed to ensure they protect and enhance the character of the settlement and its setting.

7. Policy AS.10 of the CS establishes forms of development which are acceptable in principle in the countryside. This reiterates the provisions of Policy CS.15 with regard to development in the built-up area boundary or physical confines of a village. It also sets out several other forms of development which are acceptable in principle including the conversion of certain buildings, replacement dwellings, redevelopment of 'bad neighbour' sites, small-scale expansion of a mobile or park home site, agricultural workers dwelling or a single dwelling in open countryside which is of exceptional quality and design and makes a positive contribution to the local area.
8. Housing Policy 1 of The Tysoe Neighbourhood Development Plan 2011 – 2031 (NDP) defines a built-up area boundary for Middle/Upper Tysoe. The Policy states that within the boundary proposals for new housing will be supported where they otherwise conform with other development plan policies. The remainder of the Parish outside of the boundary is defined as open countryside where new housing will be strictly controlled to exceptions similar to those listed in CS policy AS.10.
9. The proposal abuts but is outside of the built-up area boundary of Middle/Upper Tysoe. Consequently, for the purposes of the development plan the appeal site is in the open countryside. The parties agree that the proposal does not fall within any of the categories of development which might be considered acceptable in the open countryside. Therefore, the appeal site is not a suitable location for a dwelling, with particular regard to the development plan policies for the area and the proposal would therefore conflict with Policies CS.15 and AS.10 of the CS and Housing Policy 1 of the NDP.

Character and appearance

10. The appeal site is part of a largely open field which forms part of a patchwork of fields which characterise the local landscape. The land to the east side of Tysoe Road is within the Cotswold National Landscape (NL) and comprises open countryside which gently rises to a wooded area. Despite the existing boundary treatment, hedges and stable building which exist on the site, the open, green nature of the appeal site contributes positively towards the rural setting of the NL and the character and appearance of the area.
11. The Landscape Sensitivity Study 2012 identifies the site as having medium sensitivity to housing development. This assessment is echoed in the Landscape and Visual Impact Assessment¹ (LVIA). Even though the context of the site has changed in recent years, I nevertheless find that the appeal site forms part of the attractive countryside and is of value within this context.
12. It is proposed to construct a dwelling at the appeal site along with a garage and stables. The rear portion of the site would be used as a wildflower meadow and an

¹ Prepared by ES Landscape Planning, December 2023, ref 11907L.LVIA.003

orchard would be planted adjacent to part of the northeastern boundary of the site. The proposed dwelling would extend to 2.5 storeys in height and would have a relatively extensive linear footprint orientated to face the road.

13. Generous landscaping is proposed which would soften the effect of the dwelling to a small degree. However, given its prominent position and scale it would be an obvious physical presence on the site which would have an urbanising impact, at odds with the existing character of the site. The proposed stables and 1.5 storey garage would further erode the open character of the site. Collectively the proposed buildings would result in a significant loss of rural character at the appeal site and the wider area in which it is located, including the setting of the NL.
14. Although the dwelling would be of traditional design, as a result of its overall size and bulk the proposed dwelling would appear greater in scale and significantly more imposing in the street scene than the majority of other dwellings in the vicinity. Consequently, the proposed development would represent an incongruous form of development which would be at odds with the prevailing form of development of the area. The relatively large gap between the proposed dwelling and Lower Grounds would further add to the sense of intrusion into the open countryside.
15. Natural Environment Policy 6 – Protected Settlement Gap of the NDP states that development proposals should ensure the retention of the historic open character of the countryside between Middle Tysoe and Lower Tysoe. The policy states that certain forms of development will be supported in the area between the two settlements where they would preserve the separation and retain their individual and distinct character and appearance. Other forms of development will not be supported.
16. The gap is not identified on a map within the NDP. The LVIA considers that the character of the site means it is more closely related to the adjoining settlement edge than the wider rural landscape. However, the proposed dwelling would be located between the built extents of the two settlements and therefore, the appeal site is located within the protected settlement gap.
17. The LVIA and Landscape Appeal Statement², along with the photomontages, demonstrate that the proposal would not result in the complete loss of the gap between the settlements and that a green break would be maintained. However, the proposal would result in a significant diminution of the gap and would erode its function in providing a rural buffer between the two settlements with distinct characters and settings. In this respect the proposal would result in harm to the character and appearance of the area and would be in conflict with Natural Environment Policy 6 of the NDP.
18. The proposed placement of the dwelling has sought to protect key views, however the lack of harm in this respect is a neutral factor. Given the scale of the proposal, the proposed landscaping would not be capable of fully mitigating its impact upon the character and appearance of the area and would take many years to grow to maturity. I give limited weight to the potential screening effect of the proposal on adjacent development given the visual impact of the proposal I have identified.

² Prepared by ES Landscape Planning, July 2024, 11907L.LAS.003

19. Overall, I conclude that the proposal would have a harmful effect on the character and appearance of the area. It would therefore conflict with Policies CS.5, CS.9 and CS.11 of the CS and Natural Environment Policy 6 of the NDP. Together, and amongst other things, these seek to ensure that proposals protect landscape character, reflect the character and distinctiveness of the locality and conserve and enhance the NL.

Other Matters

20. The dwelling is proposed as a self or custom build (SCB) plot. Authorities have a duty to give suitable development permission to enough suitable serviced plots of land to meet the demand for SCB housing in their area. In July 2024 the Council published a Self-Build and Custom Housebuilding Position Statement³. On this basis the Council considers that there is a slight shortfall in supply and the parties agree that demand is likely to rise in the future.
21. The emerging SAP contains a draft policy in respect of SCB, however there is a high degree of uncertainty that it will be submitted in the same form. In any event, limited evidence of local need has been provided and because of the harm which would arise, I do not consider the site to be 'suitable'. Consequently, I am not convinced that the proposal would accord with emerging policy SAP.6.
22. Nevertheless, the Framework states that local planning authorities should seek opportunities to support small sites to come forward for SCB housing. Consequently, the provision of a SCB plot attracts positive weight in the planning balance.
23. The appellant contends that because the CS does not contain a policy which specifically relates to the provision of SCB housing, that paragraph 11d) of the Framework is engaged. However, the fact that there is no development plan policy to cover SCB housing does not mean that paragraph 11d) is automatically engaged. Rather consideration needs to be given to whether there are any relevant policies for deciding the appeal.
24. The development plan contains policies which are relevant to the proposal including Policies CS.15 and AS.10 of the CS and Housing Policy 1 of the NDP as referred to above. As these policies set out the strategy for housing delivery, I consider them to be the most important and they are broadly consistent with the Framework. Bearing in mind that the Council can demonstrate a housing land supply of in excess of 5 years, I conclude that they are not out-of-date. Consequently, paragraph 11d) is not engaged in this instance.
25. I have been provided with a copy of an appeal⁴ decision in which an Inspector found that paragraph 11d) was engaged. However, this was in a different local authority area and the decision was made in the context of a different local plan. It is therefore of limited relevance to my decision.
26. Nevertheless, the government's objective is to significantly boost the supply of homes, and the provision of a dwelling attracts positive weight in the planning balance. The appellant's local connection to the area is of limited relevance to the appeal.

³ Period to 30th April 2024

⁴ APP/R1845/W/21/3284761

Planning Balance

27. Given that the proposal would result in the provision of a single dwelling, I give the provision of housing and specifically a SCB plot moderate weight. Conversely, I give significant weight to the conflict with the development plan and the harm which would occur to the character and appearance of the area. Consequently, the benefits of the scheme would not outweigh the harm which it would cause.

Conclusion

28. I conclude that the proposal would conflict with the development plan as a whole and the material considerations including the Framework do not indicate that the appeal should be determined other than in accordance with it. For the reasons given above the appeal should be dismissed.

E Pickernell

INSPECTOR