



Appeal Decision

Site visit made on 22 April 2025

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2025

Appeal Ref: APP/J3720/W/24/3355445

Fieldings, Alveston Lane, Alveston, Stratford-upon-Avon, Warwickshire

CV37 7QD

- 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 David Austin (Matthew Austin LTD) against the decision of Stratford-upon-Avon District Council.
 - The application Ref is 24/01355/FUL.
 - The development proposed is “removal of three storey detached dwelling, garage and outbuildings, and replacement with single two storey detached dwelling and adjoining garage, together with associated external works and landscaping”.
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Decision

1. The appeal is allowed and planning permission is granted for removal of three storey detached dwelling, garage and outbuildings, and replacement with single two storey detached dwelling and adjoining garage, together with associated external works and landscaping at Fieldings, Alveston Lane, Alveston, Stratford-upon-Avon, Warwickshire CV37 7QD in accordance with the terms of the application, Ref 24/01355/FUL, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether occupiers of the replacement dwelling would be at risk of flooding; and
 - whether the development can provide a policy-compliant net gain in biodiversity.

Reasons

Character and appearance

3. The appeal site comprises a large, detached dwelling in a poor state of repair occupying a substantial corner plot bordered on all sides by mature vegetation. Dwellings on Alveston Lane comprise large individually-designed properties set back from the road occupying substantial plots. This, in addition to mature planting within front gardens and to property boundaries, results in a pleasant, spacious and verdant character to the surrounding area.
4. The proposal is for a replacement dwelling. Policy CS.20 of the Stratford-upon-Avon District Core Strategy (2016) (CS) states that replacement dwellings should be well sited in relation to the existing site and buildings, not visually intrusive, and not significantly larger than the dwelling it replaces. There is no guidance in the CS

as to what constitutes 'significantly larger'. The replacement building would have a very minor increase in floor area of approximately 6m². Whilst the proposed dwelling would be wider and taller than the existing dwelling, in the context of the substantial existing property these increases in height and width would not appear excessive and the proposal would not be significantly larger than the existing property.

5. The proposed dwelling would occupy a similar location within the plot and the design would be consistent with the gabled hipped roof form of the existing dwelling. The scale of the dwelling would not appear visually intrusive within the context of the substantial appeal site and would be consistent with the scale of dwellings in the surrounding area. Given the variety of dwelling forms within the surrounding area and the substantial screen of vegetation to the site boundaries, the forward projection and orientation of the garage would not appear particularly intrusive in street scene views.
6. The proposed dwelling would not detract from the established character and appearance of the area. I therefore find no conflict with CS policies CS.9, CS.20 and AS.10 or policy BE9 of the Stratford-upon-Avon Neighbourhood Development Plan (2018) which seek to ensure that proposals achieve high quality design and that replacement dwellings are of an appropriate scale and respect the character and appearance of the locality.

Flooding

7. Part of the appeal site is in flood zones 2 and 3. The National Planning Policy Framework (the Framework) establishes that inappropriate development in such areas should be avoided by directing development away from areas at highest risk. As part of this approach, a sequential test should be applied to avoid, where possible, flood risk to people and property and to manage any residual risk. This aims to steer new development to areas with the lowest risk of flooding.
8. The Flood Risk Assessment (FRA) sets out that the finished floor level of the dwelling would be above both the 1% and 0.1% annual probability flooding level and therefore the property would be dry in these events and safe throughout its lifetime. Nonetheless, the Planning Practice Guidance (PPG) states that even where a FRA shows the development can be made safe throughout its lifetime, the sequential test still needs to be satisfied. The application is not supported by a sequential test and the proposal would introduce built form within an area at medium risk of flooding.
9. Nonetheless, if the appeal were dismissed for that reason, a lawful dwelling would remain on the site. Given this, the actual consequences for future occupiers should be examined. Whilst all of the existing dwelling is located in Flood Zone 1, approximately 5m² of the proposed dwelling would be located within Flood Zone 2, thereby resulting in an increase in flood risk compared to the existing situation. In support of the proposal the appellant references an extension which could be erected under householder permitted development (PD) rights which would increase the floor area of the dwelling on a part of the site that lies within flood zones 2 and 3. This extension is the subject of a lawful development certificate¹ and I consider that, if this appeal were dismissed, there would be a reasonable likelihood that this would be implemented, resulting in more built form within flood

¹ Application reference 24/02889/LDP

zone 2, as well as built form within flood zone 3. Thus, this PD extension would result in a greater risk of flooding.

10. In this case the sequential test has not been satisfied. However, there is already a residential use on the land and the PD fallback would result in a larger floor area within an area at risk of flooding. This, in combination with the betterment afforded by proposed measures to increase flood resilience including the use of flood resistant doors, air bricks and permeable driveways, leads me to conclude that occupants of the replacement dwelling would not be at greater risk of flooding.
11. The proposal is acceptable in terms of the risk from flooding. I therefore find no conflict with CS policy CS.4 which seeks to minimise flood risk.

Biodiversity Net Gain (BNG)

12. Biodiversity Net Gain (BNG) is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). Under the statutory framework for BNG, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met. This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development value of the onsite habitat. This can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits. The PPG sets out that the statutory framework for BNG has been designed as a post-permission matter.
13. In respect of this appeal, the Standard Biodiversity Metric concludes that the proposal would result in a loss of 0.7658 biodiversity units, a loss of 36.32% of the on-site biodiversity habitat. The appellant suggests that BNG of 10% would be secured through the purchase of off-site biodiversity credits. Whilst there is a preference for on-site gains, nonetheless off-site biodiversity gains, including those arising from the purchase of biodiversity credits, are listed as an appropriate means of mitigation and there is no suggestion that the delivery of BNG off-site would significantly undermine local biodiversity provision.
14. I am satisfied that through the submission and approval of a Biodiversity Gain Plan prior to the commencement of development (as required by condition) appropriate provision for BNG can be made. I am satisfied that the proposal can provide a policy-compliant net gain in biodiversity. Thus, I find no conflict with the Framework.

Other Matters

15. There is no suggestion from the Council or the Local Highways Authority that the road network does not have the capacity to accommodate construction traffic, and details of the parking of vehicles of site operatives would form part of a Construction Management Plan to be approved by the Council. Furthermore, impacts arising from construction, whilst having the potential to cause inconvenience, would be short term and would not form a reason for withholding planning permission.

Conditions

16. I have had regard to the conditions suggested by the Council, on which the appellant has had the opportunity to comment. Where necessary I have made

revisions to some of the conditions put to me to ensure that they meet the tests in the Framework and PPG, without altering their fundamental aims.

17. Planning permission is granted subject to the standard 3-year time limit condition for implementation. In addition, it is necessary to specify the approved plans and compliance with the Tree Report and FRA in the interests of certainty.
18. In the interests of residential amenity and highway safety there is a need for a condition relating to a Construction Management Plan. In the interest of the character and appearance of the street scene and the appeal site, conditions are necessary to control external materials and landscaping. Conditions relating to the surfacing of the car parking and manoeuvring areas, and which restrict structures, trees, shrub or plantings within the near edge of the public highway carriageway are necessary in the interests of highway safety.
19. I have attached conditions relating to the implementation of sustainability measures and a water butt to support sustainable living. In the interests of safeguarding biodiversity and protected species, conditions relating to external lighting, biodiversity enhancements and mitigation measures are necessary. In the interests of promoting the achievement of BNG, a condition is necessary to secure the submission of a Biodiversity Net Gain Plan.
20. As I have concluded that the proposal would result in less built form within areas at risk of flooding when taking into account the fallback position afforded by PD rights, I have included a condition which removes certain PD rights to ensure that the dwelling would not be at greater risk of flooding.
21. I have amended the trigger points of conditions put to me relating to the approval of materials, the surfacing and drainage of the car parking and manoeuvring areas and the landscaping scheme as I see no reason why such details cannot be submitted prior to first occupation or development above foundation level.
22. I have omitted a suggested condition relating to security fencing as the Council has not set out the justification for this condition or why it is necessary to render the development acceptable. I have omitted a condition requiring that the developer obtain consents for works involving disturbance of the surface of public footpath SB10, as these works within would require the consent of the Local Highway Authority in any case. I have also omitted a suggested condition requiring that the appellant carry out remedial works to public footpath SB10 as I consider that this condition is imprecise and therefore does not meet the tests set down in the PPG.

Conclusion

23. For the reasons set out above, I conclude that the appeal should be allowed.

N Robinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1.) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2.) The development hereby permitted shall be carried out in accordance with the following approved plans: 2137 01b, 2137 15e, 2137 16a and 2137 17b.
- 3.) The development hereby permitted shall be undertaken in compliance with provisions of the Tree Report P016, (30 May 2024), including recommendations and mitigation measures contained in the Arboricultural Impact Assessment.
- 4.) The development hereby permitted shall be undertaken in compliance with the recommendations set down in the Flood Risk Assessment by Millward Consulting Engineers (May 2024), including the recommended mitigation measures.
- 5.) No development shall take place, including any demolition works, until a Construction Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The plan shall provide for:
 - a. the on-site parking of vehicles of site operatives and visitors;
 - b. loading and unloading of plant and materials, including the times of such loading and unloading;
 - c. storage of plant and materials used in constructing the development or stockpiling during development;
 - d. the erection and maintenance of security hoarding;
 - e. measures to control the emission of dust and dirt during construction;
 - f. Details regarding dust, noise and vibration mitigation;
 - f. a scheme for recycling/disposing of waste resulting from construction works;
 - g. details of wheel washing facilities;
 - h. a routing plan for construction traffic;
 - h. management of surface water run-off during the demolition and construction period;
 - i. contact telephone number(s) and email address(es) of the site manager(s);
 - j. details of the hours of works (including demolition);and
 - k. a method statement for the demolition of the existing building on site, including a timescale for the removal of all demolition materials and debris.

The approved details shall be adhered to throughout the construction and demolition period.
- 6.) No development shall take place, including any demolition works, until a plan detailing measures to be taken to minimise the impact of any works on protected species and nesting birds has been submitted to and approved in writing by the

Local Planning Authority. The development shall thereafter be carried out in accordance with the approved plan.

- 7.) No development shall take place, including any demolition works, until a Biodiversity Gain Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall target how a minimum net gain in biodiversity will be achieved through a combination of on-site and/or off-site mitigation. The plan shall include:
- a. A hierarchical approach to BNG focussing first on maximising on-site BNG, second delivering off-site BNG at a site(s) of strategic biodiversity importance, and third delivering off-site BNG locally to the application site.
 - b. Full details of the respective on and off-site BNG requirements and proposals resulting from the loss of habitats on the development site utilising the latest appropriate DEFRA metric.
 - c. Identification of the existing habitats and their condition on-site and within receptor site(s).
 - d. Habitat enhancement and creation proposals on the application site and /or receptor site(s) utilising the latest appropriate DEFRA metric.
 - e. An implementation, management and monitoring plan (including identified responsible bodies) for a period of 30 years for on and off-site proposals as appropriate.

The BNG Plan shall be implemented in full and subsequently managed and monitored in accordance with the approved details. Monitoring data as appropriate to criterion e) shall be submitted to the Local Planning Authority in accordance with the latest DEFRA guidance and the approved monitoring period /intervals.

- 8.) No development hereby permitted shall take place above foundation level until a schedule of external materials has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details thus approved, which shall thereafter be retained.
- 9.) No development hereby permitted shall take place above foundation level until full details of the levels, surfacing and drainage of the car parking and manoeuvring areas have been submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be first occupied until these areas have been laid out in accordance with the approved details and such areas shall thereafter be permanently retained for the parking and manoeuvring of vehicles.
- 10.) No development hereby permitted shall take place above foundation level until a hard and soft landscaping plan has been submitted to and approved in writing by the Local Planning Authority. This plan shall include compensatory tree planting. The development shall be undertaken in accordance with the approved details in accordance with a timetable to be agreed in writing by the Local Planning Authority.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is

the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 11.) No development hereby permitted shall take place above foundation level until a plan indicating the location of ecological enhancement features including details of any proposed bird and bat boxes has been submitted to and approved in writing by the Local Planning Authority. The enhancements shall be carried out in accordance with the approved details prior to the first occupation of the dwelling hereby permitted and shall thereafter be retained.
- 12.) Prior to the first occupation of the dwelling hereby permitted, the sustainability measures set out within the 'Climate Change Checklist' submitted to the Local Planning Authority on the 03 July 2024 shall be incorporated into the design of the development. Thereafter, the approved sustainability measures shall be retained and maintained.
- 13.) Prior to the first occupation of the dwelling hereby permitted, a water butt of minimum 190L capacity fitted with a child proof lock shall be connected to an installed down pipe for the disposal of surface water from the roof of the dwelling and shall be retained thereafter.
- 14.) Prior to the installation of any external lighting, full details including height, design, location and intensity shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
- 15.) No structure, tree, shrub or plantings shall be erected, planted or retained within 2.4 metres of the near edge of the public highway carriageway fronting the site exceeding, or likely to exceed at maturity, a height of 0.9 metres above the level of the public highway carriageway.
- 16.) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Classes A, D and E, other than those expressly authorised by this permission, shall be carried out without express planning permission first being obtained from the local planning authority.

End of Schedule of Conditions