



Appeal Decision

Site visit made on 20 May 2025

by **N Bromley BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th June 2025

Appeal Ref: APP/C3430/W/24/3357644

1 Filance Lane, Penkridge, Staffordshire ST19 5HJ

- 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. A Garratt against the decision of South Staffordshire District Council.
 - The application Ref is 24/00422/FUL.
 - The development proposed is erection of dormer bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, and
 - whether the requirements of Biodiversity Net Gain (BNG) are relevant to the proposed development and, if so, whether such requirements are met.

Reasons

Character and appearance

3. The appeal site comprises a vacant plot of land, which previously formed the garden of 1 Filance Lane (No 1). The site occupies a corner plot position at the junction with Haling Close, in a quiet, suburban residential area. The area is primarily characterised by a mix of semi-detached and detached bungalows and dormer bungalows.
4. The existing dwellings in the locality are set back from the road by front gardens, and / or parking areas. Properties which occupy a corner plot position within the street scene largely have generous side gardens. Overall, this gives the area a pleasant, spacious, and formal character and appearance.
5. The main parties have highlighted a previous appeal decision¹, also for a new dormer bungalow on the same site as that before me (the previous appeal), which was subsequently dismissed. The parties both acknowledge that this is a resubmission of that previous application, and that the size and height of the proposed dwelling has been reduced since the previous appeal. Nonetheless, a copy of the previous appeal decision and plans have not been submitted.

¹ Appeal Reference: APP/C3430/W/23/3317081

Therefore, a proper comparison has not been possible, and I have determined the appeal on its own merits and the evidence before me.

6. The construction of a detached dormer bungalow on the land would be highly visible within the street scene due to its position on the road junction. Also, by virtue of the shape of the plot, as well as the footprint of the proposal, it would be built up close to each side boundary. In particular, there would be a minimal separation distance between the proposal and No 1, and it would be positioned next to the side boundary with Haling Close. As a consequence, the proposed dwelling would have a cramped appearance within the site.
7. Likewise, and for the same reasons as set out above, even with an adequate front garden and a small, landscaped area between the side wall and the side boundary on Haling Close, the proposal would markedly reduce the open and spacious appearance of the street scene.
8. Notwithstanding that the plot size and the density of development on the site would be more generous compared to other properties in the area, for the reasons outlined, the proposal would nonetheless represent a noticeable and harmful contrast to the existing pattern of development along the road.
9. Furthermore, the bulk and mass of the proposed dormer bungalow, as well as its juxtaposition with the road, would be abrupt and at odds with the spacious pattern and appearance of the existing dwellings in the locality. In particular, the proposal would be a dominant building when viewed from Haling Close and when approaching the site from Francis Green Lane. Even the proposed visual interest in the side gable, in an attempt to avoid a solid wall adjacent to the road, as well as its reduced height compared to No 1, would not overcome the dominant appearance of the proposed dwelling. Consequently, the proposal would sit uncomfortably within the street scene and appear discordant.
10. I acknowledge that there are many examples of properties that occupy prominent corner plot positions within the street scene, each with generous side gardens. Many of the properties have boundary treatments and extensive landscaping, and some have extensions adjacent to the road. In particular, the appellant has identified a two-storey side extension at 10 Vale Gardens, which is built up close to the pavement edge. However, very limited information has been provided of the circumstances of that case. Also, that development is located within a different part of the street scene compared to the proposed development. Additionally, the examples identified are not comparable to the appeal scheme for a detached dormer bungalow, and having considered the design and layout of the proposal, and its effect on the character and appearance of this area, for the reasons given, I consider that there would be unacceptable harm. Given this, these examples do not add weight in favour of the development, and I have determined the case before me on its own merits.
11. For the collective reasons outlined above, I conclude that the proposed development would be harmful to the character and appearance of the area. Therefore, the proposal would fail to accord with Policy EQ11 of the South Staffordshire Council's Core Strategy (the Core Strategy) 2012, which amongst other things, requires high quality design that safeguards visual amenity and respects local character and distinctiveness.

BNG

12. Schedule 7A of the Town and Country Planning Act 1990 (as amended) (the Act) introduced a statutory framework for BNG, and it applies to all planning applications for non-major development submitted on or after 2 April 2024. Under the statutory framework, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the Biodiversity Gain Condition (BGC), which requires that at least a 10% increase in biodiversity value is met. The proposal is advanced on the basis that as a self-build dwelling it is exempt from the BGC.
13. It is clearly the intention of the appellant to occupy the proposed dwelling, and it is suggested that they meet the Council's 'local connection test'. As such, a draft planning condition has been suggested by the appellant to secure the proposal as a self-build dwelling. However, I am not persuaded that the suggested condition is robust enough to secure the plot as a self-build dwelling, so as to fall within the definition of a self-build home as set out in the Self-build and Custom Housebuilding Act 2015 (as amended). In addition, I have concerns over the practicalities of enforcing the suggested condition. Thus, it would not meet the tests set out at paragraph 57 of the National Planning Policy Framework (the Framework). The most appropriate mechanism to secure the proposal as a self-build dwelling would be via a Section 106 Obligation (s106).
14. While a s106 Unilateral Undertaking (UU) has been submitted with the appeal it does not include a mechanism to secure the development as a self-build / custom housebuilding dwelling.
15. Without any evidence to suggest that any other exemptions are applicable, the proposal is subject to a requirement for 10% BNG. Indeed, the appellant does not dispute that the requirements of BNG have not been met. As such, there is insufficient evidence that the appeal proposal, through the BGC, would secure appropriate BNG.
16. For the above reasons, I conclude that the proposal would fail to meet the statutory provisions of Schedule 7A of the Act requiring development to deliver a BNG of 10%.

Planning Balance

17. The Council accepts that it cannot currently demonstrate a five-year supply of deliverable housing sites. In fact, the shortfall is significant at 1.17 years. In this situation, paragraph 11 of the Framework indicates that development plan policies which are most relevant for determining the application should be deemed as out of date. However, paragraph 11(d)(ii) requires the consideration of whether any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
18. The site represents a windfall site that is underutilised and could deliver the proposed dwelling relatively quickly, within a defined settlement boundary of one of the larger service villages. Therefore, the proposal would contribute to boosting the supply of new housing, as referenced in the Framework and there is support from the local community for the site to be developed and provide additional housing in the area. Given the level of housing land supply shortfall, even one new dwelling would make a small numerical contribution to reducing the significant housing

supply deficit. There would also be social and economic benefits to local services during the construction and occupancy phases and no objections have been raised with regards to the effect of the proposal on trees, wildlife, neighbouring living conditions or highway safety and sufficient off-street parking is proposed.

19. In combination, and in the context of the shortfall in housing land, the benefits attract positive weight in my determination. However, due to the small scale nature of the proposed development the benefits of the scheme would be moderate overall.
20. In contrast, the proposed development would fail to comply with the statutory provisions for BNG and this is a matter of principal importance to which I attach significant negative weight. There would also be harm to the character and appearance of the area which would conflict with Policy EQ11 of the Core Strategy. This policy is consistent with the Framework which seeks the creation of high quality, beautiful and sustainable buildings and places and requires development to be sympathetic to local character. I attach significant weight to the combined level of harm and the conflict with the policies of the development plan.
21. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Other Matters

22. The appellant has submitted a signed UU to address the issue of recreation activities on the Cannock Chase Special Area of Conservation. However, given my findings that the proposal would not deliver BNG and would harm the character and appearance of the area, which would not be outweighed by the identified benefits of the appeal scheme, it is not necessary for me to ascertain the appropriateness of the scheme or the necessity for mitigation within an Appropriate Assessment. Accordingly, as I am dismissing the appeal for other reasons, I have not taken this matter further.

Conclusion

23. For the above reasons, I conclude that the proposed development would conflict with the development plan when considered as a whole and there are no material considerations, including the Framework, that indicate that the development should be determined otherwise than in accordance with it. For these reasons, the appeal should be dismissed.

N Bromley

INSPECTOR