



Appeal Decision

Site visit made on 10 September 2025

by **B Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 September 2025

Appeal Ref: APP/J3720/W/25/3364463

Land off Queen Elizabeth Way, Bidford on Avon, Warwickshire B50 4GN

- 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 Carl Varney against the decision of Stratford-on-Avon District Council.
 - The application Ref is 24/01592/FUL.
 - The development proposed is the erection of 2 detached self and custom build dwellings with associated garages, access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 detached self and custom build dwellings with associated garages, access, parking and landscaping at Land off Queen Elizabeth Way, Bidford on Avon, B50 4GN in accordance with the terms of the application, Ref 24/01592/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. A Section 106 Legal Agreement in the form of a Unilateral Undertaking (UU) has been submitted in support of the proposal. This requires, among other matters, for the owners of the site to market the self-build housing in accordance with an agreed Marketing Strategy and to ensure each plot is provided as a fully serviced plot. This is assessed below.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, and
 - Whether the proposal would provide the required Biodiversity Net Gain or if it would be regarded as self-build development, whether the proposal would include a suitable mechanism to secure the proposed self-build scheme.

Reasons

Character and appearance

4. Queen Elizabeth Way is a short cul-de-sac leading to a group of detached houses. This enclave is a modern development of two-storey dwellings that have a shared material palette and whilst of varying designs, have a coherent sense of complementary design features. This roadway connects to Waterloo Crescent which contains a more traditional and historical range of dwellings consisting of

both bungalows and two-storey properties featuring a wide variety of designs. The appeal site is in between these areas with a frontage onto Queen Elizabeth Way. It is a non-descript, undeveloped parcel of land and therefore makes a neutral contribution to the character and appearance of the area.

5. The proposed development would place two dwellings along the highway with an access driveway linking to two double garages behind. The dwellings would be two storey and would include design features shared with the adjacent modern development. The footprint of each proposed dwelling and the size of plots are also similar to adjacent development. They would therefore be of a comparable density to local development. Although the dwellings would be set apart by only one metre, such a gap would not be materially different to that observed between No's 3&4 and 5&6 within the modern estate and this layout would not therefore create a cramped arrangement. Furthermore, the proposed dwellings would generally align with the front building line of 1 Queen Elizabeth Way and the side elevation of 19 Waterloo Crescent, creating a complementary streetscene of buildings.
6. Also, the scheme's associated parking would not be visually obtrusive in the streetscene as this would be placed mostly to the rear of the plot. The garaging is some distance from its respective dwellings, but a further space would be provided on the frontage allowing for purchased goods to be easily placed in the house without causing inconvenience to occupiers. Whilst the driveway access is relatively long, it would only be glimpsed by passing observers. As such, it would not be visually striking or materially harmful to the streetscene and would have only a modest impact on the prevailing pattern of development. Furthermore, the proposed layout and the location of the driveway, would provide visual separation of buildings from the rear gardens of bungalows along Waterloo Crescent.
7. Consequently, the proposed development would comply with the distinctiveness of the area and therefore complement the character and appearance of the surrounding area. As a result, the proposal would comply with policies CS.5 and CS.9 of the Stratford-on-Avon Core Strategy [2016] (CS) and policy ENV9 of the Bidford-on-Avon Neighbourhood Plan [2017]. These require, among other matters, for development to consider an area's townscape character and to support high quality design which is sensitive to its setting and be well integrated to existing built form.
8. The Council identified that the proposal failed to comply with Part F [2019] of the development Requirements SPD. However, this relates to residential amenity a matter asserted by the Council as not being in dispute. This SPD therefore weights neither for nor against the proposal.

Biodiversity Net Gain and Self-Build issues

9. The Town and Country Planning Act 1990 (as amended) requires development to be subject to a statutory BNG Assessment. Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to a biodiversity gain plan condition that ensures the delivery of a minimum 10% increase in biodiversity value. Nonetheless, a statutory exemption means that the biodiversity gain plan condition does not apply when a proposal is for Self-build and custom build development for proposals of no more than 9 dwellings, has a site area no larger

than 0.5 hectares, and consists exclusively of dwellings which are self-build or custom housebuilding.

10. The proposed dwellings are intended to be provided as self-build plots. The Self-Build and Custom Housebuilding (SBCH) Act 2015 (the Act), at (A1) defines SBCH as the building or completion of self-build housing by (a) individuals, (b) associations of individuals, or (c) persons working with or for them. The Planning Practice Guidance states that in considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.
11. The proposed scheme relates to two detached dwellings. These are of similar design to each other. The proposal is described as being for SBCH and evidence has been provided to demonstrate that a Community Infrastructure Levy exemption has been granted by the Council. The appellant asserts that as a developer, he designs his own houses and has designed these two dwellings for himself and his parents. As a result, it is clear that the appellant has had a primary input into the design and layout of one of the plots. The second plot, for the parents, has been designed on their behalf by the appellant as a close family member and both parties have declared that they intend to live within each dwelling for a minimum of 3 years.
12. A supporting letter, from the appellant's parents, confirm that the design of the second dwelling is fit for their use and they like the layout which would give them plenty of space. The appellant further asserts that his father is a retired developer. This demonstrates that the parents, through collaborative discussion have had, as the intended initial owners of the home, primary input into the final design and layout of the second plot. Furthermore, the method of delivery of these SBCH reflects the definition of (A1)c of the Act for persons working with an association of individuals of homes to be occupied by those individuals. Accordingly, both plots would meet the definition of SBCH. Therefore, whilst the dwellings are of a conventional and similar design this alone would not demonstrate they are not SBCH and this form of housing does not necessarily require, by the definition in the Act, to be a 'unique' design.
13. The Right to Build Task Force provides guidance as to the key requirements that a Legal Agreement should contain to ensure that a dwelling meets the definition of SBCH. Such an Agreement should include a Self-certification commitment that the applicant is the self-builder who has specified the dwelling, that they would be the first occupant of the dwelling, they would retain it as principal residency for a set period and is not a speculative market build dwelling. Additionally, for multi-plot schemes, the developer is required to provide serviced plots, that would conform with a design code, marketing strategy and Plot Passports. In either scenario there is the key requirement for the occupiers to have primary input into the design and layout of the dwelling, which I am satisfied would be met in this case.
14. The UU requires the owners to secure a marketing Strategy for the dwellings and to ensure each plot is marketed as SBCH for a 12 month period. The Agreement also requires the owners to ensure that the units would be occupied only as Self-build plots, that they are fully serviced, registered as SBCH, to ensure the dwellings are first occupied by an individual who has had a primary input into the design and layout of the unit and will reside there for a minimum of three years.

15. The Agreement is a certified and signed document that would satisfactorily secure the units as SBCH. Thus, the UU would deliver SBCH in accordance with the requirements of the Act.
16. In providing SBCH the proposal would be exempt from delivering 10% BNG. Therefore, I am satisfied that the obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The obligations would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and NPPF paragraph 58. Therefore, I can take this into account as part of my decision. The scheme would therefore not conflict with CS policy CS.6 which seeks development to, where possible, secure a net gain in biodiversity and make provision, where appropriate, to secure the creation and management of additional habitats.

Other Matters

17. The site is a former area of garden land which includes some domestic outbuildings such as greenhouses and sheds. The appellant's Preliminary Ecological Appraisal illustrates that an ecological survey was undertaken in February 2024. This identified that there were no features on site that could support bat habitat, was unsuitable for Great Crested Newts, bird species found on site were of Low Conservation Concern, and a small level of badger activity was recorded. The Appraisal advises that a Precautionary Method of Working statement should be provided, at a pre-commencement stage, to ensure badgers are not harmed by the development. No further surveys were advised to be necessary. Based on the submitted evidence, I am satisfied that the proposal would cause no harm to wildlife subject to mitigating conditions.
18. Interested parties have identified that on-street parking in the area is high and the proposal would generate additional traffic and exacerbate parking pressure. The proposal would provide five on-plot parking spaces per unit, meeting the Council's requirements. On-street parking appears to be in high demand at peak times. However, the loss of some spaces through the creation of new access points along Queen Elizabeth Way would be limited. As a result, the proposal would not result in harm to highway safety, a view shared by the Highway Authority.
19. With respect to effect on living conditions, the proposal would be set away from the rear outlook of properties along Waterloo Crescent, preventing an overbearing effect to adjacent plots. The front windows of the proposal would provide views towards the rear garden of 21 Waterloo Crescent and indirectly towards the frontage of 17 Queen Elizabeth Way. Nonetheless, the proposed layout would create a sufficient separation distance to prevent significant overlooking into neighbouring gardens or windows. Overlooking from the side window of plot one, and the ensuite windows of both plots, could be obscurely glazed to further reduce overlooking effects. Concerns with respect to overshadowing has also been raised, however sunlight would only be marginally reduced to small parts of the garden of 1 Queen Elizabeth Way, causing no materially adverse effect.
20. Concerns have been raised by interested parties with respect to construction disturbance creating noise and nuisance. However, the construction period would be temporary and governed by noise and construction controls by environmental

legislation. Furthermore, as the scheme is for two dwellings any associated disturbance would be relatively low-key and none-invasive.

21. An appeal was dismissed, earlier this year, for three dwellings on the site. The Inspector found that plot 3, to the rear of the site, would form a layout that would disrupt the prevailing pattern of development. As the proposed scheme is substantively different to the proposal the subject of this appeal, it has had only a limited bearing on my consideration of the merits of this proposal.

Conditions

22. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance. I shall take the Council's suggested conditions into consideration and impose these with some amendments and adjustments for clarity. I have imposed a time frame condition and approved list of plans for clarity and certainty [conditions 1 and 2].
23. Conditions are required for tree protection measures to be installed, details of hard and soft landscaping, materials and for refuse bins to be provided in accordance with the Council's guidance in the interests of the character and appearance of the area [5, 7, 10 and 12]. Also, conditions are necessary to ensure wildlife would be protected by the requirement for the scheme to comply with the recommendations of the Preliminary Ecological Appraisal and in adopting a precautionary working method to protect badgers both to satisfy ecological interests [4 and 6].
24. Furthermore, conditions requiring details of a sustainable drainage scheme and to manage water resources would be required to satisfy CS policy 4 [3 and 8]. Also, a condition is required to ensure the scheme meets the sustainability measures of the appellant's Climate Change Checklist [9]. It is also necessary to require the first-floor landing window of plot 2 and en-suite windows of both plots to be obscurely glazed to reduce overlooking into neighbouring gardens [11].

Conclusion

25. The proposal would comply with the development plan and there are no material considerations that outweigh this finding. Accordingly, the proposal should be allowed.

B Plenty

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following plans and drawings: Gar-51 REV A, H1540-52 REV A, H1540-52 (PL) REV A, LP01 REV C, LSCSL 01 REV C, EXM -01 REV A, LADS – 01 REV C, BCP- 01 REV A and VIS- 01 REV A.
- 3) Prior to the commencement of development, a scheme for surface water disposal shall be to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details prior to the first occupation of the dwellings hereby permitted and shall be retained thereafter.
- 4) Prior to the commencement of the development hereby permitted, a Precautionary Method of Working (PMoW) detailing how badgers will be protected, shall be submitted to and approved in writing by the Local Planning Authority, and the development shall thereafter only be carried out as approved.
- 5) Prior to the commencement of the development hereby approved, the tree-protective fencing shall be fully implemented, in accordance with the details contained on the Tree Protection Plan. The approved tree protection scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from the site.
- 6) The development hereby permitted shall be carried out in full accordance with the Preliminary Ecological Appraisal by Cotswold Wildlife Surveys, dated 28 February 2024.
- 7) Notwithstanding the details submitted, prior to occupation of either dwelling hereby permitted, a scheme of hard and soft landscaping detailing treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. This landscaping scheme shall include: a. planting plans (to a recognized scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting; b. the method and specifications for operations associated with planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting; c. written specifications including cultivation and other operations associated with tree, plant and grass establishment; d. existing landscape features such as trees, hedges, shrubs and ponds which are to be retained and/or removed, accurately plotted (where appropriate); e. the position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedges), where appropriate; and f. a timetable for the implementation of the soft and hard landscaping scheme.

There shall be no excavation or raising or lowering of levels within the prescribed root protection areas of retained trees unless previously approved in writing by the Local Planning Authority.

The approved soft and hard landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, maintained and managed in accordance with the approved details.

- 8) No dwelling that has a downpipe within the development hereby permitted shall be occupied or used until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe.
- 9) Prior to first occupation of the dwelling hereby permitted, the sustainability measures proposed in the supporting Climate Change Checklist shall be incorporated into the design of the development and/or site layout as relevant. Thereafter, the approved sustainability measures shall be retained and maintained.
- 10) The dwelling hereby permitted shall not be occupied until bins for the purposes of refuse, recycling and green waste in accordance with the Council's current collection strategy have been provided in accordance with the Council's bin specifications.
- 11) The side window serving a landing at first-floor of plot 2, and the ensuite windows of both plots, shall be obscurely glazed to Pilkington level 3 or greater prior to first occupation of the dwellings and shall be maintained as such hereafter.
- 12) Before any above ground works commence, details of the materials to be used in the construction of the external surfaces of the proposed dwellings shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

End of conditions