

Planning Appeal Decision Letters

- (a) Dungee Corner, Harrold Road, Bozeat (and cost decision)**



Appeal Decision

Site visit made on 23 August 2022

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2022

Appeal Ref: APP/M2840/W/22/3294888

Dungee Corner, Harrold Road, Bozeat, Wellingborough NN29 7LP

- 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 Ms Ruth Taylor against the decision of North Northamptonshire Council.
 - The application Ref: NW/21/00592/FUL, dated 7 July 2021, was refused by notice dated 16 September 2021.
 - The development proposed is construction of a new 4 bedroomed dwelling with a detached double garage, a detached potting shed, greenhouse, new vehicular access, boundary treatments and gates and associated hard and soft external work.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs was made by Ms Ruth Taylor against North Northamptonshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description in the banner heading above is taken from the amended description agreed by the parties.

Main Issues

4. The main issues in this case are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposal would be of exceptional quality and/or innovative design sufficient to meet the rural exceptions test in the local development plan's strategic approach to development and the countryside; and
 - Whether the proposal makes adequate provision to safeguard protected species and biodiversity.

Reasons

Character and appearance

5. The appeal site is an overgrown garden area including some orchard trees, to the rear of a two storey house. It is located in open countryside, around 2km to the east of Bozeat village.
6. Part d) of Place Shaping Principles Policy 8 of the North Northamptonshire Joint Core Strategy 2011-2031 (JCS) seeks to ensure that development creates a distinctive local character by i) responding to the site's immediate and wider context and local character to create development which draws on the best of that local character without stifling innovation, and ii) responding to the local topography and the overall form, character and landscape setting of the settlement.
7. The countryside area between the eastern edge of Bozeat village and the appeal site is characterised by a relatively flat open rural arable landscape of fields, set within a framework of mature hedgerows with hedgerow trees, and a predominant lack of buildings with only a scattering of occasional, mainly farmstead buildings including some pitched roof dwellings. As such, the open and verdant rural patchwork of hedge-lined fields, and relative lack of buildings are the defining characteristics of the local area.
8. The field that adjoins two sides of the appeal site is a part of the local area's patchwork of hedge-lined fields. This meadow¹ has been designated as a Site of Special Scientific Interest as a species rich grassland with a locally rare orchid population. As indicated by the Design Midlands design review panel (DRP)², the meadow that has been a key driver in informing the rationale for the proposed siting of the house. That said, neither the meadow nor the appeal site's western and northern boundary post and wire fencing, which are cited as 'defining features' in the appellant's Landscape Impact Assessment, are so visually striking, prominent and large in scale to constitute defining characteristics of the local area.
9. The proposed dwelling would combine a contemporary re-imagining of Roman villa and more recent local barn design with, overlooking the meadow, a two-storey element of strikingly modern angular form and mass with oriel window, bi-parting sliding door, glass balustrade, and clay pantile and zinc clad facing components. To some extent the building would echo the stepped form of Dungee Barn, which is located around 150m away on the other side of Harrold Road. As such, the proposed dwelling would be an architecturally interesting fusion of elements and a bold building.
10. However, the proposed building would noticeably differ from an agricultural barn due to its extensive fenestration, which even with the proposed untreated oak shutters, would be visible from land in the vicinity, for occupants when enjoying natural light into the rooms and views out. This fenestration, together with the striking two-storey element, and the domestic occupation, paraphernalia and illumination at the site would highlight that the building was not a barn but a modern residential building. Also, the extent of sliding, untreated wooden shutters to the proposed residence would further draw attention to the atypical modern residential fusion style in this countryside context.

¹ Dungee Corner Meadow.

² May 2021 Design Re-review of the scheme.

11. The proposal's combination of some flat roofing and the relatively unconventional angular roof form and materials of the building's two-storey element would contrast with more conventional pitched tiled roofing of dwellings in the area. The two storey element's form and the combination of vertical pantiles, zinc cladding, modern glass balustrade and bi-parting sliding door would emphasise the building's atypical modern residential fusion style in its countryside location. The introduction of a vehicular access with approximately 5m wide sliding oak entrance gate facing onto Harrold Road, in line with the two storey element of the building would further announce the dwelling's presence in the rural scene.
12. I appreciate the DRP's enthusiasm for the concept of the proposed new wildflower area appearing as an extension of the meadow 'bleeding' onto the appeal site and around the new building. However, this would not negate the adverse impact that the proximity of the proposed building's striking northern elevation to the meadow, separated only by a post and wire fence without buffer planting, would result in a stark interface with the meadow, viewed from countryside beyond the appeal site. Also, the visually softening and containing effect of perimeter hedging, trees and new planting would be limited by seasonal leaf fall, and domestic pressures for thinning and pruning.
13. In introducing the substantial four-bedroom house of to the appeal site, the proposal would erode the distinctively open and verdant rural character of the local countryside area. The building's striking modern fusion style would further emphasise this erosion of character in a countryside area that is mainly free from buildings. As such, the proposal would appear somewhat alien in its rural location, and visually jar with the local area's defining characteristics. The jarring impacts would be noticeable from various viewpoints in the locality, on the site, neighbouring land, Harrold Road and from the Three Shires Way public footpath.
14. The inclusion of vernacular materials with the proposed use of local stone in the walls and red brick window surrounds would not be sufficient to negate the jarring impacts identified. Also, even if mechanical heating and cooling provision at the dwelling could be relatively unobtrusively incorporated, as the appellant suggests, this would not negate the adverse impacts identified.
15. While evidence of a Roman villa has apparently been found around 5km from the appeal site³, there is no substantive evidence before me of a Roman villa in the more immediate vicinity of the site, to potentially contribute to a contextual case for the proposed design fusion.
16. I appreciate the confident design ambition of the scheme and the DRP's support for it. However, for the above reasons, I find that the proposal would appear 'on the ground' as a synthesis of diverse elements, without sufficient cohesion and contextual logic to fit in acceptably with the character of the local countryside area. As such, the proposal would not create development of distinctive local character, and not draw on the best of local character. Thus, I cannot agree with the DRP's view that the proposal would sit comfortably in its setting.
17. I therefore conclude that the proposed development would harm the character and appearance of the area. As such, it would conflict with the place making

³ As indicated in paragraph 2.1.1 of the Design and Access Statement.

principles of Part d) of JCS Policy 8, which seek to ensure that development complements local character.

Whether exceptional design quality and/or innovative design

18. JCS supporting text paragraph 5.37 explains that the local spatial strategy, as set out in JCS Policy 11 seeks to focus development towards urban areas, to ensure that the rural area's character is maintained and reinforced, and open countryside is strongly protected. JCS Policy 11 section 2d) establishes that the form of development proposed in this case⁴ will be resisted in open countryside unless special circumstances set out in national policy or JCS Rural Exceptions Policy 13 apply.
19. Criterion 2a) of JCS Rural Exceptions Policy 13 requires individual dwellings in open countryside, away from established settlements to be of 'exceptional quality or innovative design as set out in supporting paragraphs 5.42 and 5.43'. Paragraph 5.42 refers to the National Planning Policy Framework (the Framework) as indicating circumstances of exceptional dwelling quality or innovative design, in which development of a dwelling in the countryside may be acceptable. Paragraph 5.42 adds that the Framework indicates such a design should: be truly outstanding or innovative, helping to raise standards of design more generally in rural areas; reflect the highest standards in architecture; significantly enhance its immediate setting; and be sensitive to the defining characteristics of the local area.
20. In addition, JCS supporting text paragraph 5.43 sets out the local approach, which emphasises that exceptional development of a dwelling in the countryside in North Northamptonshire would 'only be the case' where both innovative standards of sustainable design in excess of those set out in JCS Policy 9 and national regulations, *and* an outstanding contribution to the character of the landscape, promoting and reinforcing local distinctiveness, are achieved. In seeking an outstanding contribution to the character of the landscape, JCS paragraph 5.43 and its citation in helping define exceptional quality in JCS Policy 13 Criterion 2a) amount to a requirement for exceptional quality as well as a high standard of innovative design.
21. As such, Criterion 2a) of JCS Policy 13 encompasses requirements for exceptional quality *or* innovative design, and, through its citation of supporting text paragraph 5.43, exceptional quality *and* innovative design. As a whole, this amounts to a requirement by JCS Policy 13 criterion 2a) for exceptional quality and innovative design.
22. The scope of the definition of 'exceptional quality' was reduced in the rural housing section of the revised Framework⁵ in 2021 by deletion of the phrase 'or innovative'. While JCS Policy 13 criterion 2a) references the previous 2019 version of this part of Framework policy via JCS paragraph 5.42, the 2021 Framework amendment does not alter the text in JCS Policy 13 criterion 2a), which states the requirement for exceptional quality or innovative design. Nor does it alter the emphasis on innovative standards of sustainable design and outstanding contribution to landscape character in supporting text paragraph

⁴ Namely development other than rural diversification, appropriate re-use of rural buildings and appropriate renewable energy.

⁵ As per paragraph 80 (e) of the 2021 version, compared to paragraph 79 (e) of the 2019 version.

- 5.43. As such, local development plan Policy JCS 13 criterion 2a) as a whole continues to require exceptional quality and innovative design.
23. I shall further address the question of consistency of Policy JCS 13 criterion 2a) with the current version of the Framework in the Planning Balance and Conclusion of this decision.
24. Turning to whether the proposal would be of exceptional quality. It is undisputed that the proposed dwelling would be an isolated home in the countryside. Framework paragraph 80(e) provides guidance on what constitutes exceptional design quality for isolated homes in the countryside. Namely, that they should satisfy all of the following criteria: i) be truly outstanding, reflecting the highest standards in architecture, ii) help raise design standards more generally in rural areas, iii) significantly enhance the dwelling's immediate setting, and iv) be sensitive to the local area's defining characteristics. Also, through the citation in JCS Rural Exceptions Policy 13 criterion 2a) of supporting text paragraph 5.43, this policy adds the local requirement for outstanding contribution to the landscape character, promoting and reinforcing local distinctiveness.
25. I agree with the DRP on the point that the proposal's 'reveal' design concept of a series of living spaces leading from the Harrold Road frontage, revealing the house and views of meadow, would result in an appealing place for future occupants to live. However, some screening, a sequence of living spaces and pleasant views out over a verdant scene are not such an exceptional combination for a dwelling to rank as unusually good.
26. Also, while the proposal's combination of contemporary re-imagining of Roman villa and local barn design, and emphatic modern oriel window are architecturally bold and interesting, this fusion of diverse elements and influences lacks sufficient architectural cohesion and contextual logic to aesthetically fit acceptably into its countryside context. As such, the proposed dwelling would not be truly outstanding, and not reflect the highest standards of architecture.
27. Regarding standards of design more generally in rural areas, the application proposes a net zero carbon dwelling to be achieved through exemplar energy use, thermal efficiency sustainable materials, construction and appliances, mechanical ventilation and heat recovery, shutters, ground source heat pump, solar photovoltaic roof, a bio-digester, rainwater harvesting permeable surfacing, low water demand, storage batteries, electric vehicle charging points and closure of the guest bedroom wing when not in use. Even though the lack of 'up front' detail of these measures undermines certainty that they could all be satisfactorily incorporated within the development, it is likely that at least some could, and this would be sufficient to promote 'eco' housing design. In this way, the proposal would help raise standards of design more generally in rural areas.
28. The proposed dwelling's immediate setting comprises the garden area of the house to the north-east, a stretch of Harrold Road and surrounding rural fields. While the existing appeal site is overgrown with grass and scrub, the evolved self-set verdant and unbuilt character of this, together with existing orchard trees do not stand out as out of place in the verdant rural context. In this context, given the erosion of the open and verdant rural character of the local countryside area that would arise from the proposed building of striking and

contextually atypical modern fusion style, the appeal proposal would not significantly enhance its immediate setting.

29. As identified under the first main issue, the proposal would visually jar with the local area's defining characteristics. As such, the proposal would not be sensitive to the defining characteristics of the local area.
30. Thus, while the proposed building's 'eco' credentials would help raise standards of design more generally in rural areas, in failing to satisfy the other exceptional design quality criteria, the proposal would not rank as of exceptional quality. I therefore cannot agree with the DRP's view that the appeal scheme is capable of meeting the Framework's exceptional quality criteria for isolated rural dwellings. Nor would the proposal achieve the outstanding contribution to the landscape character required through the citation in JCS Rural Exceptions Policy 13 criterion 2a) of supporting text paragraph 5.43.
31. Regarding the question of innovative design, I find as follows. Some imaginative detailing utilising traditional materials is proposed. These include variation on a traditional stonework pattern, vertical use of pantiles on the walls of the two-storey element and reinterpretation of slate cloaking to create a concealed gutter. Also, an automatic shutter system to close the shutters as night falls, reducing light spill across the meadow beyond is proposed. However, these elements would not amount to use of technologies and materials of such magnitude of novelty to constitute the innovative standards of sustainable design in excess of those set out in JCS Policy 9 and national regulations, as required through the citation by JCS Policy 13 criterion 2a) of supporting text paragraph 5.43.
32. I therefore conclude that the proposed development would not be of exceptional quality and innovative design sufficient to meet the rural exceptions test in the development plan's strategic approach to development and the countryside. As such, the proposal would conflict with JCS Policy 13 criterion 2a) which as a whole requires exceptional quality and innovative design. In failing to demonstrably meet special circumstances required by JCS Policy 13, the proposal would conflict with JCS Policy 11 section 2d).

Protected species and biodiversity

33. Policy 4 of the JCS seeks a net gain in biodiversity, through, among other things, protecting existing biodiversity assets by a)i refusing development proposals where significant harm to an asset cannot be avoided, mitigated or, as a last resort, compensated and b)iii preserving restoring and creating priority and other natural and semi-natural habitats within and adjacent to development schemes.
34. The Preliminary Ground-Level Tree Roost Assessment (PGLTRA) undertaken by the appellant's ecological consultants as part of the appeal indicates the following. The fruit trees in group G3 towards the site's north-western boundary that adjoins the meadow SSSI, which are proposed for removal to make way for the building, have either negligible or low bat roosting potential. Works could be timed to avoid the hibernation period when bats are vulnerable, and, G3 trees proposed for removal could be further checked by a suitably experienced bat ecologist immediately before felling. Also, larger trees of higher bat roosting potential on the site are proposed for retention.

35. The Biodiversity Net Gain assessment (BNG) undertaken by the appellant's ecological consultants as part of the appeal indicates that the proposal is likely to result in a biodiversity net gain compared to existing habitats. New meadow elements, and tree and hedge planting are likely to help contribute to this.
36. Therefore I conclude that the proposal would make adequate provision to safeguard protected species and biodiversity. As such, it would not conflict with Policy 4 of the JCS, which seeks to ensure that development protects and contributes to a net gain in biodiversity.

Other Matters

37. Criteria 2a) and b) JCS Policy 11 are also cited in the first reason for refusal (RFR). These criteria cover economic, local needs and village infill matters which, go beyond the main focus of this RFR and the second main issue in this decision, namely the 'exceptional quality' rural exceptions test. Policy SS1 of the Plan for the Borough of Wellingborough (PBW), which is also cited in the first RFR, also covers matters other than the 'exceptional quality' rural exceptions test. As I am dismissing this appeal on grounds under the main issues in this case including the exceptional quality test, it is not necessary for me to consider the question of accordance with JCS Policy 11 criteria 2 a) and b) and PBW Policy SS1 further in this instance.

Planning Balance and Conclusion

38. In the light of the main issues described above, I consider that the most important development plan policies for determining the appeal are JCS Biodiversity Policy 4, JCS Place Shaping Principles Policy 8 part d), JCS Rural Areas Policy 11 section 2d) and JCS Rural Exceptions Policy 13 criterion 2a). I find as follows regarding the extent to which the policies are consistent with the Framework. In its approach to protecting and improving biodiversity, JCS Policy 4 is consistent with paragraph 180 of the Framework. In promoting distinctive local character without stifling innovation, JCS Policy 8 part d) is consistent with Framework paragraph 130(c).
39. In requiring innovative design as a rural housing exceptions criterion, JCS Policy 13 criterion 2a) is inconsistent with the revised paragraph Framework 80(e) which has dropped the word 'innovative', compared to the previous version's paragraph 79(e). Nevertheless, much of the content of JCS Policy 13 criterion 2a) reflects the criterion of Framework 80(e) and follows sound sustainable development principles. Given this, and that JCS Policy 11 section 2d) mentions 'national policy' or JCS Policy 13, I find that the special circumstances required for development in the open countryside by JCS Policy 11 2d) are largely consistent with the Framework.
40. As such, I attach substantial weight to JCS Biodiversity Policy 4, JCS Place Shaping Principles Policy 8 part d), JCS Rural Areas Policy 11 section 2d) and JCS Rural Exceptions Policy 13 criterion 2a).
41. Given my findings that JCS Policy 11 section 2d) and Policy 13 criterion 2a) Policies are largely consistent with the Framework, I consider that these policies are not out of date. Moreover, JCS Policies 4, and 8 part d) are not out of date. Together, this results in the 'basket' of the most important policies for determining this case not being out of date. Therefore, the tilted balance, as set out within paragraph 11 of the Framework, is not engaged.

42. The proposal would contribute one dwelling to local housing supply, within the context of in the region of 7.2 years supply of deliverable housing sites in North Northamptonshire. Furthermore, the construction phase and subsequent residential occupation would result in some local economic activity, fresh landscaping and promotion of 'eco' housing design standards. The benefits are limited by the scale of development and do not outweigh the identified totality of harm.
43. The proposal would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal is dismissed.

William Cooper

INSPECTOR



Costs Decision

Site visit made on 23 August 2022

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2022

Costs application in relation to Appeal Ref: APP/M2840/W/22/3294888 Dungee Corner, Harrold Road, Bozeat, Wellingborough NN29 7LP

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Ruth Taylor for an award of costs against North Northamptonshire Council.
 - The appeal was against the refusal of planning permission for construction of a new 4 bedroomed dwelling with a detached double garage, a detached potting shed, greenhouse, new vehicular access, boundary treatments and gates and associated hard and soft external work.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application centres on the applicant's claim that the Council: (a) failed to have adequate regard to the proposed development's accordance with national policy, and other material considerations; (b) refused planning permission on planning grounds capable of being dealt with by condition; (c) failed to co-operate with them in not requesting information; and (d) did not review their case promptly following the lodging of the appeal against refusal of planning permission. PPG indicates that local planning authorities will be at risk of an award being made against them if they behave in such ways.
4. Regarding matter (a), starting with the updated provision of paragraph 80(e) of the National Planning Policy Framework (Framework) 2021. I see evidence in paragraph 7.7 of the Council Planning Officer's Report to North Northamptonshire Area Planning Committee (Wellingborough) (Planning Committee) of regard to the 2021 Framework update that dropped 'innovative' from paragraph 80(e), compared to previous version's paragraph 79(e).
5. Moreover, as set out in my decision, this 2021 Framework amendment did not alter the text in Joint Core Strategy Policy 13 criterion 2a), which states the requirement for exceptional quality or innovative design. Nor did it alter the emphasis on innovative standards of sustainable design in supporting text paragraph 5.43 cited by JCS Policy 13 criterion 2a). Thus, the Council behaved

- reasonably in having regard to innovation as a rural housing exceptions criterion in this case.
6. As cited in the fourth reason for refusal (RFR), lack of information about heating and cooling provision for the building impeded assessment of and necessary certainty about the innovation and design implications of these elements of the proposal. In the context of the stringent criteria of rural exceptions policy for isolated rural dwellings, it was reasonable for the Council to state their concern on this point.
 7. Turning to the provisions of paragraph 133 of the Framework, this sets out that in assessing applications, local planning authorities should have regard to the outcome from processes for assessing and improving the design of development, including any recommendations made by design review panels.
 8. The recommendations of the Design Midlands Design Review Panel (DRP), as addressed in my decision, are as follows. The DRP¹ made the following recommendations about the proposed dwelling scheme. They believe it to be a strong scheme that would sit comfortably in its context, and be capable of meeting the Framework's exceptional quality criteria for isolated rural dwellings. They support the approach to the site, the 'reveal' design concept, the position of the garage, the materials palette, and the proposed dwelling's scale, mass and form. They also suggested that further supporting design 'narrative' material be prepared to illustrate the meadow 'bleeding' into the site, landscaping and outdoor spaces, the 'reveal' journey through the house and garden, the building elevations' relationship to its immediate context, and detailed use of traditional materials in a contemporary manner.
 9. In references to the DRP's responses on the scheme in the Planning Officer's Report to Planning Committee, including for example in paragraph 2.5, I see evidence that the Council's Planning Officer had regard to the DRP's recommendations. However, in this Report there was a lack of i) reference to Framework paragraph 133, ii) description of the DRP's recommendations, and iii) clearer articulation of the Planning Officer's concerns in terms of how they diverged from the DRP's recommendations.
 10. This indicates that information about and analysis of the DRP's recommendations was not sufficiently clearly articulated in the Planning Officer's Report to ensure that the Planning Committee was able to fully have regard to these recommendations. This was unreasonable on the part of the Council.
 11. Regarding matter (b), starting with the second and third RFRs, the Council was entitled to exercise its planning judgement about the proposed large entrance gate as an element relevant to assessment of the immediate setting of the proposal and the character of the local character. In relation to the fourth RFR, as established earlier, it was reasonable for the Council to state their concern about lack of information about heating and cooling provision, as this impeded necessary certainty to ensure that the stringent criteria of rural exceptions policy for isolated rural dwellings could be met.
 12. In terms of the fifth RFR, it will be clear from my decision that I consider that, in the light of additional bat roosting and biodiversity net gain assessment

¹ As set out in the DRP's Design Re-review of the scheme, May 2021.

evidence submitted by the appellant to the appeal, the proposal would make adequate provision to safeguard protected species and biodiversity. However, that said, this additional evidence was not before the Council at the time of making their decision. In the consequent absence of necessary certainty to demonstrably meet the requirement to safeguard protected species and biodiversity, it was reasonable for the Council to set out their concern in the RFR. Therefore, the Council did not refuse planning permission on planning grounds capable of being dealt with by condition.

13. Regarding matter (c), details of technologies to facilitate heating and cooling, and additional bat roosting and biodiversity net gain assessment evidence, were not presented to the Council before their decision. As an appellant ultimately decides the content of their application, there is some onus on them to submit sufficient information about their scheme to provide necessary certainty on decisive matters. Given this, the absence of a request for the above additional information from the Council, before making their decision did not amount to lack of co-operation.
14. Regarding matter (d), I see no decisive evidence that the Council failed to review their case promptly following the lodging of the appeal.
15. To conclude, I find as follows. Given my finding regarding matters (b), (c) and (d), unreasonable behaviour did not occur in respect of grounds for refusal, co-operation, and prompt review of case.
16. In relation to matter (a), unreasonable behaviour did occur in terms of insufficient articulation of information about and analysis of the DRP's recommendations in the Planning Officer's Report to Planning Committee. However, that said, the Council's concerns in this case went beyond the views of the DRP, and the Council were not automatically bound to agree with the DRP's recommendations. As such, it is not clear that had the Council been clearer in their articulation in this regard, the core appeal arguments would have been substantially different in scope, or an appeal would have been avoided.

Conclusion

17. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated in relation to matters (a) to (d). Accordingly, the application for costs fails.

William Cooper

INSPECTOR