
Appeal Decision

Site visit made on 18 October 2016

by Emma Tinsley-Evans BSoc.Sc MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 05 December 2016

Appeal Ref: APP/C3105/W/16/3152571

Jack barn, West End, Launton OX26 5DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Howson against the decision of Cherwell District Council.
 - The application Ref 16/00657/OUT, dated 7 April 2016, was refused by notice dated 27 May 2016.
 - The development proposed is erection of 2 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 2 dwellings at Jack Barn, West End, Launton OX26 5DG in accordance with the terms of the application, Ref 16/00657/OUT, dated 7 April 2016, subject to the conditions set out in the schedule attached to this decision.

Application for costs

2. An application for costs was made by Mr R Howson against Cherwell District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The proposal is for outline planning permission with all detailed matters reserved. I have dealt with the appeal on that basis, treating the submitted layout plan as indicative.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is located at the end of a narrow access track off the turning head of West End. West End is predominantly residential in character and includes a variety of housing types and styles. The access road to the appeal site is located on the southern edge of the village and includes residential development along one side and a paddock area on the other. This contributes to the open and rural character of the area.
 6. The appeal site currently accommodates a large, modern store / workshop building. It is clad in grey steel over concrete panels and includes roller doors
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- on 2 sides. The building, together with the open, hard-surfaced yard gives the site itself quite an industrial appearance.
7. The appeal proposal seeks outline planning permission for 2 detached dwellings on the site. All existing buildings would be demolished and the hard-standing would be removed. However, the Council maintains that the appeal site lies outside the built-up limits of Launton and the development would result in inappropriate encroachment into the open countryside. Reference is made to a previous enforcement appeal where an Inspector stated that the site is within the open countryside for planning policy purposes.
 8. Notwithstanding this, I am mindful that there is no identified settlement boundary which defines the built-up area of the village. Furthermore, since the determination of the enforcement appeal in June 2014, planning permission was granted for a dwelling immediately adjacent to the appeal site in 2015. I note that this was a retrospective application following the expiration of a previous planning permission granted in May 2011. Whilst the original planning permission for the dwelling was therefore granted prior to the enforcement appeal, I am not certain whether the Inspector was aware of this; particularly as evidence from the Planning Officer's report on application 15/00392/F suggests that the dwelling was under construction in 2015.
 9. If this adjacent dwelling was not constructed at the time of the 2014 enforcement appeal, the existing building at the appeal site would have appeared somewhat detached from the neighbouring residential development. This may explain why the previous Inspector considered the appeal site to be within the open countryside for planning policy purposes, as no further reasoning was provided as to why this was considered to be the case. The Inspector did however recognise that the site was located at the edge of the built-up limits to the village of Launton, at the point of transition between the residential area and the surrounding rural area. Furthermore, in making these comments, the previous Inspector was considering the use of the building and not the principle of residential development on the site.
 10. Nevertheless, the existing building marks the end of a continuous run of built development along the track, and I consider that the appeal site now has an obvious visual and physical relationship with the village and would relate well to it. In my view it forms part of the built up part of the settlement. In coming to this conclusion I have also had regard to the Council's Planning Officer's report on application 15/00392/OUT, which sought approval for 8 dwellings on the current appeal site and the paddock area to the south. The report refers to the industrial shed and the adjacent new dwelling as forming a "hard built edge to the village" and goes on to state that "the application site clearly lies beyond the built up part of the settlement other than the north-western corner where a modern portal frame building exists". Whilst having regard to the enforcement issues relating to the use of the building at that time, the Council's Planning Officer stated that in their view, it forms part of the built up part of the village.
 11. Given the existence of built development already on site, the proposed dwellings, which would remain within the extent of the current permitted development of the barn and yard, would not therefore appear to sprawl out into the countryside. It is proposed that the rest of the yard outside the appeal site area would be reverted to grassland to be used in association with the paddock to the south of the site. This would see a buffer being retained

between the site and the existing landscape belt to the north and would ensure that the edge of the village continues to be clearly defined.

12. I have seen that views of the site are available from the public footpaths to the south and west. However, given the distance and intervening trees and vegetation, clear and direct views of the site are limited. In addition, having regard to the context of the site in relation to the neighbouring residential development and given that the existing large and bulky industrial shed would be removed, I do not consider that the erection of 2 dwellings would have a significantly adverse landscape and visual impact. Moreover, as landscaping is a matter for subsequent approval, I am satisfied that any further concerns could be mitigated by the submission of an appropriate landscaping scheme.
13. Whilst I note the Council's comments regarding the potential impact of the proposal on the residential amenity of the occupiers of neighbouring properties, the submitted layout is indicative only. The final layout, scale and appearance of the dwellings are matters for subsequent approval.
14. The replacement of the large, industrial looking building with 2 dwellings, in an area already characterised by residential development would not result in the urbanisation of the site or detract from the rural character or setting of this part of Launton.
15. Consequently, the proposed development would not have a harmful effect on the character and appearance of the area. Having regard to my conclusion that the appeal site forms part of the built up part of the village, I find no conflict with saved Policy H18 of the Cherwell Local Plan 1996 (CLP 1996) which seeks to restrict new dwellings beyond the built-up limits of settlements. The proposal would also accord with saved policies C28 and C30 of the CLP 1996 and Policy ESD 15 of the Cherwell Local Plan 2011 – 2031¹ (CLP 2015) which require new development to be sympathetic to the character of its context and compatible with the existing dwellings in the vicinity, amongst other things.
16. There would be no conflict with Policy ESD 13 of the CLP 2015 which states, amongst other things, that development should not cause undue visual intrusion into the open countryside and should not be inconsistent with local character.

Other Matters

17. I note some local concerns regarding the highway implications of the proposed development. However, whilst access is a matter for subsequent approval, the Local Highway Authority has raised no objection to the proposal subject to conditions. The traffic generated by the development would not be significant and would result in an improvement of the current situation along West End, as there would be fewer large vehicles frequently visiting the site. I have no reason to take a different view to the Highway Authority.

Conditions

18. I have had regard to the conditions put forward by the Council and the appellant's comments. Having considered them against the tests in the

¹Part 1 adopted 20 July 2015

Framework and advice in the Planning Practice Guidance, I have amended or combined some conditions in the interests of clarity and to avoid duplication.

19. In addition to conditions limiting the life of the planning permission and setting out the timescale for the submission of reserved matters, it is necessary to impose a condition specifying the relevant plans in order to provide certainty.
20. Given the nature of the use of the existing site, albeit unauthorised, I agree that there could be issues associated with land contamination. It is therefore reasonable to impose a condition requiring an appropriate assessment to be carried out.
21. The Council has suggested the removal of permitted development rights. However, in accordance with the Framework and the NPPG there should be clear justification for doing so. I do not consider that the removal of permitted development rights is necessary in this case.

Conclusion

22. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Emma Tinsley-Evans

INSPECTOR

SCHEDULE OF CONDITIONS:

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: 1503/02B
- 5) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority.