

Appeal Decision

Hearing held on 10 January 2017

Site visit made on 10 January 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 9th February 2017

Appeal Ref: APP/D3125/W/16/3158420

Tansley Farm, Shilton Road, Burford, Oxfordshire OX18 4PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Smyth of Relic Homes against the decision of West Oxfordshire District Council.
 - The application Ref 16/02425/FUL, dated 8 July 2016, was refused by notice dated 8 September 2016.
 - The development proposed is two new dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are (a) whether the proposed development would result in the provision of isolated new homes in the countryside and (b) if isolated, whether any special circumstances exist for such development.

Reasons

3. The appeal site is located in an area of open countryside, between the towns of Burford and Carterton which offer a range of local services and facilities. The nearest village is Shilton to the south, which has very limited services. The site is accessed from the B4020 via a narrow track. The site contains an existing detached dwelling currently unoccupied, with the neighbouring property of Tansley House immediately to the west. Extant planning permission exists for the replacement of the existing dwelling (ref 15/02984/FUL).

Planning policy

4. At the hearing, the Council confirmed that it cannot currently demonstrate a five year housing land supply and that relevant policies for the supply of housing should not be considered up to date in line with paragraph 49 of the National Planning Policy Framework (NPPF). Policy H4 of the adopted West Oxfordshire Local Plan 2011 ('the adopted Local Plan') is a relevant policy for the supply of housing as it seeks to only permit new dwellings in small villages and the countryside in specific circumstances.
 5. The amount of weight to be afforded to Policy H4 is a matter of disagreement between the Council and the appellant. I have limited evidence before me relating to the extent of the housing shortfall and the actions being taken by the Council to address the shortfall, but it is clear that Policy H4 does have some effect on the delivery of housing through restricting new housing outside
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of the district's towns and larger villages. This reduces the amount of weight I can give to the policy. However, there is broad consistency between the policy and paragraph 55 of the NPPF in terms of both seeking to restrict new dwellings in the countryside. I am thus able to give Policy H4 moderate weight insofar as it relates to this appeal, even though it is not up to date.

6. The Council has sought to rely on three policies from the emerging West Oxfordshire Local Plan 2031 ('the emerging Local Plan'), namely Policies H2, T1 and T3. Policy H2 is a broad policy concerning the delivery of new homes and includes, in the second part of the policy, the circumstances in which new dwellings would be permitted in small villages, hamlets and the open countryside. The examination of the emerging Local Plan has yet to recommence following its suspension in January 2015.
7. The appellant provided appeal decisions¹ just before the hearing to highlight that limited or virtually no weight can be afforded to the emerging plan given its stage of preparation. However, paragraph 216 of the NPPF also refers to the weight that can be given to relevant policies based on the extent to which there are unresolved objections to these policies and their degree of consistency with the NPPF.
8. I do not have full details on the extent of unresolved objections to Policy H2, but note that there have been a large number of responses to this policy and it has been subject to examination before the suspension. In terms of consistency, the Inspector examining the emerging Local Plan has indicated in his Preliminary Findings Part 2, published on 15 December 2015, that the Council is justified in taking a cautious approach to further residential development in small villages and hamlets in the second part of Policy H2. Thus, the policy carries modest weight insofar as it relates to this appeal.
9. It was accepted at the hearing by both main parties that Policies T1 and T3 of the emerging Local Plan, which relate to sustainable transport have limited weight as they have not been subject to examination. I have no reason to disagree.
10. Notwithstanding the amount of weight to be afforded to adopted and emerging policies, paragraph 14 of the NPPF states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as whole or specific policies in the NPPF indicate development should be restricted.
11. The Council has argued that paragraph 55 of the NPPF is a restrictive policy insofar as it states that local planning authorities "should avoid new isolated homes in the countryside unless there are special circumstances". The Council argues that this is more restrictive than, for example, paragraph 134 of the NPPF on heritage assets. At the hearing, the appellant did not disagree with the Council's position on the restrictive nature of paragraph 55.

Whether the homes would be isolated

12. The two dwellings would involve a similar footprint, scale and design to the approved replacement dwelling. As such, they would have little difference in terms of the effect on the character and appearance of the surrounding

¹ APP/D3125/W/15/3005737, APP/D3125/W/15/3019438 and APP/D1325/W/16/3143885

countryside. Any effects arising from an increased amount of paraphernalia for two dwellings compared to one, such as car parking, landscaping and boundary treatments, would be minor.

13. However, while the dwellings would be located next to Tansley House, this is the only other property for some distance in a landscape that contains only a handful of dwellings. Thus, the dwellings would be isolated and remote in a physical sense. Furthermore, the B4020 is a fast road between Burford and Carterton without pavements or lighting either side of the site access. Whilst it has a bus service on Mondays to Saturdays, the nearest bus stops are some distance from the access to the appeal site. The nearest services and facilities in Burford and Carterton can only realistically be reached by private motor vehicles. Therefore, the dwellings would also be isolated and remote in a functional sense.

Whether special circumstances exist

14. The appellant has sought to demonstrate that special circumstances would apply even if the dwellings were considered to be isolated. I accept that paragraph 55 of the NPPF is not an exhaustive list, but it provides an indication of the types of circumstances that might qualify as being special.
15. While the dwellings would be an enhancement on the existing dwelling in terms of detailing and materials sympathetic to the surrounding area, and would improve on the energy efficiency, I am not convinced from the evidence before me that the design is of exceptional quality or innovative in nature. In any case, the design and energy efficiency improvements would be achieved through the extant permission, and so the provision of an additional dwelling as proposed would not meet the fourth bullet point on paragraph 55 of the NPPF.
16. It was not disputed at the hearing that the appeal site constitutes previously developed land as defined by the NPPF. Its redevelopment for two houses would represent a more efficient use of land, but given the scale of development, it is unlikely to significantly relieve pressure on land that has not been previously developed. Furthermore, this scenario would apply to numerous small sites outside of built-up areas, and so I do not consider in the case of this appeal that it amounts to a special circumstance.
17. The fallback position of the extant permission only allows for the replacement of an existing dwelling rather than the provision of an additional dwelling. The effects of two dwellings are not the same as the effects of one, and so there is nothing in the extant permission that represents a special circumstance.
18. The appellant cites local and national policy that seeks to ensure sustainable modes of transport where reasonable, and highlights that such policies recognise that solutions will vary from urban to rural areas. It is clear that the appeal site and proposed development is unlikely to support sustainable transport solutions given the location, but this could apply to countless locations in the countryside. Thus, it does not represent a special circumstance.

Planning balance

19. The proposed development would lead to negative social and environmental effects in terms of the lack of accessible local services and the inefficient use of natural resources through increased travel by private car. While the proposed

development would only result in a small increase in the number of bedrooms compared to the extant permission, as two separate properties occupied by two separate families, there would likely be more travel requirements and a greater degree of isolation from services and facilities. While only moderate weight can be afforded to Policy H4 of the adopted Local Plan and modest weight afforded to Policy H2 of the emerging Local Plan, there is still conflict with both policies as well as paragraph 55 of the NPPF. For the above reasons, significant weight can be afforded to the adverse impacts of the development.

20. Given the extant permission, the enhancements in terms of design and energy efficiency and the construction jobs that would be provided are neutral effects, rather than benefits. The proposed development would have some benefits in terms of the provision of an additional housing unit in a district where there is a currently a lack of five year supply and would represent a more efficient use of previously developed land. It would have some benefits in terms of greater investment into the local economy through additional council tax revenue. There would also be some benefits in terms of maintaining and enhancing local services and facilities and the vitality of rural communities. However, all of these benefits are modest given the scale of development proposed.
21. Even if I were to accept that paragraph 55 of the NPPF is a restrictive policy and that the second indent of the fourth bullet point of paragraph 14 of the NPPF is engaged, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development. This would engage the first indent of the fourth bullet point of paragraph 14. Consequently, the presumption in favour of sustainable development does not apply and the proposal does not represent sustainable development.

Conclusion

22. The proposed development would result in isolated new homes in the countryside where no special circumstances would apply. It would therefore conflict with Policy H4 of the adopted Local Plan and Policy H2 of the emerging Local Plan, as well as paragraph 55 of the NPPF. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Abel Bunu BSc HRUP (Hons), MSc, MRTPI	Relic Studio
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FOR THE LOCAL PLANNING AUTHORITY:

Chris Wood	West Oxfordshire District Council
Liz Huggins	West Oxfordshire District Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Appeal Decision APP/D3125/W/15/3005737, submitted by the appellant.
2. Appeal Decision APP/D3125/W/16/3143885, submitted by the appellant.
3. Appeal Decision APP/D3125/W/15/3019438, submitted by the appellant.
4. Signed Statement of Common Ground dated 10 January 2017, submitted by the appellant and the local planning authority.
5. Hearing Statement dated 9 January 2017, submitted by the appellant.
6. Decision Notice and Plans relating to planning permission 15/02984/FUL, submitted by the local planning authority.