

Appeal Decision

Hearing held on 14 March 2017

Site visit made on 14 March 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 28th April 2017

Appeal Ref: APP/C3105/16/3159913

The Oxfordshire Inn, Heathfield, Kidlington, Oxfordshire OX5 3DX

- 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 Investfront Ltd against the decision of Cherwell District Council.
 - The application Ref 16/01109/F, dated 8 June 2016, was refused by notice dated 9 August 2016.
 - The development proposed is described on the application form as the redevelopment of site (function hall) to provide for 8 no. two bedroom dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As discussed at the hearing, the description of the development referred to the redevelopment of the site (function hall). As the development involves the complete demolition of the building on site, it was agreed that reference to the function hall be deleted from the description of development and I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - (i) whether the proposal would be inappropriate development in the Green Belt;
 - (ii) the effect on the openness of the Green Belt;
 - (iii) whether the proposal is situated in a sustainable location;
 - (iv) the effect of the proposal on the character and appearance of the area;
 - (v) whether the proposal would result in the loss of a local facility;
 - (vi) whether the development would provide suitable living conditions for the future occupiers of plots 5, 7 and 8; and
 - (vii) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
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Reasons

Whether the proposal would be inappropriate development in the Green Belt

4. Paragraph 79 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
5. The Framework, at paragraph 89, sets out the categories of development which may be regarded as not inappropriate in the Green Belt. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling or the partial or complete re-development of previously developed sites (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt, and the purpose of including land within it, than the existing development¹.
6. Given the location of the site, in a rural area where there is not a clear settlement pattern or the development of a small gap in an otherwise continuous built up frontage, the proposed dwellings could not be considered to be limited infilling.
7. However, the proposal would involve the re-development of a previously developed site and therefore it follows that in order to determine whether it would be inappropriate development it is necessary to consider whether or not the proposal would have a greater impact on openness than the existing development.

Openness of the Green Belt

8. The Oxfordshire Inn has a number of elements which join together to form one building. The ridge height of the elements of the building range from around 4.2 metres to 7.5 metres with eaves height ranging from around 2.5 metres to 4.5 metres.
9. The height of the proposed development would be in the region of 4.9 metres to eaves with a ridge height of around 7.1 metres. When compared to the existing building on site, this represents an increase in eaves height, the majority of which would be significant. In relation to the ridge height, only the function hall element of the existing building is greater than the proposed development.
10. Given that the current building on site is generally low level, with the exception of the function hall element, the proposed dwellings would be taller than the majority of the existing building and would have significantly more bulk. In coming to that view I acknowledge that the proposed development would not be as tall as the function hall element of the existing building, and that it would result in a significant reduction in both the volume and the footprint of the building on the site.
11. Furthermore, the proposal would also have boundary treatment to serve the private amenity areas for each of the new dwellings. The net effect of this would be a development which would have a broadly similar area of built form

¹ sixth bullet point of paragraph 89 of the Framework

when compared to the existing building. This would significantly diminish the benefit of the proposals smaller building footprint.

12. On the other hand, I acknowledge that there would be the opportunity to provide some landscaping to the site frontage in areas not required for car parking which would provide some benefit to openness.
13. Overall, to my mind, the increase in height (when compared to the majority of the existing building) together with the subsequent increase in massing would lead to harm to the openness of the Green Belt.
14. I therefore conclude that the development would lead to a greater impact on the openness of the Green Belt and would therefore constitute inappropriate development impacting on the Green Belt purpose of safeguarding the countryside contrary to the Framework and Policy ESD14 of the Cherwell Local Plan 2011-2032 (LP).

Location of the development

15. It is common ground between the main parties that the site is not in a village location and the development is therefore contrary to Policy H18 of the Cherwell Local Plan 1996 (the 1996 Plan). Similarly, it is not the case of the Appellant that the site is in a sustainable location. However, it is suggested that the development would be likely to reduce traffic movements in the area.
16. Policy ESD1 of the LP seeks to distribute growth to the most sustainable locations. It also seeks to deliver development that reduces the need to travel with encouragement to sustainable travel options and a reduction on dependence on private cars.
17. Paragraph B.183 of the LP clarifies that the most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car. The appeal site does not lie within any of these locations
18. Policy Villages 1 sets out the housing strategy for the rural areas in Cherwell and includes a village hierarchy. However, Heathfield is not listed as a village for which Policy Villages 1 directly applies to.
19. Notwithstanding that, given the remote location of the site, there is little access to services in the vicinity. Whilst there are other villages and towns in the area, given the distances from the appeal site and the nature of the road and footpath networks, walking would not be an attractive option. It is likely that travel would invariably involve regular journeys by the private motor vehicle which is the least sustainable mode of transport. Consequently, I consider that the dwellings would be isolated from services and not in a sustainable location.
20. As noted by the Council in respect of the previous applications² to convert the hotel rooms into residential accommodation, the proposal would involve one unsustainable use replacing another unsustainable use. Notwithstanding that, these two applications related to the conversion of buildings which appeared in good condition with limited alteration works required to facilitate the conversion rather than the complete replacement of an existing building. This

² 13/01278/F & 15/02077/F

was also a factor which weighed in favour when the Council made that decision.

21. Whilst I agree that lower levels of traffic would be generated by the proposed development when compared to the existing use (including its potential traffic generation) I consider that this benefit does not outweigh the harm caused by the unsustainable location of the development.
22. For the above reasons, the proposed dwellings would be located in an unsustainable location contrary to Policy ESD1 of the LP, Policy H18 of the 1996 Plan and the aims and objectives of the Framework which seek, amongst other matters, to ensure that development is located in the most sustainable locations.

Character and appearance

23. There are a limited amount of buildings in the vicinity of the site, although the group of buildings which form the former hotel accommodation provides a built form which is residential in scale. Whilst there are other residential properties in proximity they are spread out, including the ones on the opposite side of the access road.
24. The proposed the development would consist of an 'L' shaped staggered terrace with each property having a lean-to type porch/wc. Notwithstanding the existing buildings in the vicinity, the proposal would result in a development that is suburban in its form with its staggered terraced footprint, the repetitive porch design and the blank façade of plot 8 facing the access. This overall character of the proposed dwellings would not reflect the rural feel to the area. In coming to that view I acknowledge that the proposal would use of local materials such as limestone and slate roofs which would visually assist in blending the dwellings with the existing development. However, the use of such materials would not overcome the harm which would arise from the suburban design.
25. The Appellant accepts that an inadequate amount of parking is shown on the application drawings. A revised proposal, submitted with the appeal documentation, to locate additional parking outside the red line site boundary can be given little weight as it lies outside the area for which planning permission is now being sought. An alternative proposal which was discussed at the hearing to locate additional parking spaces within the site, including land in front of the new houses, could in principle be secured by the imposition of a planning condition in the event of the appeal being allowed. However, this would introduce hard surfacing in the place of landscaping that was proposed in the original scheme. In my view, such a change would amplify the adverse impacts on both openness and rural character and appearance that are described above.
26. For the above reasons, the proposed dwellings would result in harm to the rural character and appearance of the area contrary to Policy ESD15 of the LP, Policies C28 and C30 of the 1996 Plan and the aims and objectives of the Framework which seek, amongst other matters, to ensure that the character and appearance of the area is not harmed.

Local facility

27. The planning history of the site appears to indicate that the lawful use of the building is a Class A4 use as opposed to a Class C1 (Hotels) although I acknowledge that part of the building was also used for the reception facilities for the hotel room element of the business.
28. Policy S29 of the 1996 Plan states that the loss of existing village facilities services which serve the basic needs of the local community will not normally be permitted. The supporting text to this refers to loss of the local shop and pup (which it take to mean pub). The text also recognises that if the facility has been proven to be not financially viable in the long term then it would be difficult to resist such a loss of a facility.
29. The Framework has similar underlying aims but with the emphasis on promoting a strong rural economy including the retention of local services including public houses. It also seeks to guard against the loss of valued facilities and services. In this sense, given the likely lawful use of the premises I consider that the building is a community facility for the purposes of the 1996 Plan and the Framework.
30. Turning to whether this facility serves the basic needs of the local community, the use of the building appears to have been driven by the accommodation element of the business and this is reflected in the evidence submitted by the Appellant. However, the evidence also indicates that the Sunday lunch trade was a busy element of the business. In my experience, such trade would invariably come from local people, including those from the surrounding villages and settlements.
31. Some evidence has also been submitted that indicates that the business has been struggling financially over the years. Recent figures indicate a small operating contribution although it is stated that this would not cover the finance costs of the hotel.
32. Notwithstanding that, from the limited evidence before me, it is unclear what the costs/revenues of the business are in isolation to the hotel rooms. This is particularly important given the planning permission for the hotel room element to be converted to residential use. Furthermore, given the busy Sunday lunch trade there is little evidence to suggest that this, along with any other initiatives, could not make a viable business.
33. Taking all of these factors into account, I consider that it has not been sufficiently demonstrated that the loss of such a community facility is justified.
34. For the above reasons, insufficient justification has been provided to allow for the loss of the community facility contrary to Policy S29 of the 1996 Plan and the Framework which amongst other matters seek to protect rural community facilities.

Living conditions

35. The Council's concern over the living conditions of the future occupants of the development related to plots 5, 7 and 8 only and the size of the private amenity areas. In this respect, the Council do not have any adopted standards on the size of such areas and consideration of this matter is on a case by case basis.

36. In relation to plots 7 and 8 the depth of these rear gardens would be small which combined with their width results in only a small private amenity area for the future occupants of the dwellings. Furthermore, in the case of plot 8, the angled boundary would reduce the size of the private amenity area further.
37. The proposed dwellings could reasonably accommodate a small family and as such should be provided with an adequate level of private amenity space. To my mind, the proposed level of private amenity space provided is insufficient. That is to say the spaces would not be of a size to allow occupiers to carry out all the domestic activities one would normally expect for the size of the dwellings.
38. In coming to that conclusion I recognise that there is also a communal garden area proposed as part of the conversion of the hotel rooms. However, whilst this would provide some benefit to the future residents it does not outweigh the need to have sufficient private amenity space.
39. I have also taken into account that the hotel room conversion scheme would also have small areas of private amenity space for plots H2 and H3 in particular. However, the conversion scheme is a materially different proposal, and as discussed at the hearing has a planning condition attached to it which requires details of enclosures along all boundaries to be approved by the Council for which one of the reasons for that condition is to safeguard the privacy of the occupants of the existing and proposed dwellings. Moreover, each case must be determined on its individual merits.
40. Turning to plot 5, the submitted plans indicate that the rear private amenity area would be larger than plots 7 and 8. Furthermore, the adjacent plot (plot 6) would have an overly large garden area. Whilst the size of the garden area at plot 5 would also be on the small side, it would be possible to extend the garden area into the large area which plot 6 is shown to have. I am satisfied that this could be achieved through a suitably worded planning condition if the scheme were otherwise acceptable.
41. For the above reasons, I conclude that the proposal would result in poor living conditions for the future occupiers of plots 7 and 8 as a result of an insufficient private amenity area. Therefore the proposal would conflict with Policy ESD15 of the LP, and Policy C30 of the 1996 Plan which seek, amongst other matters, to ensure that development provides for a suitable standard of amenity, including private amenity space. The proposal would also be at odds with the Framework which has similar underlying aims.

Other matters

42. I have also had regard to the other matters raised in the representations including highway implications, the lack of public transport, the potential strain on utilities, street lighting, the type of accommodation proposed and the proximity of the development to the stables on the adjoining site.
43. In respect of all of these issues, I consider that the proposal would not have any material implications which amount to a significant planning issue.

Green Belt balance

44. Paragraph 87 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It states that such

development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

45. I have concluded that the proposal would be inappropriate development (as a result of the adverse effect on openness) and would therefore, by definition, be harmful to the Green Belt. I have also concluded that the proposal would be located in an unsustainable location, would harm the character and appearance of the area, would lead to the loss of a local facility and would not provide adequate living conditions for the future occupiers of plots 7 and 8. All of these factors weigh against the development. I have also considered the impact of additional parking spaces within the site which would result in a slight reduction in the benefit of less building/hardstanding areas when compared to the current situation.
46. In this case, no very special circumstances have been explicitly advanced. Notwithstanding that, the provision of much needed housing is a benefit.
47. In considering the substantial weight given to Green Belt, the benefit of additional housing does not clearly outweigh the harm to the Green Belt. Therefore there are no very special circumstances to justify the proposal and the development would conflict with Policy ESD14 of the LP and the Framework.

Conclusion

48. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Neil Davies	Davis Planning Ltd
Graham Payne	Investfront Ltd

FOR THE LOCAL PLANNING AUTHORITY:

James Kirkham	Senior Planning Officer
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INTERESTED PARTY:

David Simms

DOCUMENTS submitted at the Hearing

1. Copy of Policy BSC2 of the LP.
2. Partial copy of the Secretary of State's decision for application numbers 131/87, 503/88, 397/89 and 518/89 including the proof of evidence from Mr Robert John Duxbury of Cherwell District Council.