
Appeal Decision

Site visit made on 11 July 2017

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

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

Decision date: 23 August 2017

Appeal Ref: APP/Q3115/W/17/3174192

Land adjacent to Lowbury House, Spring Lane, Aston Upthorpe OX11 9EH

- 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 A. Kerr against the decision of South Oxfordshire District Council.
 - The application Ref P16/S3054/FUL, dated 7 September 2016, was refused by notice dated 31 October 2016.
 - The development proposed is a new house and garage.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant has questioned whether the inclusion of the paddock within the Aston Tirrold & Aston Upthorpe Conservation Area (the 'conservation area') continues to meet the requirements of the National Planning Policy Framework (the 'Framework'). However, that is not a matter that falls to me to consider within a section 78 appeal.

Main Issues

3. Within the context of the Council's reason for refusal and the evidence in this case, the main issues are considered to be whether the development proposed would:
 - preserve or enhance the character or appearance of the conservation area
 - conserve and enhance the natural beauty of the North Wessex Downs Area of Outstanding Natural Beauty.

Reasons

4. The appeal site is an unused paddock which lies near the south-west corner of Aston Upthorpe and is surrounded by dwellings set on large plots, the village hall and All Saints Church. At the time of my visit, the paddock had been partly subdivided by a post and rail fence and was laid to grass (with the eastern side cut short). The site was enclosed by varying styles of fence which were mostly screened from view by well-established hedgerows of varying ages and species, including a large *Leylandii* hedge to the southern boundary. Overall, I found the distinction between the village and countryside beyond not completely clear, mainly because the village is characterised by areas of undeveloped land that are linked to the open countryside, but which extend into the settlement in

such a way that they are substantially contained by built development. The appeal site is one such area.

Conservation Area

5. The Aston Tirrold & Aston Upthorpe Conservation Area Character Appraisal (May 2005) (the 'character appraisal') defines the appeal site as an important open space within the conservation area. A residential converted listed building (Rose Barn) lies to the west of the appeal site and a pair of semi-detached dwellings (Nos 10 and 11 Spring Lane) directly to the east (which are defined as buildings of local note in the character appraisal).
6. The appellant states that the proposal would fit in with the existing cluster form of development that has been allowed to develop over the last 150 years and that some of the more recent developments in the village have degraded the appeal site's connection to the countryside. Although I agree that its linkage to the countryside has narrowed as a result of some infilling, the paddock has retained its natural, open appearance during this period and still maintains a clear connection to the open fields beyond. If the cluster of dwellings was allowed to grow via development on the paddock, this would be extremely harmful to the character of the area, no matter how well-designed the scheme. It would also be accompanied by associated residential paraphernalia and private vehicles, which would further erode the openness of the paddock and give it a more urban appearance.
7. I acknowledge that the proposal would not be clearly visible from the public highway, but there would be glimpses of the house and garage from the village hall, surrounding dwellings, Spring Lane, Fullers Road and Thorpe Street. The impact of the scheme would therefore also cause harm to the character and appearance of the wider area.
8. In view of the above, the proposal would be harmful to the paddock's predominantly rural character, which makes a strong contribution to the semi-rural character of the village. As a consequence, it would also fail to preserve the semi-rural appearance and associated character of the conservation area¹. The scheme would therefore conflict with Policy CSEN3 of the South Oxfordshire Core Strategy (adopted December 2012) (the 'Core Strategy') and Policies G2, C4, CON7 and H4 of the South Oxfordshire Local Plan 2011 (adopted January 2006) (the 'Local Plan') which seek to ensure that new development is in keeping with its surroundings and preserves the historic character and appearance of conservation areas and the attractive landscape settings of villages. I therefore conclude that the proposal would be harmful to the character and appearance of the conservation area, but this would be less than substantial because of its relatively obscure position which would reduce its effect on the significance of the designated heritage asset.

Area of Outstanding Natural Beauty

9. The site falls within the North Wessex Downs Area of Outstanding Natural Beauty (the 'AONB'). As outlined above, the proposal would erode the openness of the site and cause significant harm to the semi-rural character of the village. The proposed development would therefore conflict with Policy CSEN1 of the Core Strategy and Policies G2, C4, and H4 of the Local Plan which

¹ S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

seek to conserve and enhance the AONB, preserve the attractive landscape settings of villages and ensure that important open spaces of environmental and ecological value are not lost.

10. In view of the harm identified above, the proposal would not conserve the landscape and scenic beauty of the AONB. I have given this great weight in my assessment and concluded that the proposal would as a consequence fail to meet the requirements of Paragraph 115 of the Framework.

Other matters

11. The appellant has drawn my attention to a number of other developments that they consider to be significant intrusions into the open countryside and which therefore help to justify the current scheme. Similarly, representations have been made that the proposal would establish an undesirable precedent if allowed. However, I could see no other proposals or sites that were directly comparable to current proposal in terms of position, scale, design or character. I am also not aware of the particular circumstances where planning permission was granted and in any event, I must consider the appeal scheme on its own merits. Neither the existence of these other developments or allowing the current scheme would therefore set a precedent in this case.
12. Core Strategy Policy CSR1 (Housing in Villages) seeks to contribute to the sustainability of villages by allowing a level of housing development commensurate with the size of the host settlement, subject to the protection of local character and distinctiveness and enhancement of the AONB. For smaller villages such as Aston Upthorpe, this is specified as infill sites of up to 0.2 hectares. Although the overall site is above this threshold (approximately 0.33 hectares), the curtilage of the new dwelling (not including the orchard) would fall below it. The proposal would not therefore conflict with the threshold element of this policy, but for the reasons identified above, it would fail to comply with it in terms of its harmful impact upon local character and distinctiveness and enhancement of the AONB.
13. The Council has stated that it does not have a 5 year supply of land for housing and that Policy CSR1 is therefore out-of-date. Although I have no evidence before me outlining the extent of this shortfall or how long it is likely to persist, it is apparent that the provision of one additional dwelling would only result in a modest social and economic benefit.
14. Representations have also raised a number of concerns in respect of highway safety, loss of privacy, noise & disturbance, ecology, surface water drainage/flooding, overbearing appearance/position, private property damage and danger from construction movements & dust. However, I note that the Council has not raised any technical objections in respect of these and I see no reason to take a different view.

Planning balance

15. In terms of its contribution to the Council's housing supply shortfall, I have concluded that the modest amount of social and economic benefit associated with one additional dwelling would not outweigh the harm I have referred to. The removal of the Leylandii hedge and planting of a new orchard would be a limited benefit in the scheme's favour, but this would also fail to outweigh the harm identified. A permissive footpath has also been offered, but I would not

consider this to be a public benefit as it relies on land outside the applicant's control and hence there can be no certainty that it would be delivered in its entirety.

16. My conclusions on the two main issues confirm there to be specific development plan and Framework policies that indicate that development should be restricted in this location and the presumption in favour of sustainable development as outlined by paragraph 14 of the Framework does not apply².

Conclusion

17. No public benefits of the proposal have been found that outweigh the harm that would be caused to the significance of the conservation area, and the failures to: preserve or enhance the character or appearance of the conservation area; and, conserve and enhance the natural beauty of the AONB. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal scheme would not be a sustainable form of development and accordingly, the appeal should be dismissed.

Robert Fallon

INSPECTOR

² 4th bullet point, para 14 of the NPPF and footnote 9.