
Appeal Decision

Site visit made on 20 November 2017

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

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

Decision date: 12th December 2017

Appeal Ref: APP/D3125/W/17/3179786

Land forming part of Crawley Hill Farm, Crawley, Oxon, OX29 9TS

- 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 and Mrs T. Connell against the decision of West Oxfordshire District Council.
 - The application Ref 16/03855/FUL, dated 8 November 2016, was refused by notice dated 12 January 2017.
 - The development proposed on the application form is a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Council's decision notice refers to a number of policies from the emerging Local Plan 2031¹, to which I have attached significant weight for the following reasons; (a) the document's advanced stage of preparation; (b) the absence of any evidence demonstrating unresolved objections in respect of Policies OS2, OS4, H2 and EH1; (c) the general consistency of these policies with the Framework²; and (d) the Inspector's preliminary findings³ that the Council was justified in taking a cautious approach in respect of Policies OS2 and H2 for further residential development in 4th tier settlements such as Crawley.
3. The Council states that as of May 2017 it had a 5.85-year housing land supply with 5% buffer and a 5.12-year housing land supply with 20% buffer. In both cases, the housing land supply was calculated on the basis of the 'Liverpool' method where the accumulated shortfall is distributed over the remaining plan period (rather than over the next 5-years as per the alternative 'Sedgefield' method). I acknowledge that the Examination Inspector previously questioned the adequacy of the Council's housing land supply in the emerging Local Plan 2031, but in the absence of any evidence that demonstrates it does not have a 5-year housing land supply at the time of writing this appeal, I have in accordance with Paragraph 49 of the Framework concluded that the policies of the Local Plan that relate to the supply of housing are up to date.
4. The appellant says that the appeal site forms part of the private garden to the dwelling named 'Crawley Hill Farm', but the Council disputes this. However, the

¹ West Oxfordshire Local Plan 2031, submission draft including proposed modifications, November 2016, West Oxfordshire District Council

² National Planning Policy Framework, Communities and Local Government, March 2012.

³ The EIP Inspector's Preliminary Findings Part 2, published 15 December 2015, relating inter alia to Housing Supply & delivery

lawful use of the site is not a matter for me to determine in a section 78 appeal of the Town and Country Planning Act 1990 ('the Act'). It is open for the appellant to apply to have the matter determined under sections 191 or 192 of the Act or for the Council to take enforcement action if it considers the current use of the land to be unlawful. Any such application or enforcement action would be unaffected by my determination of this appeal.

5. A Bat survey addendum⁴ submitted with the appeal has clarified that aside from 2 trees having a moderate potential for roosting bats and 9 as low potential, all remaining trees on the site were immature and/or contained no features for bats. In the light of this information, the Council has decided not to contest reason for refusal No 4 as it is satisfied that the matter can be dealt with by condition. I have therefore proceeded to consider the appeal on this basis.

Main issues

6. Within the context of the Council's 3 remaining reasons for refusal and the evidence in this case, the main issues are considered to be:
 - whether the development is in an appropriate location
 - the effect of the development on the character and appearance of the area, with particular regard to the existing settlement pattern, landscaped setting and design of the building
 - the effect of the development upon existing trees, with particular regard to the landscaped character of the area.

Reasons

Appeal site context

7. Crawley is defined as a 'small village' in the Local Plan 2011⁵ and the emerging Local Plan 2031. The appeal site is an irregular shaped piece of grassland on the southern side of Foxburrow Lane enclosed by drystone walls, post and rail fencing and mature trees. Although its land level varies quite dramatically in places, it generally rises up in a south-westerly direction and contains two small outbuildings and a range of scattered trees of varying size, maturity and species. Overall, I found the site to have a parkland type character and appearance.
8. The appeal site is positioned to the west of the remaining land under the appellant's control, which consists of two paddocks and the dwelling known as Crawley Hill Farm, which has a well-managed garden to its rear enclosed by a mature hedgerow.
9. My assessment of the area's character accords with the Council's Design Guide⁶, which has classified the village as falling within the Limestone Wolds Architectural Character Area where distinctive features include creamy limestone, limestone slates, long fronts, narrow gables and steep pitched roofs.

⁴ Phase 1 Habitat Survey and Tree Survey for Bats Addendum dated 11 July 2017

⁵ West Oxfordshire Local Plan 2011, Adopted June 2006, West Oxfordshire District Council

⁶ West Oxfordshire Design Guide 2016, West Oxfordshire District Council

It also describes Crawley as having a nucleated and dispersed form, with the settlement concentrated at the star-shaped meeting of five roads.

10. The appeal site and village of Crawley is defined in the Council's Landscape Assessment⁷ as 'semi-enclosed valley-side farmland' in the Upper Windrush Valley Landscape Character Area. This is described as having a distinctive sloping valley-side landform, a mixed-pattern of land-use, a strong structure of hedgerows, trees and woodland and a more enclosed character with low intervisibility.

Whether the development is in an appropriate location

11. In view of the scheme proposing a private market dwelling, I have concluded that it would not comply with Policy H4 of the Local Plan 2011, which seeks to restrict new housing in the countryside and small villages to that needed for agricultural or other operational purposes.
12. The appellant has stated that the development's unique design should be given great weight in accordance with Paragraph 63 of the Framework. I recognise that it would be of a high quality design and incorporate Passive Haus standards, sustainable external materials (timber), a heat recovery system, storm water harvesting, ground source heat pumps and a high air-tightness figure. However, given that such sustainable construction methods and renewable energy technologies are now more commonplace in residential development, I would not consider the resultant design quality to be sufficiently outstanding or innovative for Paragraph 63 to be engaged in this instance.
13. On the basis of the evidence before me and for the reasons above, I have concluded that the development would not; (a) represent an outstanding or innovative design; (b) meet a specific local or operational need; (c) be for travelling communities; (d) be ancillary to the existing dwelling; or (e) support an existing business or sustainable tourism. The scheme would not as a consequence accord with Policies OS2 and H2 of the emerging Local Plan 2031, which set out a sustainable development strategy to meet the needs of the district and seek to ensure that development is appropriate to its rural location.

Character and appearance

14. At my site visit, I observed 3 distinct clusters of development on the outskirts of the village, with varying degrees of connectivity to its central built-up settlement area. Although 2 of these at Farm Lane (Chapel, cemetery, Uphill Farm and other housing) and Dry Lane (Crawley Mill industrial estate) felt more isolated from the built-up centre, I did not consider the cluster at Foxburrow Lane (where the appeal site is located) to be particularly remote or unconnected in terms of built form, extent of undeveloped gap, walking distance and close proximity to village facilities, such as the Crawley Inn Public House. I also observed that this cluster fell within the 30mph and village signs adjacent to Priest Hill Lane that mark the entrance to the village.
15. Furthermore, the adjacent paddocks and surrounding agricultural fields have a natural countryside appearance that I consider to be different from that of the parkland character of the appeal site. In view of this and because the property

⁷ West Oxfordshire Landscape Assessment, May 1998, West Oxfordshire District Council, approved for use on 9 June 1998

would fall within a small cluster of existing dwellings on the outskirts of the village, I am not of the view that the development would be at odds with the prevailing settlement pattern.

16. I recognise that the dwelling would be sited to the rear of Crawley Hill Farm in a backland-type position, but it would not harm the amenities of both sets of occupants and would be at the periphery of the village where the built form is dispersed and the pattern of development more irregular. As a consequence, I have concluded that the scheme would result in an acceptable consolidation of built form in a part of the village that would not be harmful to its historic settlement character.
17. I also observed that the development would be largely enclosed by a strong structure of mature trees and set within a small cluster of buildings. This would accord with the Council's Landscape Assessment which states that enclosed valley-sides may offer limited opportunities to absorb small-scale development within a strong structure of trees and woodland or other buildings. I am also mindful that the scheme would offer the opportunity to introduce new woodland and hedgerow planting to its boundaries along the valley-side, which would accord with the enhancement priorities set out in the Council's Landscape Assessment.
18. The proposed dwelling would have a barn-like appearance and be clad in horizontal Larch or Oak boarding, with Cedar roof shingles on a steep pitched roof. It would also incorporate a range of sustainable construction methods and renewable technologies as discussed above. Although I consider its design to be of a high quality, its external finish would fail to reflect the locally distinctive limestone rubble and slate roofs found in Crawley and the Limestone Wolds Architectural Character Area. I recognise that the use of timber would help the building weather sympathetically, but this would not render it appropriate given the predominant external materials in the area.
19. The appellant states that Paragraph 60 of the Framework is relevant when considering external materials, in that decisions should not attempt to impose architectural styles, particular tastes or stifle innovation. However, this policy also refers to the need to promote or reinforce local distinctiveness, which I consider to be particularly important given the area's strong character, irrespective of whether the proposal would be publicly visible or not.
20. In view of the above, I have concluded that the development would be compatible with the settlement form of the village and its landscaped setting, but that its facing materials would not respect the character and appearance of the area. The scheme would as a consequence fail to comply with Policies BE2 and H2 of the Local Plan 2011 which seek to ensure that new buildings are constructed of materials that respect locally distinctive character.
21. For the same reason, the development would also fail to comply with Policies OS2 and OS4 of the emerging Local Plan 2031 and the Council's Design Guide, which cumulatively seek to ensure that the materials used in new development respect the context of the area and provide a clear, strong and locally resonant sense of place and identity.

Trees

22. Although the design and access statement has confirmed that adjacent trees would be protected via the use of screw pile foundations, the site survey plan on Drawing No 002 shows that the development would result in the loss of 4 trees⁸ (1 Prunus, 1 Willow and 2 Cherry). Although no other trees are identified on the plan or in the tree survey for removal, I consider it likely that 4 other trees⁹ (1 Prunus and 3 Cherry) would also be 'at-risk' from felling given their extremely close proximity to the proposed building.
23. Aside from the trees referred to above, the development would not necessitate the loss of any other trees, which include 15 category A trees¹⁰. Furthermore, in view of the intervening distance between the proposed dwelling and the remaining trees, I am satisfied that the latter would not harm the amenity of future occupiers to the extent that their removal would be necessary. In any case, if the Council had justifiable concerns that their retention would be at risk, they would have the option of protecting them via a Tree Preservation Order.
24. Overall, I would not consider the removal of the 8 trees referred to above to be harmful to the landscape character of the area as they are relatively small and mainly screened by larger trees at the site boundary. Furthermore, I am also satisfied that a condition could have been imposed requiring additional trees to be planted to the north-west boundary and south-western half of the site which would enhance the overall appearance and ecological value of the area without causing any undue harm to the amenity of future occupiers. The development would as a consequence accord with Policies BE2, H2 and NE6 of the Local Plan which seek to protect and enhance the landscape character of the area.
25. For the same reason, the development would also comply with Policies OS4 and EH1 of the emerging Local Plan 2031, which seek to ensure that new development respects, and where possible, enhances the intrinsic character and quality of the local landscape.

Planning balance

26. The appellant states that the proposed dwelling would comply with Paragraph 55 of the Framework in that it would help to support local facilities in Crawley and the surrounding villages and that it would not be isolated. Given that the Local Plan 2011 predates this document, I have accordingly given the Framework significant weight in my assessment.
27. Although I agree with the appellant that the scheme would support local facilities and not be isolated, the lack of conflict with Paragraph 55 does not mean that the scheme should be granted Planning Permission. This is because planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this respect, I have concluded that the lack of conflict with Paragraph 55 would not override the provisions of the development plan or the need to recognise the intrinsic character and beauty of the countryside and actively manage patterns

⁸ Tree Nos 29, 33, 34 and 35 (1 category C young Prunus tree, 1 category C young Willow tree and 2 category B early mature Cherry trees)

⁹ Tree Nos 28, 30, 31 and 32 (1 category C young Prunus tree and 3 category B early mature Cherry trees)

¹⁰ Category A are classified as high quality, category B as moderate quality and category C as low quality

of growth to make the fullest use of public transport, walking and cycling (Paragraph 17 of the Framework).

28. In view of its access to facilities and its position in the village, the appellant states that the scheme should be assessed against Paragraphs 47 and 49 of the Framework, which refer to the need to boost housing supply and the consideration of housing applications in the context of the presumption in favour of sustainable development. However, I have concluded that the scheme does not accord with the Local Plan 2011 and that its policies are not out of date or inconsistent with the Framework. In view of this, the presumption in favour of sustainable development as outlined in Paragraphs 14 and 49 of the Framework is not engaged in this instance.
29. For the reasons set out above, I have concluded that the harm to the Council's sustainable development strategy and character and appearance of the area would significantly and demonstrably outweigh the modest amount of social and economic benefits that the scheme would contribute, namely, the provision of an additional dwelling, support for local facilities and local employment during construction.

Conclusion

30. I have found that the development would not be in an appropriate location and that the facing materials proposed would be harmful to the character and appearance of the area. All representations have been taken into account, but no matters, including the benefits of additional housing and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal scheme would not be a sustainable form of development and should accordingly be dismissed.

Robert Fallon

INSPECTOR