



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: 15th December 2017

Appeal Ref: APP/D3125/W/17/3179654

London Lane, Ascott-under-Wychwood, OX7 6AN

- 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 The Trustees of the T J Hook Children's Settlement against the decision of West Oxfordshire District Council.
 - The application Ref 17/01067/FUL, dated 30 March 2017, was refused by notice dated 10 July 2017.
 - The development proposed on the application form is the "Construction of 5 dwellings".
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 5 dwellings at London Lane, Ascott-under-Wychwood, OX7 6AN in accordance with the terms of the application, Ref 17/01067/FUL, dated 30 March 2017, subject to the conditions set out in the attached schedule.

Procedural matters

2. 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 queried the adequacy of the Council's housing land supply in the emerging Local Plan 2031¹ and that the appellant has questioned the optimism of the Council in securing a resolution by the end of 2017 that the plan is sound. However, despite the Council's land supply calculation being 6 months old, there is insufficient evidence to demonstrate that it does not have a 5-year housing land supply at the time of writing this appeal, with specific regard to objectively assessed need, housing delivery figures and/or whether the 'Liverpool' method is an appropriate way in which to distribute the Council's accumulated shortfall in housing supply. In view of this, I have, in accordance with Paragraph 49 of the Framework² concluded that the policies of the Local Plan 2011³ that relate to the supply of housing are up to date.
3. My determination of this appeal is against the relevant saved policies of the Local Plan 2011, which I consider to be generally consistent with 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 West Oxfordshire Local Plan 2011, Adopted June 2006, West Oxfordshire District Council

Framework. The Council's decision notice also refers to a number of policies from the emerging Local Plan 2031, 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, EH1 and EH2; and (c) the general consistency of these policies with the Framework.

4. A vegetation survey⁴ and ecology assessment⁵ submitted with the appeal have provided additional information in respect of ecological impacts. In the light of this information, the Council has decided not to contest reason for refusal No 3 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

5. Within the context of the Council's 2 remaining reasons for refusal and the evidence in this case, the main issues are:
 - the effect of the development on the character and appearance of the area, with particular regard to its overall design, the existing settlement pattern and its landscaped setting
 - whether the development would protect and conserve the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty (AONB).

Reasons

Appeal site context

6. Ascott-under-Wychwood is classified as a 'village' in the district settlement hierarchy in the Local Plan 2011⁶ and emerging Local Plan 2031⁷. The appeal site is a rectangular shaped piece of grassland and forms part of a larger field on the south-western side of London Lane. Although the land level varies in places, it generally rises up in a south-easterly direction and is set above the carriageway on London Lane. The site is enclosed by a drystone wall to its north-west, north-east and south-east boundaries. This is heavily overgrown to the London Lane frontage and requires maintenance and repair in various places.
7. A row of residential dwellings lie to the north-west of the appeal site, culminating in No 12 London Lane. To the north-east on the opposite side of London Lane is a similar width open paddock to the appeal site. To the south-east of the site lies a small cluster of dwellings lining both sides of the road, with No 18 London Lane immediately adjacent to the appeal site.
8. My assessment of the area's character accords with the Council's Design Guide⁸, 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. It also describes Ascott-under-Wychwood as having a linear form and an enclosed setting following the line of the river Evenlode and that it is comprised

⁴ Vegetation Survey, 13 June 2017, John Norton Ecology

⁵ Addendum Report: Additional Ecology Assessment, September 2017, Aluco Ecology Ltd

⁶ Figure 5.2

⁷ Table 4.1

⁸ West Oxfordshire Design Guide 2016, West Oxfordshire District Council

of 2 former hamlets. From my site visit, I observed that the village has a number of amenities to include a primary school, public house, village shop, village hall, church, sports field, equipped play area, train station and bus service.

9. The appeal site and village of Ascott-under-Wychwood is defined in the Council's Landscape Assessment⁹ as 'open valley-side farmland' in the Lower Evenlode Valley Landscape Character Area. This is described as having a distinctive sloping and typically convex, valley-side landform, predominantly large-scale fields, weak landscape structure and an open exposed landscape with high intervisibility along valley sides.

Character and appearance

10. The development plan does not have any settlement boundaries which distinguish between the built-up part of villages and the countryside. Based on the evidence before me and my assessment of the village settlement pattern at my site visit, I conclude that the proposed dwellings would fill in a gap between Nos 12 and 18 London Lane in what is an otherwise built-up frontage that extends from the centre of the village to the 30mph speed restriction sign at its south-east periphery. The development would as a consequence consolidate London Lane's overall linear built form in a similar way to the two other main roads in the village (Shipton Road and the High Street) and thereby reflect the existing settlement pattern. In view of this, the development would not intrude into the surrounding countryside and Policy NE1 of the Local Plan 2011 would not apply.
11. The proposed dwellings have been designed to reflect Victorian and rural domestic architecture via a traditional farmhouse, two small cottages and two barn-style dwellings set within their own courtyards. I note the Council's concerns regarding the long rear projections to the barns, but consider this arrangement to be similar to small farmyards where two agricultural buildings abut each other in an 'L' shape. Subject to the detailed architectural finishes of these dwellings being suitably controlled, I am satisfied that they would be of a high quality design and make a positive contribution to the architectural heritage and character of the village.
12. I recognise that the proposed row of dwellings would be set well back from the carriageway behind the adjacent building line for No 12 London Lane and that there would be 2 detached triple garages in front of the dwellings on plots 1 and 5. However, this would reflect the organic growth of the village which has resulted in the general pattern of development becoming more irregular and varied the further one travels along London Lane in a south-easterly direction. I accept that this arrangement would result in some frontage parking, but am satisfied that this would not dominate the area or harm its character as it would be mostly screened by the existing drystone walls, which the plans clearly show as being retained. I recognise that a small opening would be made in the dry stone wall to facilitate access from London Lane, but this would be mitigated by the infilling of another opening to the northern corner of the site. Furthermore, the scheme would enable the dry stone wall to be cleared of any harmful vegetation, refurbished, repaired and conserved.

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

13. Based on my observations on-site and the Landscape Visual Impact Assessment (LVIA), I conclude that the most significant views of the site would be those from London Lane and the public right of way to the west (footpath 111/15). Although some views of the site would be possible from further afield, I am satisfied that these would not be particularly significant because: (a) the development would be seen in the context of the existing village from many of these; and (b) the intervening vegetation and distances involved.
14. Despite the significant change in view from London Lane, the development would have the beneficial impact of screening views of the large and bulky modern agricultural buildings at Crown Farm, which do not make a positive contribution to the character of the village. The scheme would also change the view from the public right of way (footpath 111/15), but by reason of its high quality design and the introduction of new drystone walls to the rear and side of dwellings, I am satisfied that the proposal would have a positive impact on the views and setting of the village from this vantage point and successfully integrate with its historic character. The visual impact of the development would further improve over time as the materials and new landscaping mature and become assimilated into their surroundings.
15. Furthermore, unlike the value to be attached to the surrounding landscape, I do not consider the appeal site to be an important area of open space which provides a key facility for residents or makes a valuable contribution to the distinctive character and appearance of the village as required by Policy BE4 of the Local Plan 2011. I recognise that the appeal site has been unaltered for a long period of time and that it may have been used as pasture in connection with the area's historic dependence on the wool trade, but it does not fall within a Conservation Area or a designated important open space and I do not consider its character and appearance to be of such significance to the village as to warrant refusal.
16. In view of the above, I conclude that the scheme's high quality design would make a positive contribution to the character and appearance of the village and that it would not harm the Lower Evenlode Valley Landscape Character Area. As a consequence, the development would accord with Policies BE2, BE4, H2 and NE3 of the Local Plan 2011 which cumulatively seek to ensure that new development: (a) is of a high quality design that respects the character and appearance of villages; (b) protects important areas of open space and historical importance; and (c) does not harm the landscaped setting of villages.
17. For the same reasons, I am satisfied that the development would comply with Policies OS2, OS4 and EH1 of the emerging Local Plan 2031 and Paragraph 109 of the Framework, which cumulatively seek to ensure that new development: (a) is of a high quality design that respects the character and settlement pattern of villages and helps to maintain their vitality; (b) protects important areas of open space; (c) conserves and enhances man-made features of the local landscape and the landscape setting of villages.
18. However, I also conclude that it has not been demonstrated that the proposal would meet an identified housing need and that as a consequence, it would fail to comply with Policy H2 of the emerging Local Plan 2031 in respect of development on undeveloped land. Notwithstanding this, and despite the significant weight I have given to the emerging Local Plan 2031, I conclude

that that this does not outweigh the scheme's compliance with adopted development plan policy.

Area of Outstanding Natural Beauty

19. In view of the scheme's high quality design and sensitive layout, I am satisfied that it would have a positive impact on the character and appearance of the village and conserve the landscape and scenic beauty of the surrounding countryside. Furthermore, because of its small scale in comparison to the size of the AONB and its location within a gap in the built-up part of the village, I have determined that it would be insufficient to compromise the overall integrity and purpose of the designation.
20. As a consequence, I conclude that the magnitude of impact of the development on the character and appearance of the AONB would be negligible and its significance, albeit minor, would be positive. The development would therefore comply with Policy NE4 of the Local Plan 2011 which seeks to conserve and enhance the natural beauty of the AONB. It would also accord with Policy LP1 of the Cotswolds AONB Management Plan¹⁰, which seeks to ensure that its landscape character, tranquillity and special qualities are conserved and where possible enhanced.
21. In view of the above, I conclude that the proposal would conserve the landscape and scenic beauty of the AONB. I have given this great weight in my assessment and consider that the proposal would as a consequence comply with Policy EH1 of the emerging Local Plan 2031 and Paragraph 115 of the Framework. I note the Council's reference to Paragraph 116 of the Framework (major development in AONBs), but have determined that this is not applicable given the small-scale nature of the scheme.

Other matters

22. Representations have been made that the dwellings are too large and do not meet the needs of the village. However, I am satisfied that the scheme offers a suitable mix of dwellings that would appeal to a range of potential purchasers and different needs.
23. Further representations have been made that the scheme would appear overbearing to residents on the opposite side of London Lane. However, I am satisfied that the range of dwelling heights would not appear unduly out of context with the neighbouring dwellings at Nos 12 and 18 London Lane.
24. Given the intervening distance, the presence of the existing drystone boundary wall and the single storey height of the rear projecting wing to the dwelling on plot 1, I am satisfied that the development would not harm the amenities of neighbouring occupiers at No 12 London Lane by reason of loss of privacy, loss of light and visual intrusion. Similarly, concerns have been raised about potential loss of privacy to plot 5 from the side elevation windows of No 18 London Lane. However, in view of the intervening distance and the single storey rear projecting wing to this dwelling partly acting as a screen, I am satisfied that its occupants would have a satisfactory level of privacy in their rear garden.

¹⁰ Cotswolds AONB Management Plan 2013-2018

25. Although concerns have been raised about the adequacy of the village drainage system, no objections have been received from the relevant Statutory Undertaker or the Council's Drainage Engineer. I have nonetheless imposed a surface water drainage condition at the request of the Council to prevent any flooding arising as a result of run-off from the site.
26. Representations have been made that the village is unsustainable, with limited bus services and footways to other villages. However, this does not alter my view that the development complies with adopted planning policy and would help to maintain the vitality of the village by supporting its services and facilities. Further concerns have been raised by residents over noise and disturbance from construction activities. However, the construction works would only be temporary and any significant disturbance would be suitably controlled under other legislation.
27. Although the Council and Local Highway Authority have not raised any technical objections in respect of highway safety, representations have been made that London Lane is too narrow to be able to accommodate additional traffic and that the access would be unsafe. However, on the basis of my site visit, I am satisfied that adequate visibility would be provided at the site entrance and that 5 additional dwellings would not result in a material increase in congestion to the detriment of highway and pedestrian safety.
28. Representations have also been made that the scheme would not result in the provision of any social housing. However, the Written Ministerial Statement on small-scale developers¹¹ and the National Planning Practice Guidance¹² state that contributions for affordable housing should not be sought from small-scale developments of 10 units or less.

Conditions

29. The Council has suggested conditions which I have considered in the light of the Framework and National Planning Practice Guidance. I have made some small amendments to clarify certain details which are not clear from the submission details and enable the development to commence without the need to approve all conditions first. A condition requiring development to be in accordance with the plans is needed for the avoidance of doubt and in the interests of proper planning. Conditions relating to external materials, fenestration details, landscaping, restoration of the existing drystone walls and new drystone walls are necessary to ensure a high standard of development and preserve the character and appearance of the village and AONB.
30. The Council has requested a condition for a landscape and ecological management plan based on the recommendations in the ecological appraisal. However, the appeal site is not designated as a Special Area of Conservation (SAC) or a Special Protection Area (SPA) and no European Protected Species were found to be present on the site. Furthermore, the site does not benefit from any local designation of nature conservation importance and the Ecological Appraisal dated May 2017 did not identify any rare or legally protected species of Flora and Fauna residing on-site and found only limited potential habitat for birds, bats and reptiles. In view of this, I would not

¹¹ Support for small-scale developers, custom and self-builders, Written Ministerial Statement by The Minister of State for Housing and Planning (Brandon Lewis) on 28 November 2014

¹² Paragraph 031 Reference ID: 23b-031-20161116

consider it reasonable or necessary to implement all of the mitigation measures identified as this would impede the site's development and subsequent use for residential purposes. However, I would consider it reasonable for the scheme to provide some mitigation in the form of bird and bat boxes and appropriate planting to the open space at the front of the site. I have as a consequence drafted the landscaping condition to enable these aspects to be addressed. An additional condition has also been imposed requiring the provision of protection measures for foraging badgers during construction and a restriction on any works to woody vegetation to protect nesting birds.

31. I have imposed conditions requiring details of visibility splays and the completion of the access works prior to occupation of any dwelling. However, conditions requiring the development to be in accordance with Local Highway Authority specifications and subject to a section 278 agreement would result in unnecessary duplication and are not therefore necessary. Similarly, I do not consider it necessary to impose a condition requiring details of connections to the public sewer as there have been no objections from the relevant statutory undertaker and adequate controls exist under other legislation.
32. Although the Council has requested a condition for details of all estate roads, footpaths and lighting from Cote Road, I am unclear where this road is or how it relates to the appeal site. Similarly, I have not imposed the condition requested by the Council to restrict the development to no more than 1.5 storeys as this would conflict with the submitted plans. Furthermore, given the small-scale nature of the development, I do not consider it necessary to require a construction management plan as any disturbance can be suitably controlled under other legislation.
33. In the absence of any planning policy designation or evidence from the Historic Environment Records and/or a suitably qualified archaeologist, I do not consider it necessary to impose the 2 conditions requested by the Council for an archaeological written scheme of investigation and evaluation/mitigation. However, to protect the site and surrounding area from potential flooding and prevent any discharge onto the highway, I have imposed a condition for a surface water drainage scheme as requested by the Council.

Conclusion

34. I have found that the proposal would comply with the development plan as it would; (a) make a positive contribute to the character and appearance of the village; (b) not harm the Lower Evenlode Valley Landscape Character Area; and (c) conserve the landscape and scenic beauty of the AONB. In view of this, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details:- Drawing nos. 3192.101, 3192.102, 3192.103, 3192.104, 3192.105, 3192.106, 3192.107, 3192.108, 3192.109, 17866-200-01, the Design and Access Statement dated March 2017, the Planning Statement dated March 2017, the Ecological Appraisal dated May 2017, the Vegetation Survey dated 13 June 2017, the Addendum Report: Additional Ecology Assessment dated September 2017, the Landscape & Visual Impact Assessment dated March 2017 and the Sustainable Construction – Form of Compliance (PP-05900957v1).
- 3) Notwithstanding condition 2, no development shall take place until details of all external facing materials and finishes have been submitted to and approved in writing by the local planning authority. The details shall include the provision of a sample panel on-site for inspection of the external stone walls to be used in the construction of the dwellings and garages. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond and pointing technique to be used in the development. For the avoidance of doubt, the remaining details to be supplied shall include materials and finishes for roofs, external boarding, vertical roof support posts, exposed rafter feet, dormer cheeks, door and window lintels, window cills, porches, door canopies, gutters, downpipes, garage doors and the orangery to plot 2. The relevant works shall thereafter be carried out in accordance with the approved details and sample panel (which shall not be removed from the site until completion of the development).
- 4) For the avoidance of doubt, and unless otherwise agreed in writing by the local planning authority:
 - i) all windows shall be of timber construction with a minimum 80mm depth of reveal and the windows to plot 2 shall be vertical sliding sash with solid external glazing bars;
 - ii) all roof lights shall be of a conservation style and fitted flush with the plane of the roof;
 - iii) all doors and bi-fold doors to dwellings shall be finished in timber or powder coated aluminium.
- 5) No hard landscaping works shall take place until details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) soft landscaping to include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of new trees, hedgerows and plants noting species, plant supply sizes and proposed numbers/densities;
 - ii) hard surfacing materials for all shared and private driveways, parking areas, pedestrian access routes and external seating areas;
 - iii) the specification and location for 2 bat and 3 bird boxes;
 - iv) an implementation programme for all soft landscaping works and the bat and bird boxes;
 - v) a plan showing the boundaries of the 'area of open space' that lies to the north-east of all 5 dwellings and fronts onto London Lane, together with a scheme for its management and maintenance.

The hard landscaping works for each respective dwelling shall be carried out in accordance with the approved details before the said dwelling is first occupied.

The completed landscaping scheme for the area of open space shall thereafter be managed and maintained in accordance with the approved scheme of management and maintenance.

- 6) Any trees, hedges or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. No new tree or hedgerow planted in accordance with condition 5) shall be pruned or cut in any manner within 5 years from the date of the occupation of the final dwelling to be occupied, other than in accordance with the approved plans and details, without the prior written approval of the local planning authority.
- 7) Notwithstanding condition 2), no dwelling hereby approved shall be occupied until the existing drystone wall has been repaired and/or refurbished in accordance with a scheme to be approved in writing by the local planning authority and the new drystone walls applicable to that dwelling as shown on the approved plans have been constructed (including those adjacent to the main vehicular access on London Lane).
- 8) No boundary treatment works shall take place until details of the visibility splays to the vehicular access have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the visibility splays have been provided in accordance with the approved details and they shall thereafter be maintained free from any obstruction above 0.6 metres when measured from the adjacent carriageway level.
- 9) No dwelling shall be occupied until the access works between the between the land and the highway have been constructed in accordance with the approved plans.
- 10) No dwelling shall be occupied until a surface water drainage scheme has been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 11) Notwithstanding Condition 2) above, the development shall be constructed in accordance with the following protection measures detailed in the Ecological Appraisal dated May 2017:
 - i) No works to any form of woody vegetation shall be carried out between 1 March and 31 August in any calendar year;
 - ii) All trenches in excess of one metre in depth shall be covered or secured and a means of escape provided for any badgers that fall in;
 - iii) Any temporarily exposed open pipe systems shall be capped in such a way as to prevent badgers gaining access;
 - iv) Chemicals and fuels shall be securely stored in such a way as to prevent access to foraging badgers;
 - v) Any security lighting shall be directed away from site boundaries.

End of schedule