
Appeal Decision

Site visit made on 11 June 2019

by JP Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

Appeal Ref: APP/K0425/W/18/3214436

Crown Cottage, Oxford Road, Ibstone, Buckinghamshire HP14 3XZ

- 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 Mrs C Harbord against the decision of Wycombe District Council.
 - The application Ref 18/06693/FUL, dated 18 June 2018, was refused by notice dated 2 October 2018.
 - The development proposed is removal of existing garage and erection of 1 x 2-bed dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development in the banner heading above is an edited version of that used in the planning application form. I have omitted reference in that description to an alternative planning permission previously granted as that forms part of the appellant's case, rather than being an act of development. Although the decision notice and appeal form use a slightly different description, there is no evidence of agreement between the parties for the description to have been changed.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 24 July 2018, after the original application was submitted but before it was determined. The Framework has since been subject to an update in February 2019, when the latest edition was published. However, the parties have had the opportunity to take account of any relevant changes during the course of the appeal.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, including the Chilterns Area of Outstanding Natural Beauty (AONB) and the setting of a Grade II listed building, Crown Cottage;
 - whether sufficient information has been provided to demonstrate that the proposal would not have an adverse effect on protected species, including bats; and,

- whether sufficient information has been provided to demonstrate that there would be adequate surface water drainage measures on the site to avoid the risk of flooding on the site or in the surrounding area.

Reasons

Character and appearance

5. The appeal site comprises a parcel of land to the north west of Crown Cottage, a Grade II listed building, which is located within the rural village of Ibstone. The site is currently occupied by a detached, single storey garage building, ancillary to the main house, which would be replaced by a two-storey, two-bedroom dwelling. The site also lies within the Chilterns AONB.
6. Development in the village is predominantly linear, running alongside Ibstone Road. Most properties are large detached houses on generous plots, with frontages onto the road. Policy C10 of the Wycombe District Local Plan to 2011¹ (WDLP) indicates that within that portion of the countryside beyond the Green Belt, development will be limited to certain exceptions. The intention, as indicated by the supporting text to Policy C10, is to protect the rural character and appearance of the countryside, which is consistent with similar aims contained within the Framework.²
7. The policy exception that is potentially most relevant to the appeal proposal is at Policy C10(1)(e), which refers to: *'Infilling within villages, hamlets and identifiable ribbons of development where there are no adverse effects on the character of the area. The closing of gaps or enclosure of open areas which contribute to the open character of the area will not be permitted.'*
8. 'Infilling' is not defined in WDLP Policy C10, or indeed in the Framework. However, in planning terms, it is generally understood to refer to the filling of a relatively small space or gap between existing buildings, usually within the frontage to a street or road.
9. The appeal site is located to the rear, albeit to the north-west, of Crown Cottage and lies at the back of another residential property which fronts onto the road, known as Fairfields. The existing garage/store building is, in keeping with its ancillary and subservient status, significantly and noticeably to the rear of the main building line of dwellings to the north and south, on this part of Ibstone Road. The site adjoins fields or paddocks on its northerly and western boundaries, with garden land associated with Crown Cottage to the south. The access road, which forms part of the site, runs east down to Ibstone Road, between the side garden of Crown Cottage and the house at Fairfields.
10. Given the above, the proposed two-storey house, replacing a single storey garage, would be in a backland location, to the rear of the principal building line of adjacent houses and buildings, rather than between them. As it would not be flanked by or between existing buildings, the proposal would not, in my view, constitute 'infilling' and, therefore, would not meet the relevant exception within policy C10 of the WDLP.

¹ Adopted January 2004 (As Saved and Extended (2007)); and replaced by the Adopted Core Strategy 2008 and the Adopted Delivery and Site Allocations Plan July 2013)

² Paragraph 17.b)

11. The Council also refers to policies from the emerging Wycombe District Local Plan (the emerging LP)³ within its decision notice. I understand that the examining Inspector has concluded that the emerging LP provides an appropriate basis for the planning of the District, subject to a number of main modifications which have already been consulted on with responses considered.⁴
12. The Council advises that the Inspector's Report and adoption of the plan will be considered at special Council meetings scheduled for 19 August 2019. The appellant suggests that some policies in the emerging LP may be challenged by judicial review. However, it is not clear what the basis of any supposed challenge would be, given the findings within the Inspector's Report. In any event the appellant appears to accept that, at present, the emerging LP should be given significant weight. Taking account of paragraph 48 of the Framework and given the advanced stage of the emerging LP, which would have been examined for consistency with the Framework, I give the policies within it significant weight.
13. With that in mind, emerging policy DM44 is relevant as, like policy C10 of the existing WDLP, it seeks to manage and limit development in the countryside outside of the Green Belt. Policy DM 44 allows for: '*The construction of additional dwellings and other buildings only within settlement boundaries identified in accordance with [policies] CP3 and DM21 as shown on the Policies Map.*' The Council advises that the site is well outside any defined settlement boundary within the emerging LP and no clear evidence has been submitted by the appellant to dispute that. Therefore, the proposal would also conflict with that emerging policy.
14. The appellant refers to other individual houses in Ibstone which are set back further away from the road. However, referring to the main examples given, the Council advises that Abbattsfield was approved in the 1950s and that the houses at Keepers Cottage, Bracken and Wayside all existed prior to 1948. Therefore, they pre-dated the current development plan for the area and the Framework by a considerable period of time. The relevant policies within the WDLP and the emerging LP are intended to manage future development in rural areas. Moreover, those dwellings are some distance to the north of the appeal site and, as the appellant appears to concede, they are '*exceptions to the regular land pattern.*' Therefore, I do not consider that they, or other examples referred to, reflect the predominant pattern of development along the road, where most dwellings are close to the roadside, rather than to the rear of existing properties.
15. A recent permission for a dwelling next to Flint House, to the south of Crown Cottage, is cited by the appellant in support of the appeal proposal.⁵ However, whilst set back from the road, that approved dwelling appears to be adjacent to Flint House and on a more similar building line to both Flint House and Crown Cottage than the appeal proposal, which is significantly to the rear. Therefore, I give that other permission limited weight in my deliberations. In any event, all proposals must be judged on their individual merits.

³ Publication Version March 2018

⁴ Wycombe District Local Plan, Inspector's Report 10 July 2019

⁵ 17/07264/FUL

16. An appeal decision allowing the erection of a dwelling at Abbattsfield⁶ is also referred to by the appellant, who suggests that the Inspector describes Ibstone as having a *'linear development that is composed of development 'clusters''*. However, that phrase does not feature in the appeal decision. Rather, the Inspector says in paragraph 4: *'Ibstone is a linear settlement drawn out for some distance along Ibstone Road. It includes a number of distinct areas of development, clearly separated by open countryside, and generally comprised of groups of detached houses within generous gardens.'*
17. Whilst the Inspector referred to groups of dwellings in that appeal, the proposed dwelling was to the front of the site adjoining the road and the Inspector considered that: *'When viewed from outside the site the appeal building would appear as a continuation of the line of houses set along Ibstone Road, and would not therefore appear out of character with the pattern of development within the settlement'*.⁷ In contrast, in the appeal before me, the dwelling would be to the rear of existing development away from the road. Therefore, there are clear differences between the Abbattsfield scheme and this appeal proposal. Again, I have considered the appeal scheme on its own merits.
18. Planning permission was granted in 2015 for the replacement of the existing garage/store building with a two-storey detached garage and store.⁸ The appellant says that the design of the appeal proposal would be similar to that approved building and it would be on the same footprint. However, I understand that the relevant permission was subject to a specific condition to ensure that it remained ancillary to the main house and was not occupied as a separate unit. Moreover, the drawings supplied indicate that the replacement garage would, despite an additional floor, still be very much recognisable as an ancillary garage building serving a main house, with its three open-fronted parking bays facing east towards the road.
19. Whilst of a similar scale the proposed building would, contrastingly, present as a small two-storey dwelling, untypical of the more generously sized residential properties in the immediate area. In addition, the likely accretion of associated domestic paraphernalia outside and within its garden would further consolidate that visual impression. Although set back, the site is on slightly higher ground and the dwelling would be visible from the road and from the house at Fairfields. Therefore, on its backland site, the proposed development would appear out of keeping with the predominant form of residential housing along the road to the detriment of the area and the AONB.
20. The existing garage/store building is currently seen in the context of other similar outbuildings, such as the stable on the appeal site and a single storey garage at Fairfields, both closer to the road. Consequently, the position, domestic nature and size of the appeal dwelling, would appear out of character with most nearby residential development. Therefore, whilst there may be a 'fallback' permission for a garage/store building, its appearance and use would be different and less harmful than the appeal scheme to the character and appearance of the area.

⁶ APP/K0425/W/16/3162468

⁷ Paragraph 7

⁸ Ref: 15/05910/FUL

21. I have also considered the concern put by the Council, Ibstone Parish Council and some local residents that allowing the proposal would set an undesirable precedent for other backland developments, which would harm the predominant, established linear character of the settlement and the Chilterns AONB. Whilst each proposal must be treated on its merits, I appreciate the concern that the approval of this proposal could be used in support of similar schemes, given the generous plots on which many dwellings in the village are sited. Allowing this appeal would therefore, be likely to make it more difficult to resist further applications for similar developments.
22. Cumulatively, such developments would exacerbate the harm that I have identified and erode the character of the area and the scenic beauty of the Chilterns AONB, which washes over the village. The Framework advises, at paragraph 172, that: *'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.'* Therefore, that also weighs against the proposal.
23. The Council further submits that there would be harm to the setting of the Grade II listed building at Crown Cottage. It refers to a loss of a section of hedge to the front of the dwelling, in connection with the provision of an appropriate visibility splay for the access. However, at the time of my site visit, the relevant hedge had already been removed and replaced with a post and rail fence, although it appeared that there was new hedge planting behind. Therefore, it is not possible for me to assess any contribution it may or may not have made to the setting of the listed building. In any case, the Council has since accepted that the hedge was removed in order to comply with a condition attached to a previous planning permission it had granted.⁹
24. According to the Council, the proposed intensification of residential use would affect the setting of the listed building. Elsewhere, the Council indicates that the appellant had provided insufficient information to demonstrate that the separation of the two plots would not have a detrimental effect on setting. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving listed buildings and their settings, when considering whether to grant planning permission. Similarly, the Framework indicates that great weight should be given to the conservation of heritage assets, such as listed buildings, including when considering development within their settings.¹⁰
25. Whilst I am conscious of that special protection, in this case, as already established the appeal site is some distance to the back and rear of the listed building, Crown Cottage, and bounded by fences. Historic mapping also appears to show it as a discrete parcel of land from the main grounds surrounding Crown Cottage.
26. The principal public views of the listed building are from Ibstone Road. It is those views of the building within its attractive garden setting that enable the fullest appreciation of the significance of this two-storey, whitewashed house, originally dating, according to its list description, from the 17th century with later extensions. Whilst views from other land to the rear or adjacent properties are achievable, they are limited by distance and intervening

⁹ Ref: 08/05057/FUL

¹⁰ Paragraphs 193 & 194

- vegetation. Similarly views from public footpaths some distance to the north and south are also limited.
27. There is an existing building on the appeal site and a previous permission for a two-storey replacement structure, of similar size and in the same position as the appeal proposal. Given the above factors, including the separation distance, I do not consider that the residential use of the site would have a material negative effect on the setting of the listed building or its significance. Therefore, I do not find conflict with WDLP policy HE3 or policy DM31 of the emerging LP, which are focussed on safeguarding heritage assets.
28. It has been suggested by some local residents that the existing garage/store has a negative visual impact on the area and that replacing it would be of benefit. However, the existing timber-clad outbuilding is single-storey and does not appear to be in a state of disrepair. Overall, given its subservient nature, I do not agree that it has an adverse visual impact. In any case, its replacement is not dependent on approval of the current proposal for a dwelling.
29. Overall therefore, I conclude that the proposed development would have an adverse effect on the character and appearance of the area, including the Chilterns Area of Outstanding Natural Beauty (AONB). It follows that the proposal would fail to comply with policies within the development plan. Of the array of policies referred to by the Council, the most relevant to my findings are policies CS7, CS17 and CS19 of the Wycombe Development Framework Adopted Core Strategy, July 2008 (CS) and saved policies C10, C15 and L1 of the WDLP. Together those policies seek to ensure that development in the countryside is strictly controlled and that any new development responds to the character and sense of place in individual villages, including their built characteristics, and conserves the scenic beauty of the Chilterns AONB.
30. There would also be conflict with policies DM30 and DM44 of the emerging LP, which similarly seek to conserve the Chilterns AONB (DM30) and restrict development in the countryside outside settlement boundaries. I have already given those policies significant weight.

Protected species

31. The Council considers that insufficient information has been submitted to demonstrate that the proposal would not have an adverse effect upon the habitats of protected species, including bats. The appellant's agent advises that: *'The applicant, following investigations of the existing building, did not find any protected species, namely bats. The building is unsuitable for roosting.'* I understand that the appellant submitted an 'Ecology: Wildlife Checklist' with the planning application on that basis. It indicates that the Council reserved the right to request additional information such as an ecological survey. There has been debate between the parties about whether that information should have been requested by the Council. The Council accepts that it made no request during the course of the application. However, it points out that the appellant could have made use of its pre-application advice service.
32. Notwithstanding the dispute between the parties over those procedural issues, which leads me to sympathise with the appellant to some extent, the fact remains that the appellant was made aware of the Council's concerns by the

decision notice and Officer's Report. The appellant also appears aware of the content of a government publication, Circular 06/2005, which sets out that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by proposed development, is established before the planning permission is granted. However, no professional survey or ecological report has been submitted by the appellant with the appeal documentation or during the course of the appeal to clarify the matter. Given the rural location and nature of the existing building, I am not sufficiently persuaded by the appellant's assertion that formal assessment is unnecessary, as it is not supported by even a preliminary assessment from a suitably qualified person.

33. The appellant also suggests that the matter could be dealt with by condition. However, Circular 06/2005 says that surveys should be carried out before planning permission is granted, unless there are exceptional circumstances. Given that there has been ample opportunity for a survey to have been carried out since the original refusal, and there do not appear to be any exceptional circumstances, it would not be appropriate to deal with the matter by condition.
34. Therefore, I conclude that insufficient information has been provided to demonstrate that the proposal would not have an adverse effect on protected species, including bats. Consequently, the proposal would be contrary to policies DM13 and DM14 of the Council's Adopted Delivery and Site Allocations Plan, July 2013 and policy DM34 of the emerging LP, which seek to safeguard protected species, biodiversity and associated green infrastructure, which can include private gardens.

Surface water drainage and flood risk

35. I note the Council's concerns regarding surface water drainage and those of the Local Lead Flood Authority (LLFA), Buckinghamshire County Council. The site is not in Flood Zones 2 or 3 and the LLFA states that the relevant Environment Agency mapping indicates that it is at very low risk of surface water flooding. However, the LLFA holds that insufficient information has been provided to demonstrate that the surface water flood risk will not increase elsewhere as a result of the proposal.
36. The planning application form indicated that surface water would be disposed of via a Sustainable Drainage System (SuDS). However, the LLFA has concerns regarding the feasibility of use of infiltration techniques at the site. It says that it is aware of difficulties on other developments in the area due to a band of clay. However, geological mapping supplied by the appellant appears to indicate that the appeal site lies beyond the areas of clay. Furthermore, my understanding is that there are various SuDS techniques, not all of which are dependent on infiltration.
37. Given the nature of the LLFA's concern, the site specific-factors, the limited scale of the proposal, the existing building on site and the previous planning permission for a building of a similar scale, albeit for non-residential use, I consider that this aspect, could reasonably be dealt with by means of a suitable drainage condition. Indeed, an appropriate condition has been provided by the LLFA. On that basis and on balance, in this particular case, I do not see that there is clear conflict with paragraphs 163 or 164 of the Framework or relevant current or emerging development plan policies, which could not be sufficiently addressed by condition.

Other Matters

38. It became apparent during the appeal that there was dispute and some confusion about plans submitted which indicated different site boundaries. The matter was not satisfactorily resolved. The Council considers that some of the land on the relevant plan, which the appellant appears to indicate is the intended site plan¹¹, is agricultural land and that the change of use to residential would unacceptably urbanise the visual character of the area. I have already dealt with those alleged effects in the main issues above. Therefore, it is not necessary for me to consider that aspect further.

Planning Balance and Conclusion

39. The Council has confirmed, providing its most recent position statement¹², that it is able to demonstrate more than a 5-year supply of specific deliverable housing sites (from a 31 March 2018 base date), in accordance with paragraph 73 of the Framework and the Planning Practice Guidance.
40. Its emerging LP, which has been found sound, is also due to be adopted very shortly. The provision of a 5-year housing land supply (HLS) would have formed part of the assessment of the 'soundness' of the emerging LP. The appellant appears to disagree with aspects of the Council's and the examining Inspector's findings and suggests that they may be challenged by judicial review. However, no compelling evidence is before me to show that the Council's current position on housing land supply or that within the emerging LP is illegitimate.
41. Therefore, whilst I have also considered the age of policies within the current development plan, the most relevant appear broadly to be broadly consistent with the Framework. It follows that, given my findings on the current 5-year HLS and the imminent adoption of the emerging LP, the 'tilted balance' in paragraph 11 d) ii of the Framework is not engaged. In any event, the proposal relates to just one dwelling which, although all contributions have a value, would not have a significant effect on the supply of housing.
42. Although some local residents have objected to the proposal, others have offered support on the basis that smaller dwellings are needed in the village. The appellant has endorsed that view and says that the scheme would also support the viability of local services. I agree that those would be benefits. There would also be some economic benefits during the construction period, through the provision of short-term employment opportunities and the purchase of building materials. Future occupants would contribute to the local economy and potentially participate in the village community. However, as the development would consist of one, two-bedroom dwelling those benefits would be relatively limited.
43. Furthermore, I understand that like the current development plan the Council's emerging LP includes a spatial strategy intended to direct development to appropriate places. In this case, as explained above, the appeal proposal conflicts with policies in both the existing development plan and policies in the emerging LP. The need for affordable housing was also considered by the Inspector as part of the examination of the emerging LP.

¹¹ The 'Buy A Plan' map

¹² Wycombe District Council 5YS Position: 1 March 2019

44. I have not found harm to the setting of the listed building and consider that the drainage issues could be addressed by condition. Overall however, whilst there would be some limited benefits associated with the proposal, they are not sufficient to outweigh the harm identified to the character and appearance of the area, including the AONB, and the lack of sufficient information to demonstrate that there would not be an adverse effect on protected species.
45. There are no material considerations in this case, including within the Framework, that would justify a decision otherwise than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

JP Tudor

INSPECTOR