



Appeal Decision

Site visit made on 11 November 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2019

Appeal Ref: APP/Q3115/W/19/3234547

1. Lower Ham Buildings (former Upthorpe Farm), Moreton Road and 2. Land off The Croft, Aston Tirrold, Didcot OX11 9EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by The Cook Family Trust against the decision of South Oxfordshire District Council.
 - The application Ref P18/S4124/O, dated 7 December 2018, was refused by notice dated 10 May 2019.
 - The development proposed is: 1) Demolition of existing buildings and removal of hardsurfaces; Residential redevelopment by 9 dwellings with associated works at Lower Ham Buildings; and 2) Provision of land for cemetery extension/area of community open space and footpath link at land northeast of The Croft.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is submitted in outline with details of access and layout provided for consideration. All other matters are reserved for future approval.

Main Issues

3. The main issues are:
 - a) whether the site would be appropriate for new housing on the scale proposed, having regard to the policies of the development plan and accessibility to services and facilities;
 - b) whether the proposed change of use of land to cemetery extension and/or community open space is acceptable in light of relevant development plan policy; and
 - c) whether the proposed residential scheme provides sufficient affordable housing.

Reasons

Background

4. The site being proposed for residential development forms part of a large complex of disused farm buildings adjacent to Moreton Road in the village of Aston Tirrold. Planning permission has already been granted for the demolition

of the buildings nearest the road and the erection of schemes of 3 and 5 dwellings¹. Two listed barns also have permission² to be converted to 2 dwellings. The permissions have not been implemented and remain extant. The proposed development would be located immediately to the east of these sites and would piggyback off the access to the 5 unit scheme.

Principle of development

5. The development plan comprises the South Oxfordshire Core Strategy (SOCS) and the saved policies of the South Oxfordshire Local Plan (SOLP). Policy CSS1 of the SOCS defines an overall spatial development strategy for the district. It seeks to focus major new development in Didcot, whilst supporting the roles of the towns of Henley, Thame and Wallingford. Across the rural area, the SOCS defines a hierarchy of settlement sizes, aiming to enhance the role of some of the 'larger villages' as local service centres. The strategy seeks to support other villages in the district by allowing limited amounts of housing and employment. The policy supporting text explains that the intention of the strategy is to provide for local needs outside the areas designated for growth.
6. The spatial strategy sits alongside SOCS Policy CSM1 which, amongst other things, seeks to encourage the use of sustainable modes of transport and support measures which enable a shift to public transport, cycling and walking, away from the use of private motor vehicles. This complements SOLP Policy T1 which requires development to be accessible by public transport.
7. SOCS Policy CSR1 sets out the scale of development that is supported by the strategy in each type of rural settlement. Aston Tirrold is identified as a 'smaller village' where infill development on sites of up to 0.2 ha (equivalent to 5-6 houses) will be permitted. According to the policy text, redevelopment proposals in all categories of settlement may be acceptable but will be considered on a case by case basis through the development management process in line with other policies in the development plan.
8. The appeal site comfortably exceeds the size threshold for infill, but in any event the proposal would not comply with the definition of infill set out in SOCS paragraph 13.10. The development would not comprise the filling of a small gap in an otherwise built-up frontage, and its location at the edge of the village adjoining open countryside means that it is not closely surrounded by buildings.
9. The Council contends that the proposal would not constitute redevelopment. It argues that the site would need to qualify as previously developed land (PDL) and the National Planning Policy Framework (the Framework) excludes agricultural buildings from the definition. However, this approach strikes me as being unduly restrictive. There is no reference within the policy to PDL and the appellant has provided numerous examples of cases where the Council has permitted housing development on the sites of farm buildings.
10. Policy should always be interpreted objectively in accordance to the language used. Given that the proposal involves replacing one form of operational development – concrete hardstanding and steel frame buildings – with another, I consider that the scheme can reasonably be described as redevelopment.

¹ Refs. P17/S3714/FUL & P16/S4241/FUL, granted on 25 May 2018 and 21 February 2017 respectively.

² Ref. P17/S3917/FUL, granted on 4 January 2018.

11. The case for the appellant relies largely upon the contention that SOCS Policy CSR1 places no limit on the number of housing units yielded through redevelopment. Whilst this is factually correct, it ignores the stipulation within the policy that redevelopment proposals need to be judged against other policies in the development plan. In my view, this should include an assessment of whether there is compliance with Policies CSS1 and CSM1 in respect of the overall spatial strategy of the SOCS and the objective to encourage sustainable transport modes.
12. The village of Aston Tirrold and its linked neighbour Aston Upthorpe contain relatively few services and facilities. There are three churches, a public house, village hall and recreation ground. I noted a commercial repair garage, but otherwise saw no significant employment opportunities. Notably, there is no shop, primary school or doctor surgery. Although there is a bus service, it is extremely limited and local residents are heavily reliant upon their cars for everyday trips. The most common destinations are likely to be Didcot and Wallingford, both of which are at least 5 km away.
13. Although the development plan is permissive of some housing over the plan period, this is for local needs. It is a central tenet of the spatial strategy that the level of growth should be proportionate to the size of the settlement and the facilities it provides. To my mind, Aston Tirrold is not a suitable location for any significant housing development. The appeal scheme would not be major development within the meaning of the Framework, but it would nonetheless be significant in the context of the village. Cumulatively with the schemes already permitted on this farm complex it would be more significant still, almost doubling the number of houses on the site as a whole to make a total of 19 units.
14. The appellant argues that household sizes are reducing and therefore the scheme would be 'traffic neutral', but the evidence falls short of demonstrating this and the likelihood is that there would be a material number of daily vehicle movements generated by the scheme.
15. I appreciate that SOCS Policy CSR1 was worded to provide some flexibility in relation to dwelling numbers where redevelopment sites are concerned. However, this does not justify residential schemes the scale of which clearly conflicts with the overall spatial strategy for the district. In reaching this view, I have taken account of the other decisions which have been brought to my attention, including a number of permissions granted in lower order villages. All of these schemes were smaller than the appeal proposal, but in any event previous decisions of the Council do not bind me to a particular decision. I have determined the appeal on its own planning merits.
16. I have taken account of policy in the Framework which states that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby. The Framework further recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Nevertheless, I conclude that the scale of housing being proposed on this site, additional to that already permitted on adjoining land, would be inappropriate and would be contrary to SOCS Policies CSS1 and CSM1 and SOLP Policy T1. These policies are consistent with the principles of sustainable development and the Government's planning policies set out within the Framework.

Change of use of land to cemetery extension and/or community open space

17. Policy R6 of the SOLP states that when granting planning permission for new residential development, developers will be required to provide public open space for informal recreation to meet the needs of the new residents in accordance with an amount appropriate to the locality and the size of the development proposed. The supporting text to this policy explains that the informal recreation land will be about 10% of the total site area and within a ten minute walk of the development site.
18. The application proposes the provision of land for a cemetery extension and/or an area of community open space. Dedicating the land to open space would exceed the requirements of Policy R6, notwithstanding that it would be preferable for occupants of the housing scheme to have a more direct route to the facility. Although a condition is suggested to require the provision of the open space, the expectation of the Council's Section 106 Planning Obligations Supplementary Planning Document (2016) (SPD) is that such infrastructure will be secured through Section 106 of the Act. Without a planning obligation to secure the public open space there would be insufficient certainty over its provision and ongoing availability and maintenance.
19. The officer report explains that there may be instances where informal recreation space does not need to be provided, for example if there is a surplus of provision in proximity to the development site. There is no firm evidence before me to suggest that such circumstances would apply here. Aston Tirrold has a recreation ground, but this is located at the opposite end of the village and is biased towards formal sports pitches. In my view, it is not unreasonable to expect the proposal to make its own arrangements for informal open space closer to the site, and to ensure that provision is secured in perpetuity. The proposal conflicts with SOLP Policy R6 on this basis.
20. The appellant contends that the proposed facility is acceptable in its own right, on the basis that SOCS Policy CSR3 encourages the provision of community facilities. Although there is a policy presumption in favour of such schemes, the public benefits must be balanced against any adverse impacts. The proposed change of use would result in some localised impacts on the countryside setting of the village within the Area of Outstanding Natural Beauty. Had there been an identified community need for the development, the limited harm may have been outweighed. However, there is no compelling evidence before me to demonstrate a demand for the proposed uses. I therefore find that the case for the loss of countryside on the edge of the village has not been adequately made.

Affordable housing

21. Policy CSH3 of the SOCS sets out that 40% affordable housing will be sought on all sites where there is a net gain of 3 or more dwellings subject to the viability of provision on each site. In cases where the 40% calculation provides a part unit a financial contribution will be sought equivalent to that part unit.
22. The proposed scheme of 9 dwellings would generate a policy requirement of 3.6 affordable dwellings. Ordinarily, this would equate to 3 units provided on site, together with a financial contribution for a part unit. The application was silent on the matter of affordable housing, but the appellant has since indicated a willingness to provide 4 affordable homes as part of the scheme.

23. The Council argues that the proposal would form the third phase of a larger scheme. This is not an unreasonable stance. The appeal site forms a component part of a farm complex, all of which is in single ownership. It is contiguous with those parcels of land adjoining Moreton Road where planning permission has already been granted for housing. Those permissions remain extant and in all probability they would be built out at the same time as the appeal scheme.
24. According to the appellant, the extant permissions were considered under a different set of circumstances, with the rules on vacant building credit dictating that affordable housing was not required. There is no documentary evidence to substantiate this point and therefore I have given it limited weight. Both officer reports are silent on the matter of affordable housing and there is no explanation of why the Council did not seek to apply Policy CSH3. However, I am mindful that the Planning Practice Guidance at the time stated that no affordable housing should be sought from developments of 10-units or less³.
25. The granting of permission for a series of individual schemes below the thresholds can have the effect of circumventing national and local affordable housing policies. I agree with the Council's housing officer that the proposal should be treated as being part of a larger scheme of 17 new-build units. This would generate a policy requirement for 6.8 affordable homes. I have seen nothing which persuades me that such provision would be financially unviable.
26. The appellant suggests that affordable housing can be addressed by condition. However, the SPD explains that planning obligations will be the primary mechanism for securing affordable housing. With no agreement on the heads of terms, it seems to me that a planning obligation is the safest means of providing certainty for all parties. Furthermore, a condition would not be an appropriate mechanism for securing a financial contribution towards a part unit.
27. Accordingly, I conclude that the proposal would provide insufficient affordable housing. It would conflict with SOCS Policy CSH3 on this basis.

Planning Balance and Conclusion

28. I do not share the Council's view that the proposal would extend Aston Tirrold into open countryside. The farm buildings lie adjacent to existing housing and it is reasonable to treat them as being within the built limits of the village. Replacement of the buildings with the proposed housing scheme could be accommodated without material harm to the landscape and scenic beauty of the North Wessex Downs Area of Outstanding Natural Beauty.
29. The appellant sets out a range of other matters in respect of which it is agreed there would be no adverse impacts, arguing that these would be advantages of the scheme. However, the absence of harm is a neutral factor which weighs neither for nor against the proposal in the planning balance.
30. The proposal would bring social benefits by delivering 9 new homes. It would also generate direct employment and stimulate economic activity during the construction phase. The re-use of land through the redevelopment of existing buildings is a positive factor in the planning balance, but the farm buildings are not unsightly or out of place in this rural setting and therefore I have only attached a small amount of weight to the visual benefits.

³ In designated rural areas, local planning authorities were able to choose to apply a lower threshold of 5-units or less.

31. The scheme offers the opportunity for an additional section of footpath. This is not necessary to make the scheme acceptable and there is no mechanism to secure it as a public right of way. Nevertheless, I shall factor it into the balance as a community benefit.
32. Against the above benefits I must balance the harm. Notwithstanding the support in principle for redevelopment in 'smaller villages', the scale of development being proposed would be out of kilter with the spatial strategy of the plan and those policies which seek to encourage the use of transport modes other than the private car.
33. I find that the appeal scheme conflicts with the development plan taken as a whole and there are no material considerations of such strength or significance as to outweigh that conflict. I would have reached the same finding even in the scenario where the informal open space and affordable housing promised by the appellant had been properly secured.
34. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR