
Appeal Decision

Site visit made on 24 August 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2020

Appeal Ref: APP/D3125/W/20/3250709

Vicarage Field, Church Road, Milton Under Wychwood, Chipping Norton, Oxon, OX7 6LQ.

- 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 D Holmes against the decision of West Oxfordshire District Council.
 - The application Ref. 19/03060/FUL, dated 3 October 2019, was refused by notice dated 17 January 2020.
 - The development proposed is the demolition of the existing dwelling and garage and erection of 3 detached dwellings with parking and associated landscaping.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal in principle constitutes windfall development that accords with the development strategy in the development plan;
 - The effect on the character and appearance of the area including the Cotswold Area of Outstanding Natural Beauty (CAONB);
 - The effect on the setting of St Simon and St Jude's Church and associated structures - Grade II listed buildings; and
 - The effect on the living conditions of the occupiers of the adjacent property of Heathfield House.

Reasons

Background

3. The appeal site comprises part of the grounds of an existing bungalow set within the village of Milton Under Wychwood in the CAONB. The site lies to the south of St Simon and St Jude's Church and churchyard and there is a detached property Heathfield House to the south of the site. It is proposed to demolish the existing bungalow and erect three new detached houses.
4. Planning permission was granted in 1965 for a bungalow on the western section of the appeal site. This was not implemented and an application to renew it was refused in 1993 and an appeal was dismissed. However, I do not

place much weight on these decisions because of their age, different local circumstances, and the different national and local policies which are likely to have applied then.

Development strategy and housing land supply

5. The most relevant policies in the development plan are contained in the West Oxfordshire Local Plan (LP) adopted in September 2018. In this, Milton-Under-Wychwood is recognised as a 'Village' where Policy H2 indicates that new dwellings will be permitted on previously developed land or undeveloped land within the built up area provided a proposal meets the criteria of 'general principles' set out in Policy OS2 and respects the village character and local distinctiveness and would help to maintain the vitality of the community. These aspects will be considered under the first main issue. The LP does not define settlement boundaries but although the village has a mostly dispersed form, the site generally lies within it.
6. In terms of housing land supply, the main parties also address the issue of windfall sites as mentioned in the second reason for refusal. The Council says that the site would not constitute an acceptable windfall opportunity in the context of a very low 5 year windfall allowance. Paragraph 5.20 of the explanatory text to LP Policy H1 indicates no reliance is placed in future windfalls in the Burford–Chalbury Sub Area because of the more restrictive approach in the CAONB. Nevertheless, Policy H1 also makes clear that the indicative distribution of housing should not be taken as an absolute target of each sub-area or a maximum ceiling. Therefore, where development is otherwise acceptable and meets local criteria, I find that there is not a presumption in principle against the development as a windfall site even though the coming forward of such sites in this sub area may be greater than anticipated in the LP.

Effect on character and appearance and heritage assets

7. In considering this issue I have taken account of the Heritage Statement (HS) submitted on behalf of the appellant as this gives a comprehensive assessment of the significance of these heritage assets associated with St Simon and St Jude's Church. At the site visit I considered the proposal from the site itself, Church Road and the churchyard.
8. The development on the western side of Church Road in the vicinity of the site is mainly a ribbon of frontage, two storey properties and these do not have much of a bearing on the character of the appeal site or the development proposed. On the eastern side of the road between 'The Old School Houses' and 'Pebblebrook House' to the south the area has a more spacious and verdant character. Within this area the church of St Simon and St Jude and its churchyard are the dominant features in the townscape including the presence of mature trees around the churchyard. The open grassed area of garden forming the front element of Vicarage Field (the appeal site) is read in visual terms with the context of the churchyard and I find that the open garden land bounded with mature trees contributes positively to the setting of the church rather than negligibly as the HS concludes.
9. The proposal has been designed so that the house on Plot 1 would be set back some 35m from Church Road, nevertheless, the siting of a new dwelling here would significantly erode the extent of the open area at a critical point in the

narrower part of the site between Heathfield House and the churchyard. Much of the width of the visual gap would be taken up by a gable end and two storey main elevation of the house on plot 1. Taken together the loss of the open area and the spread of new building caused by the proposed development on plot 1 would visually dominate the space and spoil the setting of the church and churchyard and harm the established character of this area. This part of the proposal would not integrate well with the townscape of the village as required by the general principles set out in Policy OS2, particularly under the 2nd and 6th bullet points. Moreover, for similar reasons the development on plot 1 would harm significantly the setting of the Church and churchyard and be contrary to Policy EH9. It also conflicts with Policy OS4 on securing high quality design which respects the setting of buildings and areas of historic and architectural significance.

10. The proposals for plots 2 and 3 would not be so harmful to this local character. The two houses proposed would be sited in a wider part of the site where the space around them would be greater and the westerly new house would be less visually prominent as mainly a gable end would face the public realm of the road. The dwellings proposed, although two storeys in height, would be a reasonable replacement of the existing single storey bungalow which although low lying is otherwise not of a vernacular local design or materials.
11. The Council submits that the proposal would be harmful to the wider character of the CAONB but it appears to me that where the siting of new properties is acceptable, a two storey form would be more characteristic of the distinctive appearance of the general Cotswold area and the environs of Church Road, than the present bungalow. Subject to aspects of architectural detail and materials, the submission and agreement of which could be conditioned, I am satisfied that the design of the houses proposed is appropriate for the area; and would not harm the special character of the CAONB, and there is no conflict with Policy EH1, notwithstanding my conclusion above about the harm to the local character of the area regarding the loss of the open area and the adverse effect on the setting of the church.

Effect on living conditions

12. This issue concerns the relationship of the proposed development with the neighbouring property Heathfield House. At the moment the appeal site has a relatively open boundary with this property which has a number of windows at ground and first floor level on the north facing elevation. The occupiers of the property say that this elevation contains windows to a main living area of the dwelling with a kitchen/dining room.
13. Having regard to the scale of building bulk proposed, its proximity to the party boundary, and to the difference in land levels, the proposed development particularly on plot 1 would have a dominating effect on the present aspect of this existing dwelling which would harm the living conditions of the occupiers. Such harm means the development conflicts with the fourth bullet point of the general principles set out in Policy OS2.

Planning balance

14. On the main issues I have found that the principle of development in this part of the village of Milton Under Wychwood is not inappropriate within the development strategy set out in the Local Plan. However, the present open

character of much of the appeal site seen from Church Road contributes positively to the setting of the listed building of St Simon and St Jude's church and its churchyard. I have paid special regard to the desirability of preserving the setting of these heritage assets. The proposed development and in particular the loss of the open area, and scale and prominence of the new building on plot 1, would result in substantial harm to the setting of the heritage assets and significant weight must be given to this harm. The proposal would also harm the living conditions of the occupiers of the adjacent dwelling. For the reasons given above the proposal conflicts with the relevant parts of the development plan.

15. I have also placed great weight on the need to conserve the landscape and scenic beauty of the CAONB but I have found that with appropriate details and materials which could be conditioned, the development proposed would not harm this sensitive area.
16. The adverse effects of the proposal have to be balanced with the benefits. The appellant refers to the guidance in the National Planning Policy Framework (the Framework) in favour of achieving sustainable development and the need to boost housing supply particularly in sustainable locations. However, because of the significant adverse local impact the proposal does not amount to sustainable development when the Framework is read as a whole.
17. I find that the other considerations which apply do not outweigh the identified harm and the conflict with the development plan and this indicates that the appeal should not be allowed.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR