



Appeal Decision

Site visit made on 15 December 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2020

Appeal Ref: APP/D3125/W/20/3259227

Burrington House, Weald, Bampton, Oxfordshire OX18 2HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Simon Collins against the decision of West Oxfordshire District Council.
 - The application Ref 20/01066/PIP, dated 22 April 2020, was refused by notice dated 29 May 2020.
 - The development proposed is the erection of a single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development in my heading above from that used on the application form but have omitted the descriptive elements that do not relate to an act of development.
3. Permission in principle is an alternative way of obtaining planning consent for housing led development as part of a two stage procedure. The initial stage is limited to the consideration of location, land use and the amount of development which, in the event of an approval, would leave the remaining matters to be considered in a technical details application. As such, the proposed aerial view and landscape strategy provided are illustrative and therefore, there may be alternative ways of accommodating the proposed development.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area having particular regard to whether it preserves or enhances the Bampton Conservation Area (CA).

Reasons

5. The CA covers the historic core of Bampton but includes a south westerly protrusion towards the hamlet of Weald. Significance is derived from how the buildings and spaces have evolved over time and how they relate to the surrounding countryside. The denser, more intimate character of vernacular buildings at the historic core of Bampton transitions out to looser groupings of buildings. Many of the latter have an existing or historic agricultural association which is reinforced by the proximity of open countryside. The surrounding

landscape is categorised as semi-enclosed rolling vale farmland within the Western Thames Fringes in the West Oxfordshire Landscape Assessment 1998. These factors result in an attractive verdant, rural character to the CA and its immediate setting. I am mindful of my statutory duty¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

6. The appeal site lies partly within the CA at the edge of the south-westerly protrusion. It comprises a hard surfaced, fenced tennis court at a peripheral location within the grounds of Burrington House. As illustrated on the aerial photographs² provided, mature planting exists to the west of the tennis court which exacerbates its physical and visual separation from the house and remainder of its grounds. The juxtaposition of the domestic tennis court in proximity to an open field appears incongruous and can be seen from nearby public rights of way. Although its presence undermines the prevailing rural character to an extent, the impact is tempered by the general absence of solid built form and lighting. Furthermore, the chain link fencing allows through views towards the mature planting. Overall, the tennis court has a small negative impact on the character and appearance of the CA and surrounding area.
7. The proposal would introduce a detached dwelling. The illustrative aerial view shows a significant two storey structure together with a large outbuilding. Although, there could be a number of ways the site might be developed, given the size of the site, it is likely that the building would be generously sized. As such, it would possess a solid physical presence that would encroach into an area that is largely free from built form, thereby harmfully diminishing its open character. In addition, it would be likely to have associated domestic paraphernalia, boundary treatments and ornamental planting. It would also generate a degree of activity and associated lighting that would be notably greater than the tennis court, which has an incidental use and low key appearance.
8. Additionally, the proposal is likely to attain a height whereby it would be visible from several nearby public rights of way. This is reinforced by the submitted Landscape and Settlement Character Appraisal (July 2020) which acknowledges that the proposal could give rise to moderate adverse visual effects³ when viewed from the south. The appellant suggests that existing hedgerows and trees would largely screen views from other public footpaths. However, the appraisal submitted was undertaken when hedgerows were in full leaf. My observations in winter were that the site could also be glimpsed from other perspectives along nearby public footpaths.
9. Therefore, although not readily apparent from Weald Street, the harmful impact of the proposal would be seen by users of nearby public footpaths and in the foreground of some views towards the CA. In combination, these factors would increase the domestic appearance of the site and consequently, would undermine the rural character of the area to a considerably greater degree than the existing tennis court.

¹ Section 72 Planning (Listed Buildings and Conservation Areas) Act 1990

² Drawing numbers P8-002 and P8-003

³ Viewpoint 3, Page 9

10. The appellant asserts that the impact of the development could be mitigated by a consistent design approach with recent nearby residential development and a landscape strategy that would increase planting along site boundaries. The landscape strategy⁴ identifies an area adjacent to, but outside of the appeal site that could potentially be used for additional landscaping. However, the scope of permission in principle is limited and does not extend to matters considered at the technical details consent stage. Furthermore, as conditions cannot be imposed on a grant of planning in principle, there is no practical mechanism available to require that a subsequent technical details application must accord with illustrative information or provide mitigation outside of the appeal site. It follows that, although there may be potential to limit the harm I have identified arising from the location of the proposal, in these circumstances, such measures attract limited weight. In any event, based on the illustrative material before me, I am not satisfied that these measures would fully overcome my concerns regarding the loss of spaciousness and reduction in rural character arising from the location of the development.
11. It is also put to me that the proposal would only be a small part of a wider view from the public rights of way, the majority of which would be of the surrounding rural landscape. Whilst I accept that the visual harm would be localised, this does not provide a justification as otherwise, it could be repeatedly used to allow developments that over time cause considerable cumulative harm. Furthermore, I am not aware that my statutory duty to consider the impact on the significance of the CA is restricted to the impact on the public domain.
12. Taking these points together, the location of the development would be harmful to the character and appearance of the CA and its setting, albeit that given the relatively modest nature of the proposal, this would be less than substantial harm.
13. Paragraph 196 of the National Planning Policy Framework (the Framework) indicates that where the development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would contribute an additional dwelling towards the overall housing supply in the district, reasonably close to facilities at Bampton, a rural service centre. Moreover, there would be economic benefits arising from its construction as well as long term social and economic benefit from the activities of the future occupants.
14. Additionally, rather than comprising garden land, the tennis court constitutes fixed surface infrastructure and therefore, falls within the definition of previously developed land in the Framework. This is recognised in the Council's delegated report. The effective use of such land is generally encouraged by the Framework.
15. In combination these factors count in favour of the proposal. However, its modest scale would curtail the extent of the benefits, hence they attract limited weight overall. Therefore, the public benefits do not surmount the great weight I must give to conserving the significance of designated heritage assets under paragraph 193 of the Framework.

⁴ Page 14, Landscape and Settlement Character Appraisal (July 2020)

16. References are made to recent residential development for six dwellings permitted⁵ at Glebe Farm and a further dwelling to the north. The delegated report⁶ for the six house scheme acknowledged that it would result in less than substantial harm to the CA but found that the scale of development offered benefits that outweighed the harm. In contrast to the scheme before me, that proposal made a greater contribution towards housing supply and reference is made to the provision of affordable housing. Furthermore, the development replaced existing modern agricultural buildings. As such, the scheme was considerably different to the appeal proposal and consequently attracts limited weight. Similarly, the single dwelling permitted is some considerable distance from the appeal site and is therefore, of little weight. Moreover, there is little basis to show that these developments establish a building line for future development to take place to the south. Therefore, they do not justify harmful development at the appeal site, which I have determined on its own merits.
17. Whilst I acknowledge that the appeal proposal would not extend further eastwards than the six dwellings, nor further to the south than Burrington House, it does not necessarily follow that as a result it would be a logical complement to the character of the area. The proposal would not replace substantive buildings but would intensify domestic development at a sensitive peripheral location where there is a transition to open countryside.
18. Accordingly, I find that the proposal would be unacceptably harmful to the character and appearance of the area and would fail to preserve or enhance the character and appearance of the CA. This would be contrary to policy OS2 of the West Oxfordshire Local Plan 2031, September 2018 (LP) which states, amongst other things, that development should form a logical complement to the existing scale and pattern of development and/or the character of the area and that the natural and historic environment should be conserved and enhanced. It follows that as the proposal fails to comply with these general principles of policy OS2, it would also conflict with the requirement to do so in policy H2 of the LP. Additionally, the proposal would conflict with policy EH2 of the LP which seeks to conserve and enhance landscape character as well as policies EH9 and EH10 of the LP, which seek to conserve and enhance the historic environment, including conservation areas.

Other matters

19. Although not included as a reason for refusal, and contrary to the finding in the officer's delegated report, the Council states it is now uncertain whether the appeal site lies in or adjacent to Bampton. On that basis it may not comply with the approach to delivering housing set out in policy H2 of the LP. However, as I have found harm in relation to the main issue, a finding on this matter would not alter the outcome of my decision. Therefore, it is not necessary for me to conclude on this issue.

Conclusion

20. Applications for permission in principle must be made in accordance with relevant policies in the development plan unless there are material considerations which indicate otherwise. The benefits that the proposal would bring do not outweigh the significant weight given to the conflict with the

⁵ Reference 16/04250/FUL dated 17.11.17 & 17/03912/S73

⁶ Appendix 3, Appellant's Appeal Statement

development plan policies in relation to the main issue. Accordingly, they do not justify my determining the development other than in accordance with the adopted development plan and Framework.

21. Therefore, for the reasons given above, I conclude that the appeal is dismissed.

Helen O'Connor

Inspector