



Appeal Decision

Site visit made on 1 December 2020 by Scott Britnell MSc FdA MRTPI

Decision by R C Kirby BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2021

Appeal Ref: APP/D3125/W/20/3257116

The Gables, 10 Enstone Road, Charlbury OX7 3QR

- 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 Kieran and Gene Cooke against the decision of West Oxfordshire District Council.
 - The application Ref 19/02855/FUL, dated 10 October 2019, was refused by notice dated 4 March 2020.
 - The development proposed is demolition of the existing garage and studio flat and the construction of a new sustainable 2 bedroom cottage.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The application was submitted in the names of Mr and Mrs Kieran Cooke. The appellants' names in the banner header above has been taken from the appeal form. It is reasonable to consider that Gene Cooke was one of the applicants and so is eligible to make this appeal.
4. The red line denoting the appeal site does not extend to the front boundary of No 10 Enstone Road. However, it is clear from the Design and Access Statement¹ that the proposed dwelling would be accessed from Enstone Road through the garden to the side of that dwelling, which is in the appellants' ownership as denoted by the blue line. I have proceeded on this basis.

Main Issues

5. The main issues in this appeal are the effect of the proposal on:
 - The living conditions of the occupants of No 10 Enstone Road, with particular regard to noise and disturbance,
 - The character and appearance of the Cotswold Area of Outstanding Natural Beauty; and,

¹ Section 5 of Planning Statement 3.

- The character and appearance of the Charlbury Conservation Area.

Reasons for the Recommendation

Living Conditions

6. Access to the proposed dwelling would be to the side of No 10 Enstone Road (No 10). I observed that No 10 has a ground floor side facing window which appears to serve a living area that is also served by a window to the front. There is a second ground floor window further back along the side elevation and a door with a small amount of glazing. The Council state that the rearmost room on the ground floor is a dining room. I also observed a first floor window in this elevation and the Council advise that there are three bedrooms next to the drive. This arrangement is not disputed by the parties.
7. As a two bedroom dwelling, the proposal is unlikely to produce a significant amount of vehicular or pedestrian movements, including larger delivery vehicles. Consequently, despite the proximity of the access to No 10, its use would be unlikely to result in disturbance through noise, vibration or fumes to a degree that would make the internal living space and garden of No 10 less pleasant to use.
8. I acknowledge that during the construction of the dwelling that construction vehicles would be likely to result in noise and disturbance to the occupiers of No 10, but as this would be for a short period of time, such activity would be unlikely to result in harm to the occupiers of this property's living conditions.
9. Given my findings and in the absence of substantive evidence to demonstrate otherwise, I conclude that the proposal would comply with Policies OS2 and H6 of the West Oxfordshire Local Plan 2031 Adopted September 2018 (LP). These require, among other things, that all development should be compatible with adjoining uses and not have a harmful impact on existing occupants, or the environment of people living in the area. It would also comply with Paragraph 127 f) of the National Planning Policy Framework (the Framework) which states, among other things, that developments should create places with a high standard of amenity for existing and future users.

Cotswold Area of Outstanding Natural Beauty

10. The appeal site is located in the Cotswold Area of Outstanding Natural Beauty (CAONB). Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which amongst other areas have the highest status of protection in relation to these issues.
11. Although there is a large recreation ground to two sides of the appeal site and open space to the front, it is set within a residential context. Given the vegetation along the boundary with the recreation ground, views of the proposed dwelling from here would be restricted to its roof with the rear of other properties on this section of Enstone Road also visible. Moreover, the nearby leisure centre and its tennis courts are prominent in views from Nine Acres Lane to the north and north east, while only glimpsed views of the proposed dwelling would be afforded from the front. Given this context, and the wider residential character of this part of Charlbury, the proposed dwelling would not appear as a prominent addition to the area. The proposal would therefore conserve the landscape and scenic beauty of the CAONB.

12. I note the Council's comments regarding important views in and out of the CAONB. Although these include views from the recreation grounds toward the surrounding countryside, the proposal would not impinge upon these given the presence of other buildings in these views and the context that I have set out above.
13. In conclusion, the proposal would conserve the landscape and scenic beauty of the CAONB in accordance with LP Policy EH1 which states, among other things, that within the AONB great weight will be given to conserving the area's natural beauty and landscape. Policies BC1, OS2, OS4 and H2 are strategic and overarching policies and contain general principles for development. The proposal would comply with these policies in so far as they relate to the AONB.
14. The Council also refer to the West Oxfordshire Design Guide 2016 (WODG). However, this is a large document and I have not been directed to the relevant part covering development in the AONB. As such, I have been unable to assess this main issue against this document. Further, I have been provided with a copy of the Cotswolds Area of Outstanding Natural Beauty Management Plan 2018-2023. This plan is referred to in Policy EH1 as a material consideration in decision making, but I have not been referred to any specific part of this large document to allow me to assess the proposal against it. I also note that the Council's statement refers to the West Oxfordshire Landscape Assessment, but I do not have a copy of it before me.

Charlbury Conservation Area

15. The appeal site is located in the Charlbury Conservation Area (CCA). Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 states that, in the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
16. The proposed dwelling would be located in the rear garden of one of ten semi-detached properties on the west side of Enstone Road. These properties face the highway in a linear form of development and most have long rear gardens of broadly similar lengths. They form a cohesive and attractive part of the CCA and through their formal arrangement and spacious plots these dwellings and their gardens contribute positively to the character and appearance of the CCA.
17. Due to its siting in the rear garden the proposal would appear anomalous in the context of the linear form of development created by the wider group of semi-detached properties. Given the contribution that this pattern of development makes to the significance of the CCA, the proposal would cause harm to, and would fail to preserve or enhance, its character and appearance. This harm would be exacerbated by the siting of the proposed dwelling diagonally within the site. While this would maximise solar gains and the efficiency of the solar photo voltaic and thermal panels, it would appear cramped and visually jarring in contrast to No 10 and the other properties nearby.
18. I note the appellants' reference to the WODG and how they consider that the application relates to its guidance. However, the proposed dwelling would be clad in timber which is not a common material for dwellings in the area. Further, while the asymmetric roof form of the proposed development picks up on the projecting gables to the front of Nos 9 and 10 Enstone Road, the overall form and design of the proposed dwelling would appear incongruous within the

context of existing development, with the glazed verandah, split level eaves and various window sizes contributing to a haphazard appearance. Although only limited views of the proposed dwelling would be available from the surrounding area, its form, design and materials would cause harm to the character and appearance of the CCA and its significance as a designated heritage asset.

19. The appellants have provided photographs of other development in Charlbury which appear to show variation in materials, form and design. They also indicate that proposals have been approved by the Council for the sub-division of other properties in the CCA, including at the junction of Thames Street and Nine Acres. However, I do not have the full details of those developments before me, including a copy of any planning permissions, and note that none are in the immediate area of the appeal site, so are likely to be viewed in a different context. The only exception is the nearby leisure centre, although given its scale and use I do not consider that it is directly comparable to the appeal proposal.
20. The appellants indicate that the plot size that would be created would be in excess of most developed housing sites in this area of Charlbury and they have provided comparisons for my consideration. However, I do not have full details of those developments before me and I consider that they are likely to be viewed in a different context. Consequently, I afford this matter limited weight in my assessment of the appeal proposal.
21. The proposal has received support from local residents and the Charlbury Town Council. I also note that no objections have been raised on highways grounds or by other consultees other than the Charlbury Conservation Area Advisory Committee. These matters are, however, neutral factors in my assessment, as the harm I have identified would result notwithstanding them.
22. I consider that the harm to the CCA would be localised and, in respect of the significance of the designated heritage asset as a whole, less than substantial. In applying the test set out at Paragraph 196 of the Framework, I find that the provision of one dwelling in this location which would be likely to result in social and economic benefits carries limited weight in favour of the proposal.
23. The proposed dwelling seeks to achieve high standards of low carbon efficiency and the appellants indicate that its design is near to passive house level. The proposal would allow the appellants to downsize whilst keeping the host property available for their son. Whilst this may be of benefit to the appellants and their family, such a benefit is principally private, rather than public. Given the quantum of development proposed, these benefits carry limited weight.
24. I acknowledge the desire for smaller, more affordable housing expressed through the emerging Charlbury Neighbourhood Plan 2031 (CNP). On the evidence before me the CNP has been submitted to West Oxfordshire District Council and a consultation exercise has been carried out. It does not appear to have been examined and as such I can afford it only limited weight. Further, there is no evidence before me that the proposed dwelling would be affordable in the terms set out within the Framework.
25. Against the benefits advanced by the appellants is the great weight that I must attach to the heritage asset's conservation. I find that the public benefits advanced in support of the proposal do not outweigh the harm that would be

caused to the significance of the CCA as a designated heritage asset. Accordingly, the proposal conflicts with the Framework in terms of its aims to sustain and enhance the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.

26. Given my findings, I conclude that the proposal would cause unacceptable harm to the character and appearance of the CCA, which it would fail to preserve or enhance and its significance as a designated heritage asset. There would be conflict with the statutory test, with LP Policies EH9 and EH10 which collectively require, among other things, for great weight and importance to be given to conserving and/or enhancing the significance of designated heritage assets, and with LP Policies BC1, OS2, OS4 and H2 where these relate to heritage assets. The proposal would also conflict with the guidance set out in the WODG, which requires development in conservation areas to pay special attention to design and the use of materials, with Sections 12 and 16 of the Framework relating to design and the historic environment, and the high-quality design principles sought by the National Design Guide.

Other Matters

27. The proposal is accompanied by an Ecological Assessment dated July 2018². Paragraph 2.3 of the assessment states that the results are valid for one year. I also note that it relates to a different scheme located in a different part of the garden. However, as I am recommending dismissing the appeal for other reasons it is not necessary for me to consider this matter further.
28. The appellants suggest that the Council did not take into consideration provisions of the Framework that it should have done, including appearing to indicate that paragraph 11d) ii should be applied. However, the appellant has not elaborated on this point further and there is no evidence before me that leads me to consider that that should be the case. Moreover, I consider that the Council have provided clear reasons for refusing the planning application and have substantiated these through the officer's report and appeal statement. This matter, therefore, does not advance the appellants' case.
29. I note the concerns raised by the appellants about the planning application process and conduct of the Council. However, the decision of the Council was to refuse the planning application, the subject of this appeal. My assessment has been limited to the merits of the case and not the conduct of the Council. The appellants may wish to take this matter up directly with the Council, however.

Planning Balance and Conclusion

30. The proposed dwelling would contribute to the area's housing stock and would have social and economic benefits. However, these benefits would be limited given the quantum of development proposed.
31. Although the proposal would not cause harm to the living conditions of the occupants of No 10 or the CAONB, and no highways concerns have been identified, it would cause harm to the character and appearance of the CCA, which it would fail to preserve or enhance, and there are no public benefits which outweigh this harm.

² Ecological Assessment, July 2018, Earth Ecology.

32. I conclude that the overall adverse impacts of the proposed development outweigh the benefits of the scheme. The proposal conflicts with the development plan and the Framework taken as a whole, which is not outweighed by other considerations.

33. For the reasons given above, I recommend that the appeal should be dismissed.

Scott Britnell

APPEAL PLANNING OFFICER

Inspector's Decision

34. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

RC Kirby

INSPECTOR