
Appeal Decision

Site visit made on 22 February 2021

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2021

Appeal Ref: APP/C3105/W/20/3260522

Land rear of 15A Webbs Way, Kidlington

- 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 Colin Coles against the decision of Cherwell District Council.
 - The application Ref 19/01715/F, dated 21 August 2019, was refused by notice dated 31 July 2020.
 - The development proposed is described as the 'restoration of building to be used for storing ground maintenance equipment'.
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Decision

1. The appeal is allowed and planning permission is granted for the 'restoration of building to be used for storing ground maintenance equipment' at land rear of 15A Webbs Way, Kidlington in accordance with the terms of the application, Ref 19/01715/F, dated 21 August 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 102, 103 and 107 P2.
 - 3) No development shall commence to the roof unless and until samples of the tiles to be used externally in the construction of the roof have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.
 - 4) The development hereby approved shall be carried out strictly in accordance with the recommendations and specifications set out in the Arboricultural Method Statement (Final Issue dated 25/9/2020 by ROAVR Environmental) and/or the Tree Protection Plan (reference 20_5837_09_05 Rev 1 dated Sept 2020).

Procedural matters

2. The appeal site description differs on the appellant's application and appeal forms. I have taken the site address from the application form as this reflects the location set out on the submitted plans.

3. During the course of the appeal the appellant has submitted an arboricultural report¹ which seeks to address the Council's second reason for refusal on the formal Decision Notice. The parties have had opportunity to comment on this additional information and I do not consider that the interests of any interested parties would be prejudiced by my considering the submissions. As such, I have proceeded to determine the appeal in light of this evidence.

Main Issues

4. The main issues are:
- i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - ii) the effect of the proposal on the character and appearance of the Church Street Conservation Area (the Conservation Area) having particular regard to the effect on trees.

Reasons

Whether inappropriate development

5. Policy ESD14 of the Cherwell Local Plan 2011-2031, Part 1, Adopted 20 July 2015 (LP) sets out that proposals within the Oxford Green Belt will be assessed against the Framework. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate development save for a number of exceptions set out within paragraph 145. Furthermore, certain other forms of development are also not inappropriate provided they maintain the openness of the Green Belt as set out at paragraph 146.
6. The appellant sets out in their planning submission that the proposal involves the re-use of a building of permanent and substantial construction without harm to openness in accordance with paragraph 146 d). However, from my observations the existing walls, whilst appearing in good condition are incomplete, are not covered by any roof structure and do not appear to enclose a finished floor. As such, I am drawn to the Council's argument that the proposal would involve a new building.
7. In such circumstances it is necessary to have regard to paragraph 145 of the Framework because this provides a number of exceptions that allow new buildings in the Green Belt. The appeal site is restricted to the footprint of the proposal. However, within the appellant's control is a sizeable area of land to the south and east of the appeal site. The proposal would provide space for storing ground maintenance equipment. At paragraph 3.1 of their officer report, the Council highlight approval for a 'change of use from agricultural use to a private fishing lake'.² Whilst I have not been provided with full details of this planning history, within the Council's Statement of Case they detail at paragraph 2.5 that the proposal would serve recreation land. I have little evidence to reach a contrary conclusion and afford this weight.

¹ Arboricultural Implications Assessment, Second Issue dated 21/9/2020 and Arboricultural Method Statement, Final Issue dated 25/9/2020 by ROAVR Environmental

² LPA ref: 15/00979/F

8. Paragraph 145 b) sets out that appropriate facilities (in connection with the existing use of land or a change of use) for outdoor recreation would not be inappropriate development, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The appellant states that the building would negate the need for third party contractors to maintain the land by providing space to store maintenance equipment. As such, I consider the proposal to be an appropriate facility.
9. The proposal would increase the height of the built form by introducing a pitched roof. Furthermore, it would enclose a small section along one length and add doors to an opening on one end. Overall, I consider that the alterations proposed would be modest. The most notable would be the introduction of a roof, but the design would provide a very shallow pitch and be hipped at both ends of the structure. Consequently, the increase in height and mass would be limited. Given this, and the purpose of the building, it would preserve the spatial and visual aspects of the Green Belt's openness. Furthermore, the proposal would not conflict with the purposes of the Green Belt set out at paragraph 133 of the Framework, noting the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
10. Therefore in conclusion on the first main issue, even if the proposal constitutes a new building as the Council asserts, based on the evidence provided, the proposal would not be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies. As such, the proposal would not conflict with Policy ESD14 of the LP or Section 13 of the Framework.

Effect on trees and the Conservation Area

11. Policy ESD15 of the LP overall seeks high quality design that complements historic assets. This is consistent with the Framework, including the requirement set out at paragraph 193 to afford great weight to the conservation of designated heritage assets such as the Conservation Area. The policies reflect the requirement for special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
12. The appeal site is located within a designated Conservation Area whose significance at this point is derived from the open and verdant character and appearance of the countryside around the edge of the settlement. It is noted as an important green space in the conservation area appraisal³. Adjacent to the appeal site are two trees which contribute positively to the heritage asset.
13. In light of the appellant's arboricultural report the Council have set out that, subject to the findings of the arboricultural report being implemented, that they no longer wish to defend their initial refusal in regard to this main issue. They suggest a condition to achieve this. I place significant weight on the Council's comments in light of the additional information.
14. Whilst 2 trees may be impacted by the proposal, the Sycamore is proposed for retention and appropriate management such as to maintain its positive

³ Kidlington Conservation Areas Appraisal, May 2009

contribution to the verdant character and appearance of the area. The White Willow has been previously pollarded, and even though it has experienced regrowth, in its context it contributes little to the significance of the Conservation Area. Overall, the proposal, including the development and the impact on trees would maintain the Church Fields Character Area.

15. Therefore, on the second main issue I find that the proposal would not harm the character and appearance of the Conservation Area having particular regard to the effect on trees. As such, the proposal would not conflict with Policy ESD15 of the LP or Sections 12, 15 and 16 of the Framework.

Other matters

16. During the course of the appeal third-party objections have been raised including the potential effect of the proposal on the living conditions of the occupiers of 21 Webbs Way having particular regard to noise, loss of light and outlook. I have made observations from the rear garden of this property.
17. Whilst the proposal would be located at the boundary of the two properties, given its relative orientation and the height and shallow pitch of the proposal, it would not result in any significant loss of light or outlook from either no 21's habitable rooms or its garden. Furthermore, whilst some noise may be generated by ground maintenance equipment that would be stored in the building, this is likely to be transient and modest in nature. As such, this would not merit refusal of the scheme.

Conditions and Conclusion

18. I have had regard to the Council's suggested conditions and the appellant has had opportunity to comment on these. I have imposed the standard commencement and approved plans conditions in the interests of completeness and certainty. Furthermore, I have imposed a requirement for approval of the final roof materials and the implementation of the arboricultural report's recommendations in order to protect the character and appearance of the Conservation Area. I have made minor alterations to the wording of the suggested conditions for the sake of precision.
19. For the reasons given above I conclude that the appeal should be allowed.

James Taylor

INSPECTOR