



Appeal Decision

Site Visit made on 8 March 2021

by Mr Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2021

Appeal Ref: APP/C3105/W/20/3264354

Ashfield House Alkerton Road, Balscote, Banbury OX15 6JR

- 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 J Dyer, on behalf of Cadmonkies, against the decision of Cherwell District Council.
 - The application Ref 20/00878/F, dated 24 March 2020, was refused by notice dated 2 June 2020.
 - The development proposed is for a detached dwelling (Re-submission of Planning Application 19/00550/F).
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Decision

1. The appeal is dismissed.

Preliminary matter

2. There is some dispute between main parties with respect to whether the site is adjacent to or straddles the boundary of the Balscote Conservation Area (BCA). Consideration of the conservation area plan, site plan, and my observations on site, lead me to conclude that the western part of the appeal site is within the conservation area. I shall take this into account in my decision.

Main Issue

3. The main issues are:
 - whether the proposal would preserve or enhance the character and appearance of the BCA, and
 - the effect of the proposal on the living conditions of occupiers of Ash Hollow and Ash Barn, with particular respect to privacy and outlook.

Reasons

Character and appearance

4. The village includes traditional dwellings that are arranged in an irregular form. The buildings form a loose-knit pattern of development. Gaps between them enable views through the settlement and result in a sense of spaciousness. The appeal site consists of an open area to the side of Ashfield House. It is adjacent to residential plots to the side and rear and is within the built-up limits of the village. The site slopes down from the highway by around three metres. Due to limited tree screening the site is open to views to rear gardens beyond in a low-density setting. The site therefore makes a positive contribution to the established character of the area.

5. Balscote is defined by policy 'Villages 1' of the Cherwell Local Plan 2011-2031 (2015LP) as a 'category C' village. This policy states that category C villages, will only be suitable for infilling. Being within a continuous frontage the site would be an 'infill' plot. However, the companion text of the policy explains that not all gaps would be suitable for such development, and some gaps may be important to be retained. Saved policy C33 of the Cherwell Local Plan 1996 (1996LP) reinforces this point. This seeks to retain any undeveloped gap of land that would preserve the character of a loose-knit settlement structure.
6. The site is partly within the BCA. The statutory requirements¹ entail that special attention be paid to the desirability of preserving or enhancing the character and appearance of a conservation area. Furthermore, paragraph 193 of the National Planning Policy Framework (the Framework) requires great weight to be given to an asset's conservation when considering the impact of a proposal on its significance. The significance of the BCA partly derives from the gaps between buildings due to the low-density nature of the settlement that provides views through the settlement. Due to local topography and its open character, the site contributes to these open views with a high level of intervisibility. As a result, the loss of this gap would undermine the understanding of the local settlement pattern and surrounding plot formation.
7. The proposal would be sited within the slope of the appeal site and include a sizeable two-storey element. Although it would be partially screened by a front boundary wall, it would appear out of scale with many local dwellings. The proposed siting would also place the proposal well ahead and taller than Ash Hollow. The scale and siting of the dwelling, in combination with the current open character of the plot, would result in a building that would be clearly visible from the street. This prominent development would erode the open views through the site. Consequently, the proposal would not relate well to adjacent dwellings and would be a disharmonious addition to the street scene.
8. The proposal would include design features that would reduce some of its overall scale and bearing. However, despite having dropped eaves lines and some single storey elements, it would nevertheless appear as a substantial two-storey dwelling. The inclusion of stone and slate would enable the proposal to accord with local building materials, but this would not offset the overall harmful impact of the development. The proposal would be of a similar scale as Ashfield House but would have a greater mass than Ash Hollow. Moreover, its main bulk would be sited closer to the highway than Ashfield House. As a result, the proposed dwelling would be a dominant and disharmonious feature in the street. Consequently, the proposed dwelling would be harmful to the character and appearance of the surrounding area.
9. Boundary walls are identified within the BCA Appraisal² as making a valuable contribution to the appearance of the settlement. The front boundary wall is consistent with the style and materiality of many similar boundaries within the village. It therefore makes a positive contribution to the historic interest of the appeal site and surrounding area. Although submitted details are limited, it seems that the formation of a new opening would result in a sizeable section of wall being removed. The proposed demolition would have a demonstrable impact on the appearance of the wall. The visual impact of the loss of part of

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

² DRAFT Balscote Conservation Area Appraisal – September 2019

the wall would erode the historic integrity of the feature. This loss would add to the harm of the proposal to the character and appearance of the area.

10. Therefore, taking the above points together the proposed dwelling would relate poorly to the wider area and would fail to preserve or enhance the character and appearance of the BCA. Accordingly, the proposal would be contrary to policies ESD15 and Villages 1 of the 2015LP which seek new development to respect local topography and views particularly within conservation areas and their setting. Also, the proposed dwelling would fail to satisfy saved policies C23, C28, C30 and C33 of the 1996LP. These seek, among other things, for development to be sympathetic to the local character and be compatible with the character, layout and scale of existing dwellings in the vicinity. These policies are consistent with the Framework that requires development to be sympathetic to local character.
11. The proposed dwelling would cause less than substantial harm to the conservation area. Paragraph 196 of the Framework, states that where harm to the conservation area would be 'less than substantial' this should be weighed against the public benefits of a proposal. The appellant comments that the proposal would enhance the character of the conservation area. However, as I have found to the contrary, I do not concur that this is a benefit. No compelling additional arguments have been put forward and accordingly no public benefits have been identified that would outweigh the harm to the conservation area, which the Framework identifies is an irreplaceable resource.

Living conditions

12. The appeal site is adjacent to Ash Hollow and Ash Barn, to its side and rear respectively. The proposed dwelling would be significantly taller than the neighbouring dwellings due to the topography of the site. The proposal would be largely two-storey, with a single-storey rear return that would project towards the garden of Ash Barn.
13. Ash Barn consists of a series of interconnected linear buildings. The principal rear outlook from this building looks out over its garden. Due to the orientation of Ash Barn, the proposal would have a negligible impact on the outlook of occupiers of this property. The rear elevation of the proposed dwelling would include rear windows at first floor. Of these, one would serve a bedroom, the other two being for an ensuite and bathroom. As a result, the extent of overlooking towards the rear garden of Ash Barn would be limited from these windows. However, due to the proposal being higher than the neighbouring garden, substantive overlooking would occur from ground-floor windows. These windows would be close to, and higher than, the rear boundary fence. Furthermore, the single-storey element would be especially close to the boundary and would be elevated from natural ground level to maintain internal floor levels. Consequently, overlooking from the proposed rear windows would result in substantial harm to the living conditions of occupiers of Ash Barn.
14. The ground level of Ash Hollow is at a height comparative to the lowest part of the appeal site. Its side elevation includes first-floor windows that seem to be the principal outlook from these rooms. These would look towards the rear garden of the proposal over a short distance. The proposal would also be ahead of the front elevation of Ash Hollow. The proposed dwelling would therefore appear cramped and obtrusive to this neighbouring dwelling due to the proposal's proximity to the adjacent plot's boundary and windows. However,

overlooking towards this property would be limited due to the location and orientation of proposed rear windows. Nevertheless, as a consequence of local topography and the relationship between the dwelling's, the proposal would demonstrably harm the outlook for occupiers of Ash Hollow.

15. Accordingly, the proposal would result in substantial harm to the living conditions of occupiers of Ash Hollow due to a loss of outlook and to occupiers of Ash Barn through a loss of privacy. Therefore, the proposal would not satisfy policy ESD15 of the 2015LP which seeks, among other things, for development to consider the amenity of existing development, including outlook and privacy. Furthermore, the proposal would fail to satisfy saved policy C30 of the 1996LP, which includes requiring development to provide acceptable standards of amenity and privacy. These policies are consistent with the Framework which requires development to create a high standard of amenity for existing and future users.

Other Matters

16. The site is relatively close to several listed buildings, including the church of St Mary Magdalene and the Butchers Arms. However, these buildings are a sizeable distance from the appeal site, and due to the limited intervisibility and intervening buildings, their settings would be preserved.
17. The appellant refers to similar development to the current proposal being approved elsewhere within the District. However, no such examples have been provided for me to consider and as such I am unable to assess whether the appeal proposal would be comparable with them. Accordingly, I have assessed this appeal on its own merits.
18. The scheme provides a reasonable provision of parking. I acknowledge that the Council has not raised highway safety concerns. However, an absence of harm in this respect can only be considered as a neutral factor in the planning balance.

Conclusion

19. The Framework seeks to boost the supply of housing. However, the undermining of the Council's plan-led approach to the delivery of housing would outweigh the limited social and economic benefits associated with the provision of a single dwelling at this location. Consequently, I conclude that the appeal proposal would not accord with the development plan and there are no other material considerations, including the Framework, that outweigh this finding.
20. For the above reasons, the appeal is dismissed.

Mr Ben Plenty

INSPECTOR