



Appeal Decision

Site Visit made on 6 April 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th May 2021

Appeal Ref: APP/D3125/W/20/3261473

Land to Rear of 110 Witney Road , Ducklington, OX29 7TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Laurence Jones against West Oxfordshire District Council.
 - The application Ref 20/01556/FUL, is dated 21 June 2020.
 - The development proposed is erection of a two-storey residential dwelling, together with landscaping.
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Decision

1. The appeal is dismissed and planning permission for erection of a two-storey residential dwelling, together with landscaping is refused.

Procedural Matters

2. The Council amended the development description slightly from that originally stated within the planning application. This description is entered on the appeal form, but I have no confirmation that the appellant agreed to the change. I have therefore used the original description in the banner heading above.
3. The Council failed to determine the application within the prescribed period. Following submission of the appeal, the Council prepared an appeal statement with appendices which advises that had the Council determined the application, planning permission would have been refused. A putative reason for refusal is given and identifies the principal concern as the effect of development in this location on the character and appearance of the area.
4. The Council's appeal statement was not submitted within the timescales laid out in the Procedural Guide Planning Appeals – England 2020. While regrettable, this was not the cause of any delay to the progress of the appeal. The appellant has been able to provide representations in response, and I have had regard to these including concerns regarding material within the Council's evidence. As a result, I do not consider that prejudice would be caused by my taking the Council's statement into account. However, while I note that photographs were appended with the statement, I confirm for the avoidance of doubt that I have not relied on these, and that my determination of the appeal has been informed by my site visit as well as the evidence before me.
5. Both main parties refer within their evidence to planning permission granted for development including the erection of a detached dwelling on land adjacent to 110 Witney Road¹. The appellant has highlighted a subsequent planning

¹ Application reference 20/00498/FUL

permission granted on this site for development including erection of a detached dwelling and a car port². The parties were afforded an opportunity to comment on the relevance of this permission to the appeal, and because I am satisfied that it would not prejudice the interests of any party, I have therefore taken it into account in determining this appeal.

Main Issue

6. With regard to the evidence before me, I find that the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

7. Ducklington is located within the open River Windrush valley and is predominantly set within open countryside. From a historic core around St Bartholomew's Church, the village includes a mix of vernacular buildings and has a generally linear form that extends along Witney Road. For the most part, buildings are arranged fronting streets, with those towards the outer reaches of the village typically set on more spacious plots resulting in a looser grain to the development. In gaps between buildings, there are views towards garden backdrops or open countryside, emphasising the relationship of the village with its surrounding rural landscape.
8. The main part of the appeal site comprises an area of relatively low level vegetation located between land fronting Witney Road that includes a glasshouse and modest timber building and appears to be in use for cultivation, and allotments to the rear. With these sites and an adjacent large open field associated with the river flood plain, the undeveloped site forms part of a notable gap in the built frontage between 78 and 110 Witney Road. In providing for an appreciable open fringe around the development to this part of Witney Road and a connection to the countryside, it therefore contributes to the attractive rural character and appearance of the area and the open setting around the outskirts of Ducklington.
9. The site is very close to the junction of Witney Road with a roundabout on the A415. Between the arms of the roundabout are a mix of relatively modern buildings including a supermarket, a hotel and a petrol station, as well as an access serving a second hotel (the Oxford Witney Hotel) and flats within buildings that extend alongside the allotments to the rear of the appeal site. However, these flats and the Oxford Witney Hotel which are closest to the site are orientated to face away from the allotments, and appear to turn their backs on the village and Witney Road. Given also the contrasting commercial use and significantly greater scale of the buildings around the roundabout and their positioning, I found despite their proximity that they are visually distinct from those buildings on Witney Road forming the outskirts of Ducklington, and are appreciated as a discrete cluster. Moreover, while development around the roundabout has undoubtedly changed the wider context of the appeal site, in my view this is not to the extent that the generally rural character and appearance of the village has been compromised or lost, nor that the remaining open setting is of no importance.
10. The appellant advises that the appeal site has historically been used for domestic cultivation and included greenhouses, but these are no longer

² Application reference 21/00112/FUL

generally discernible on the site and with regard to the definition at Annex 2 of the National Planning Policy Framework (the Framework), I do not find that the site comprises previously developed land. Nor is the site allocated for housing development. The first and second of the 4 circumstances in which Policy H2 of the West Oxfordshire Local Plan 2031 adopted 2018 (WOLP) indicates that new dwellings will be permitted at villages such as Ducklington or at service centres such as nearby Witney are not therefore applicable.

11. The third and fourth circumstances listed within Policy H2 relate to undeveloped land, either within or adjoining the built up area, but in both cases set out a requirement that proposals accord with other policies in the plan, including general principles for development at Policy OS2. Amongst other things, these principles require that development forms a logical complement to the existing scale and pattern of development and/or the character of the area, protection and enhancement of the local landscape and the setting of the settlements, and that areas of open space or other features making an important contribution to the character or appearance of an area are not lost. The appeal site is also within the 'Windrush in Witney Policy Area'. Policy WIT6 of the WOLP is therefore relevant, and requires that development protects and enhances the intrinsic landscape, character, ecology and cultural value of the valley.
12. A large part of the site would remain as a 'meadow', but the presence of a dwelling would inevitably result in a loss of openness in spatial terms in comparison to the existing site. The overall spacing around the dwelling would not be out of keeping with that to the closest neighbours at 110-114 Witney Road, but it would still be a fairly large two-storey structure that would occupy a considerable part of its plot within the wider site. Together with the associated garden, parking and access, the dwelling would result in a significant proportion of the site being transformed from undeveloped to clearly residential in appearance. This would be urbanising, and the contribution that the appeal site makes to the overall open and rural character of the area would therefore be diminished.
13. From my visit, it was evident that despite some screening by vegetation, the development would be visible, including from Witney Road as well as from public rights of way that cross the adjacent field and from the allotments to the rear. In many views, it would be seen together with or against the backdrop of adjacent frontage development on Witney Road, and the Oxford Witney Hotel and neighbouring flats would also be appreciable in the wider area. The permissions granted adjacent to No 110 would also result in a new dwelling across part of the front of the site should either be implemented, albeit that the appeal development would extend slightly further beyond the side of No 110 than the permitted schemes. Nevertheless, these factors would still help to reduce the visual impact resulting from infilling on the site and loss of openness beyond the side of No 110, and given these relationships, I am not persuaded that the proposal would significantly increase the impression of coalescence between Ducklington and Witney.
14. However, while I noted commercial activity taking place on land to the rear of No 114 and storage to the rear of No 110, any associated structures were not readily appreciable beyond the site boundaries, reducing significantly visual impacts on the area outside of the sites. Similarly, the allotments may be intensively used with many holders travelling by car, but given the low level of structures that are present and their largely undeveloped nature, the visual

impact of these is fairly limited. In addition to the permissions for a dwelling adjacent to No 110, I have considered changes referred to by the appellant including extensions and ancillary buildings associated with properties fronting Witney Road, the provision of sheds on the land to the front of the appeal site and the removal of landscaping. However, it seems to me that none result in notable incursion of built form significantly beyond the established building line along Witney Road comparable in height or scale to the appeal development. Consequently, the character of this side of Witney Road as a ribbon extending from the main part of Ducklington remains, with buildings of any significant scale forming a single line along the street.

15. In contrast, the proposed dwelling would be positioned clearly to the rear of Nos 110-114. The intervening allotments and land to the rear of No 114 would separate the dwelling on the site from the buildings of the Oxford Witney Hotel and adjacent flats. The meadow area within the site would further set the dwelling apart from the shared access from Witney Road. While it would not be far from neighbouring buildings, I find that the development would therefore create an anomalous pocket of built form extending beyond the established building line, and it would appear divorced from and unrelated to the surrounding development. In this context, the encroachment of built form and domestic development onto the appeal site would be conspicuous as an unwelcome and visually intrusive incursion into the open and rural setting to Ducklington.
16. Moreover, the lack of a street frontage to the dwelling would be unusual within the area which is typically characterised by a linear arrangement of dwellings fronting the street. The appearance and materials of the dwelling and its design incorporating a large 'L-shaped' footprint and first-floor accommodation within the roof would also contrast strikingly with the more traditional form and external finishes of the closest neighbours at Nos 110-114. While I recognise that there is variation in the scale, design and architectural styles of buildings in the wider area, these factors would in my view emphasise the appearance of the dwelling as distinct and detached from these neighbours, further compounding the prominent and incongruous nature of the development.
17. Taking these factors together, I cannot agree with the appellant that the development would form a logical rounding off or complement to this part of the village. Instead, I find from the information before me that the development would be uncharacteristic and poorly integrated with the existing pattern and grain of development along this part of Witney Road. Despite the nearby development around the A415 roundabout and Witney beyond, the proposal would result in a discordant and prominent intrusion to the open fringe around Ducklington and would detract from the generally rural character and appearance of the area.
18. Turning to consider broader effects on the wider landscape, the West Oxfordshire Landscape Assessment 1998 (WOLA) identifies the appeal site and surrounding land as of 'floodplain pasture' within the Lower Windrush Valley and Eastern Thames Fringes landscape character area. Key landscape characteristics of this area identified within the WOLA include predominantly under permanent pasture with only occasional cultivated land, riparian character and an intimate, semi-enclosed and pastoral character.

19. Given the relationship of the appeal site with the surrounding buildings and allotments and its size and existing condition, I find that its contribution to many of the landscape characteristics noted within the WOLA is fairly limited, and agree with the appellant's Landscape and Visual Impact Assessment (LVIA) that the site would be of generally lower sensitivity to change. Even so, the site and land to the rear of buildings on this part of Witney Road still provide for a significant openness which is a distinctive feature of the wider landscape and countryside, and in this way I consider that it makes a positive contribution.
20. The proposal would erode some of this openness. The overall reduction would be small, but I have also found that the development would be inconsistent with the local character and would stand out against its surroundings. As a result, I consider that the magnitude of change to landscape character would be low, rather than very low as the LVIA asserts. On this basis, the LVIA's matrix approach suggests that the overall effect of significance would be slight-negligible rather than negligible. There would be scope for additional planting on the site, although this would take some time to mature, and would be unlikely to fully screen the development, particularly in winter. Even so, I accept that residual visual effects of the development would be localised. However, while these factors mean that I consider that the resulting harm to the wider landscape would be no more than minor in terms of significance, this finding does not outweigh or obviate the harm that I have identified would be caused to the rural character and appearance of the local area around the site.
21. Even if I were to find with regard to recent development and permissions near to the appeal site that it sits within the built up area, for the reasons above I find that the appeal proposal would be uncharacteristic and incongruous. It would fail to assimilate well with its context and would lead to some erosion of openness, contrary to general principles within Policy OS2 and causing some, albeit minor, harm to the wider landscape in conflict with Policy WIT6 of the WOLP. Given these conflicts, the proposed dwelling would not be supported under the terms of Policy H2. Because this would be the case whether the site is within or adjacent to the built up area, it is not necessary for me to reach a firm view on this point, nor to consider in the context of Policy H2 whether a dwelling adjoining the built up area would be justified by identified housing needs.
22. I have noted the appellant's comments regarding the scale and effects on the surrounding area of the planning permissions granted by the Council for development on land adjacent to No 110. However, the justification for these permissions contrary to previous planning refusals and dismissed appeals, including with regard to the previously developed land status of the site and compliance with the development plan is not a matter that is before me to consider as part of this appeal.
23. I do not have full details of the previous refusals before me and so cannot be sure of the relevant circumstances and considerations that applied, but each application must in any event be considered on its own merits. I agree with the appellant that the effect of the permissions now granted would alter somewhat the context of the appeal site, and that they would reduce the gap along the Witney Road frontage if implemented. On that basis, I have found that the appeal proposal would not significantly increase the impression of coalescence between Ducklington and Witney. Nevertheless, the evidence before me indicates that the dwellings permitted adjacent to No 110 would broadly reflect

the adjacent building line along Witney Road. Irrespective of whether or not the previous refusals specifically distinguished between road frontage land and the appeal site, development adjacent to No 110 is not therefore directly comparable to the proposal before me. Accordingly, I do not find that these permissions offer a precedent for development on the appeal site or a compelling justification for the harm that I have identified would be caused to the character and appearance of the area.

24. For all of these reasons, I conclude that the proposal would result in unacceptable harm to the character and appearance of the area and conflict with Policies OS2, H2 and WIT6 of the WOLP which broadly seek development which respects local distinctiveness and the character of an area.

Other Matters

25. The Council's evidence refers to concerns about the adequacy of submitted information in relation to biodiversity enhancement and provision of landscaping on the site. The appellant has provided some further clarification at appeal stage, but I am in any event satisfied that these are matters that could be adequately addressed through appropriately worded planning conditions to require submission of details and the implementation of suitable measures.
26. I acknowledge comments made by the appellant regarding communication by the Council in light of advice within the Framework that encourages positive engagement. However, this is not a factor which alters my consideration of the planning merits of the proposal.

Planning Balance

27. The absence of specific guidance relating to development within the gap between Ducklington and Witney does not mean that there are no relevant development plan policies. As my conclusions on the main issue makes clear, Policies OS2, H2 and WIT6 of the WOLP are relevant. The proposal would conflict with these policies, and I have not been provided with compelling evidence that would lead me to conclude that these policies are out of date, nor that the Council is failing to meet required housing targets. In this context, the presumption in favour of sustainable development at paragraph 11 d) of the Framework would not be engaged.
28. Be that as it may, the Framework seeks to boost significantly the supply of housing. The proposal would deliver an additional dwelling towards the supply of housing locally, and would be considered a windfall making use of a currently under-utilised site. While the Council can demonstrate a housing land supply, this would still be an important benefit of the proposal. There would also be some limited economic benefits associated with construction and occupation of the dwelling, and future occupiers would have access to some local services and transport links. However, the weight that I afford to these benefits is tempered by the small scale of the development.
29. The potential for soft landscaping on the site and biodiversity enhancements which could be secured by condition would also be a benefit of development, and would make a positive contribution within a designated Conservation Target Area in accordance with objectives within the development plan. The extent of the benefit is likely to be fairly modest given the scale and nature of the proposal, but I afford it some weight. The Parish Council or other interested

parties have not objected to the development, and I note that harm has not been identified on technical grounds including with regard to flooding or highways. However, these are neutral factors which weigh neither for nor against the proposal.

30. Even taken together, I find that the benefits of the proposal are insufficient to outweigh the harm that I have identified to the character and appearance of the area. The proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached.

Conclusion

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

J Bowyer

INSPECTOR