



Appeal Decisions

Site Visit made on 25 May 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

Appeal A - Ref: APP/D3125/W/20/3255719

Greensleeves, Blackditch, Stanton Harcourt, Witney, OX29 5SB

- 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 Mrs A James against the decision of West Oxfordshire District Council.
 - The application Ref 19/02406/FUL, dated 27 August 2019, was refused by notice dated 13 January 2020.
 - The development proposed is the erection of a single detached dwelling and double garage with associated landscaping and alterations to existing vehicular access.
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Appeal B - Ref: APP/D3125/W/20/3255732

Greensleeves, Blackditch, Stanton Harcourt, WITNEY, OX29 5SB

- 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 Mrs A James against the decision of West Oxfordshire District Council.
 - The application Ref 19/02407/FUL, dated 27 August 2019, was refused by notice dated 13 January 2020.
 - The development proposed is the erection of four semi-detached dwellings with garages and associated landscaping to include alterations to existing access.
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Decisions

Appeal A - Ref: APP/D3125/W/20/3255719

1. The appeal is allowed and planning permission is granted for the erection of a single detached dwelling and double garage with associated landscaping and alterations to existing vehicular access, at Greensleeves, Blackditch, Stanton Harcourt, WITNEY, OX29 5SB, in accordance with the terms of the application Ref 19/02407/FUL, dated 27 August 2019 and the plans submitted with it, subject to the conditions set out in Appendix A.

Appeal B - Ref: APP/D3125/W/20/3255732

2. The appeal is dismissed.

Main Issues

3. The main issue in both appeals is the effect of the development proposed on the character and appearance of the area including the Stanton Harcourt & Sutton Conservation Area. In addition, in appeal B the effect on the setting of nearby Listed Buildings and interests of archaeological importance are also main issues.

Reasons

Background

4. The two appeal sites lie within the village of Stanton Harcourt and on land which forms part of the Conservation Area. At the moment the overall site comprises a detached two storey house and its large garden and other grounds around it. These are well landscaped with mature trees and hedges and have a verdant character. The appellant's Planning Statement and Heritage Statement also provide historical evidence of a timber yard on part of the appeal site as shown on a map produced in 1876, together with photographs of Butts Cottage (said to be dated 1950-1963) which show the thatched cottage on the corner of Blackditch and Main Road at that time. However, this property is said to have been demolished about 1963 and there is little evidence of its presence on the ground now, or the timber works.
5. I note that the planning history of the overall site includes appeals dismissed in 2003 for 17 dwellings and 2004/5 for 5 dwellings. I have taken these decisions as described by the Council into account but have given them only moderate weight as they are of some age and I have considered the current appeals in relation to the present development plan and the circumstances of the site as they are now.

Policy Context

6. The development plan includes the Council's West Oxfordshire Local Plan adopted in 2018. Within this, the settlement hierarchy defines Stanton Harcourt as a 'village' where Policy OS2 indicates it is suitable for development provided stated criteria are met. Related to this, Policy H2 specifies that new dwellings will be permitted within 'villages' provided they fall within one of the four 'bullet point' categories governing the principle of development. The relevant one for these appeals relates to the proposal being 'on undeveloped land within the built up area'. Taking account of the present form of development together with the development committed nearby at Butts Piece (40 dwellings) and on the former airfield (66 dwellings), as shown on the annotated aerial map (page 4) of the appellant's Planning Statement, I am satisfied that the sites lie within the built up area of the village and the third bullet point of the policy applies.

Effect of Listed Buildings

7. The Council refers to two Listed Buildings in the vicinity of the overall site: Smithy Cottage, which lies on the junction of Blackditch and Main Road, and Leena Cottage which lies to the east of the edge of the appeal B site. I considered the significance and setting of both of these heritage assets at my site visit.
8. In relation to Smithy Cottage this is seen mainly in the context of the appellant's other open land on the corner of Blackditch and the extensive highway grassed verges and mature trees. When viewed from the north, Smithy Cottage would remain the dominant feature and the proposed development on site B would be some distance off and barely discernible through the retained trees and hedgerows. There would not be a creeping encroachment of new development into the street scene around the cottage as

the Council alleges. I am satisfied that the setting of this heritage asset and its significance would not be harmed by the proposal.

9. In relation to Leena Cottage this also has a prominent position in the village lying on the outside of a bend in Main Road. At the moment the setting of the two and a half storey cottage is enclosed to the west by a line of mature trees along the boundary of the appeal B site. The proposed units 3 and 4 are shown to be sited parallel with this boundary, however, given the distance apart and the retained vegetation, as well as the single storey (with utilised roof space) scale and form of the units, there would not be an imposing effect on the setting of Leena Cottage even in the winter time when the trees are without leaves. Moreover, viewed from the east there would be some intervisibility but not to the extent that the character or setting of the heritage asset would be eroded or harmed.
10. Overall on this issue I find that the proposal in appeal B would not be at odds with the significance of these heritage assets or harm their setting but would preserve them. As such there is no conflict with the provisions of Local Plan Policy EH9 or the guidance set out in paragraphs 189-193 of the National Planning Policy Framework (the Framework).

Effect on Conservation Area and general character

11. In considering this issue I have had regard to the Heritage Statement prepared on behalf of the appellant and to the Council's Conservation Area Character Appraisal for Stanton Harcourt & Sutton (CACA). The appeal sites and other appellant's land on the corner of the Blackditch and Main Road are not recognised in the CACA as affording 'significant views' or as having 'significant trees or groups of trees' or 'significant hedgerows' as applying to other land in the village. Neither are the appeal sites designated in planning policy as an area of open space within the village.
12. I recognise that historically the village has evolved with the main built up areas to the east and west of the stream/ditch that runs through the site but the main contribution that the appeal sites make to the character of the area and 'village-scape' is the verdant landscaped form rather than an extensive open area allowing long range views and vista. Taking into account the other appeal decisions brought to my attention, I find that it is only the open land within the appellant's ownership on the corner of Blackditch and Main Road that positively contributes to the significance of the historical character or visual appearance of the Conservation Area and this is not subject to the appeal proposals.
13. In terms of the principle of adding more built development, in appeal A the proposed detached dwelling would sit in a visual enclave mostly enclosed by trees and hedges which are shown to be retained. The proposed house would have a similar bulk, design and spaciousness as Greensleeves itself and the character and appearance of the site and the area around it would be preserved.
14. Turning to the appeal B site, although the 'E' shape footprint of building and the building mass would be a relatively intensive form of development, I am satisfied that the loss of any open aspect would not erode the appearance of the area. The proposed elevation of buildings facing Main Road would be appropriate for the local street scene and the mass of building heights and roof forms would be broken up and have good variation.

15. The Council takes issue with the detailed design of the proposed units as having a fake appearance with an uneasy marriage of design elements of a house and barn conversion, including the use of metal flues and the use of wood on some elevations. However, taking account of the general advice on design matters set out in the West Oxfordshire Design Guide, it appears to me that the appellant's Planning Statement substantiates the reasoning for the design put forward and on the whole employs vernacular design elements and materials. Viewed around the site I am satisfied that the proposed buildings would not be seen as fake or visually intrusive elements in the street scene. The individual elements identified, such as the metal flues or the use of timber cladding between units 1 and 2 and 3 and 4, and on unit 1, would not be visually inappropriate.
16. Taken as a whole I find that in both appeal schemes the proposals would not involve the loss of important open areas which contribute positively to historic and visual significance of the Conservation Area. Moreover, the details of the development put forward in both appeal schemes are appropriate for the sites and the wider area and would preserve both the character and appearance of the designated heritage asset of the Stanton Harcourt & Sutton Conservation Area. The proposal would not conflict with Local Plan Policy EH9 or EH10 or the guidance set out in paragraphs 189-193 of the Framework.

Archaeological interest

17. Regarding the appeal B site, the County Archaeological Team Leader advised on the application¹ that the site is within an area of high archaeological potential with evidence of activity from the Neolithic period to the present day. He also gives further background to the likelihood of finding architectural features on this site. The archaeologist recommended carrying out an archaeological field evaluation (trenching) prior to a final decision being reached on the proposal.
18. The appellant's agent says in the Planning Statement and the Appeal Statement that the County Archaeologist has concluded that areas of potential interest would be unaffected by the proposed construction, however, there is no direct representation from an archaeological professional to support this. The Council's position as set out in the Appeal Statement is that the Country Archaeologist's objection remains.
19. I have considered whether, if all the other aspects of appeal B were acceptable, the appeal could be allowed subject to a condition to carry out a further appraisal on site, before any development commenced. However, given the advice in paragraph 189 of the Framework, it appears to me that the potential archaeological interest would not be appropriately protected without further field assessment prior to a decision on allowing physical development on much of the site.
20. On the evidence put to me I find that it has not been demonstrated that the proposed development on the appeal B site would preserve non-scheduled heritage assets potentially of archaeological importance. As the proposal stands it would conflict with the requirements of Policy EH15 of the Local Plan.

¹ By email dated 16 September 2019

Planning Balance

21. Both appeals need to be considered in the context that the West Oxford Local Plan identifies Stanton Harcourt as a 'village' in which new housing development can be acceptable in principle within the built up area of the village, subject to detailed aspects.
22. On the main issues, I have placed great weight on the conservation of the significance of the heritage assets, nevertheless, I have found that the scheme proposed in appeal B would not harm the significance of the relevant nearby listed buildings – Smithy Cottage and Leena Cottage, but would preserve their setting.
23. On both appeals I have found that the proposals would not result in the loss of an important open area which contributes positively to the character and appearance of the Conservation Area, and the siting, scale and design of the new building work would preserve the character and appearance of the area and would not harm the significance of this designated heritage asset.
24. For the reasons given, overall I find that the both proposals would accord with the general principles set out in Policies OS2 and H2 where relevant and Policy OS4 on design matters. However, on the evidence put to me there is potential significant archaeological interest in site B which requires further site appraisal prior to a decision on the merits of this physical development and which cannot be mitigated by a condition. This renders the scheme to conflict with policy EH15.
25. Overall, I conclude that the scheme in appeal A accords with the development plan and this is not outweighed by any other factor and should be permitted, whereas the scheme in appeal B should not be allowed because of the outstanding issue of the assessment the potential archaeological interests.

Conditions (appeal A)

26. For appeal A the Council recommends the imposition of 15 conditions which I will consider under the same numbering. In addition to the statutory condition on the commencement of the development (1) a condition specifying the plans that are approved (2) is necessary in the interests of clarity. In the interests of maintaining the appearance of the area condition (3) on external materials and the construction of a sample panel is needed, together with details of boundary treatment (6) and to also aid biodiversity. Moreover, although there is an existing access to the highway the plans show that this is proposed to be altered and a condition is needed (4) to require better details of these changes and their implementation. In terms of the proper disposal of surface water to prevent flooding, details of a scheme are necessary as those shown on the layout plan are not sufficient and I will modify the condition proposed (5) to ensure that the agreed scheme is implemented.
27. The Council recommends a condition requiring further archaeological work (7) but there is not clear evidence of this being necessary in respect of the land in appeal A. Likewise, the evidence presented in respect of site A does not justify conditions (9) and (10) as it has not been shown that contamination is likely to be present on this part of the land and that this needs to be addressed. I will therefore not impose these conditions. The Council also seeks to limit 'permitted development' rights in the interests of protecting the character and

appearance of the area' but it has not been demonstrated that exceptional circumstances apply to the new dwelling proposed or the environs of the specific site to restrict further extension or alterations as generally allowed by the GPDO² which take into account where a site is in a conservation area.

28. In relation to ecology and biodiversity aspects, recommended condition (a) is reasonable and necessary to ensure the implementation of the Ecological Appraisal. It is also reasonable that the development approved makes provision for new habitat and I will impose condition (b) but amend the performance element so that it relates to the erection of the building above slab level rather than before development commences. In the circumstances of the site, condition (c) is reasonable and necessary in the interest of biodiversity. As drafted this is a 'pre-commencement' condition and the appellant does not consider that its imposition is justified. However, given the stated reasons for the conditions and the need for the approved Management Plan to take effect before work is started at the site I am satisfied that the condition should require the Plan to be agreed before development takes place. Condition (d) relates to the provision and implementation of a landscaping scheme and this is reasonable and necessary to maintain the appearance of the area.
29. Finally, condition (e) requires a lighting design strategy to aid biodiversity. Given the overall findings of the Ecological Appraisal I find that this condition is reasonable and necessary and I will impose it.

Conclusions

30. For the reasons given above I conclude that Appeal A should be allowed and Appeal B should be dismissed.

David Murray

INSPECTOR

² The Town and Country Planning (General Permitted Development) (England) Order 2015

Appendix A

Conditions imposed on Appeal A - Ref: APP/D3125/W/20/3255719

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the plans and reports hereby approved –
 - a. LOCATION PLAN 1:1250
 - b. PROPOSED ENTRANCE D1773.15
 - c. PROPOSED GARAGE D1773.14
 - d. FLOOR PLANS D1773.2D
 - e. PROPOSED ELEVATIONS D1773.3A
 - f. SYLVA CONSULTANCY AIA
 - g. SYLVA ARBORICULTURAL REPORT
 - h. THE RPP HERITAGE STATEMENT
 - i. AUSTIN FOOT ECOLOGY REPORT
 - j. SITE PLAN D1773.13A
3. Prior to the carrying out of any construction work above ground level, samples of all external walling and roofing materials shall be submitted to and approved in writing by the LPA. The development shall be constructed fully in accordance with the approved details. Prior to commencement of the construction of any external walls, a sample panel of external walling for each of the proposed walling materials shall be erected on site and approved in writing by the LPA. Thereafter the external walls shall be constructed in accordance with the approved panels, which shall be retained on site until the development is completed.
4. The means of access between the land and the highway shall be constructed, laid out, surfaced, lit and drained in accordance with details to include turning space for large service vehicles within the wider site that have first been submitted to and approved in writing by the LPA and all ancillary works therein specified shall be undertaken in accordance with the said specification before first occupation of the dwellings hereby approved. The approved turning space for large service vehicles shall be retained and used for no other purpose thereafter.
5. The building shall not be erected above slab level until details of a full surface water drainage scheme have been submitted to and approved in writing by the LPA. The approved shall be implemented before the dwelling is occupied and retained thereafter.
6. The dwelling hereby approved shall not be occupied until a plan indicating the positions, design, materials, type and timing of provision of boundary treatment to be erected has been agreed in writing by the

LPA. The boundary treatment shall include provision for hedgehog highways, and shall be completed in accordance with the approved details and retained thereafter. Where hedgerows are proposed, these shall be planted and thereafter maintained in accordance with details that have first been submitted to and agreed in writing by the LPA.

7. The development shall be completed in accordance with the recommendations in Section 5 of the Ecological Appraisal– January 2019 prepared by Austin Foot ecology. All the recommendations shall be implemented in full according to the timescales laid out in the recommendations, unless otherwise agreed in writing by the LPA, and thereafter permanently maintained.
8. The new dwelling shall not be erected above slab level until details of the provision of integrated bat roosting features (e.g. bat boxes/tubes on south or southeast-facing elevations of buildings or trees) and nesting opportunities for birds (e.g. Starling boxes and House Sparrow terraces on the north or east-facing elevations) within the walls of the new buildings shall be submitted to the local planning authority for approval. The details shall include a drawing/s showing the types of features, their locations within the site and their positions on the elevations of the buildings, and a timetable for their provision. The approved details shall be implemented before the dwelling hereby approved is first occupied and thereafter permanently retained.
9. No development shall take place (including ground works, vegetation clearance, hedgerow or tree removal) until a Construction Environmental Management Plan – Biodiversity (CEMP-B) has been submitted to and approved in writing by the local planning authority. The CEMP-B shall include, but not necessarily be limited to, the following:
 - i. Risk assessment of potentially damaging construction activities;
 - ii. Identification of 'biodiversity protection zones';
 - iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - iv. The location and timing of sensitive works to avoid harm to biodiversity features (e.g. avoid hedgerow and tree clearance during March-August to protect nesting birds, taking care when removing features that may provide shelter for hedgehogs, covering trenches over-night or securing planks of wood within the trench to provide an escape route for badgers, maintaining a 3-4m buffer between the ditch and buildings to avoid impacts on water voles, minimise lighting impact/disturbance to bat roosts/foraging/commuting corridors);
 - v. The times during construction when specialists ecologists need to be present on site to oversee works (e.g. hedgerow and tree removal);
 - vi. Responsible persons and lines of communication;
 - vii. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s);
 - viii. Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period; and
 - ix. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

10. Prior to occupation of the dwelling hereby approved, a comprehensive landscape scheme shall be submitted to and approved in writing by the Local Planning Authority, including biodiversity enhancements (such as hedgerow reinforcement with mixed native species and tree, grassland and shrub planting, the enhancement of the eastern section of the ditch and the 3-4m buffer between the ditch bank and the proposed development) and a 5-year maintenance plan. It must show details of all planting areas, tree and plant species, numbers and planting sizes. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development.

The entire landscaping scheme shall be completed by the end of the planting season immediately following the completion of the development or the site being brought into use, whichever is the sooner.

11. Prior to occupation, a "lighting design strategy for biodiversity" for foraging and commuting bats shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- i. identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - ii. show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy before the occupation of the development and these shall be maintained thereafter in accordance with the strategy. No other external lighting be installed without prior consent from the local planning authority.