
Appeal Decision

Site visit made on 24 August 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2021

Appeal Ref: APP/Q3115/W/21/3271734

Land adjoining Reddish Manor, Peppard Road, Sonning Common, Reading RG4 9NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Mary Hardy against the decision of South Oxfordshire District Council.
 - The application Ref P20/S0022/O, dated 23 December 2019, was refused by notice dated 24 September 2020.
 - The development proposed is the erection of three new dwellings with primary access off Peppard Road, with some matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline with access to be determined at this stage with detailed matters of appearance, landscaping, layout and scale reserved for separate consideration. As such, the layout plans are submitted on an illustrative basis. The original illustrative block plan has been updated as part of the appeal to show a different indicative arrangement¹. Nevertheless, both plans show three detached dwellings, referred to in the application form as 4+ bedroom houses. Whilst I have taken into account that there may be alternative ways of developing the site, I have primarily considered the illustrative plans on the basis of what the likely impacts of the erection of the number of dwellings proposed would be. In relation to some matters the appellant has relied upon the updated indicative layout plan. Accordingly, I have specified in my decision those areas where I have given this plan particular consideration.
3. The South Oxfordshire Local Plan 2011-2035 (LP) was adopted in December 2020 and now forms part of the development plan. It contains policies that supersede the saved policies of the South Oxfordshire Local Plan, 2011 and policies of the South Oxfordshire Core Strategy, 2012 referred to on the Council's decision notice. However, given its advanced stage at the time of the decision, reference was also made to the relevant emerging policies of the LP in the refusal reasons. Furthermore, the appellant has referred to the LP as part of her submission. Therefore, I am satisfied that no injustice will result from

¹Drawing number Arbtech AIA-01 Rev A, Appendix 9, Appellant's Statement of Case

the change in policy circumstances and have determined the appeal accordingly.

4. The Government published its revised National Planning Policy Framework (the Framework) on 20 July 2021. The main parties have had the opportunity to comment on the revised Framework as part of the appeal process.

Main Issues

5. The main issues in this case are:

- Whether the site provides a suitable location for residential development having regard to local planning policies;
- The effect of the proposal on the character and appearance of the area, including consideration of protected trees and the adjacent Chilterns Area of Outstanding Natural Beauty (AONB), and;
- The effect of the proposal on biodiversity.

Reasons

Location

6. Policy H1 of the LP sets out where new housing will be delivered in the district in line with the spatial strategy contained in the document. It supports residential development on allocated sites in the development plan, and only permits development on non-allocated sites in specified circumstances. Policy H1(3)(iii) permits residential development within the existing built-up areas of the defined Towns and Larger Villages provided an important open space of public, environmental, historical or ecological value is not lost, nor an important public view harmed. Sonning Common is listed as a Larger Village in the LP. The parties disagree whether the appeal site lies within the existing built-up area of Sonning Common.
7. I have not been referred to a definition of 'existing built-up areas' for the purposes of policy H1, neither is it shown to be identified on the policies map for the LP or as part of the Sonning Common Neighbourhood Development Plan 2012-2027, Made October 2016 (NP). In the absence of this, it will be a matter of planning judgement which will primarily turn upon the conditions on the ground.
8. There is a palpable difference in character either side of the section of Peppard Road nearest the appeal site. To the west is mostly suburban residential development, whereby the arrangement and presence of buildings and gardens has an obvious domestic character. In contrast, to the east is an established hedgerow, woodland and farmland as well as Reddish Manor. This detached property stands apart from the residential development on the opposite side of Peppard Road.
9. The appeal site is on the eastern side of the road and comprises a roughly triangular parcel of land that contains woodland, scrub and ruderal vegetation. Despite having once been part of the grounds to Reddish Manor, it has been in separate ownership for a considerable period. My observations were that it does not give the impression of an obvious connection with that residential property, which is reinforced by its natural appearance and general absence of built form.

10. Furthermore, it is close to more open agricultural land to the east and north. This provides a notable gap between the site and existing residential development on the eastern side of Peppard Road further to the north, which is additionally physically separated by Blackmore Lane. Accordingly, there is a prevailing countryside character to the eastern side of Peppard Road near to the site. Consequently, I find it is not within the existing built-up area of Sonning Common.
11. This is the case notwithstanding that the site does not lie within the AONB, as the boundary of the AONB defines the area possessing special qualities worthy of landscape designation rather than the built-up area of the village. Neither am I persuaded otherwise by the extract map² for Sonning Common Parish provided. Although a red line is shown to delineate 'built limits', the map is clearly annotated as a draft. Moreover, the red line refers to a local policy. As such, the draft map in isolation has little status, and does not purport to define the existing built-up area of the village for the purposes of policy H1(3) of the LP.
12. Given that the appeal site does not fall within the existing built-up area of Sonning Common, it is not necessary for me to further consider the remaining elements of policy H1(3)(iii) that relate to the impacts on important open space of public, environmental, historical or ecological value, or important public views. Neither is it shown that any of the other seven exceptions in policy H1(3) of the LP for non-allocated residential development would apply in this case.
13. Policy H1(4) of the LP permits the residential development of previously developed land adjacent to the existing built-up areas of Larger Villages. It goes onto support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. Therefore, in order to derive support from this part of policy H1, the site would need to be previously developed land and/or despoiled, degraded, derelict, contaminated or unstable.
14. Previously developed land is defined in the Framework as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. However, this excludes land that was previously developed land but where the remains of the permanent structure or fixed surface structure have blended into the landscape. Notwithstanding that there may have once been a tennis court and other domestic structures serving Reddish Manor at the site in the past, based on my recent observations and the photograph provided³, any remains have blended into the landscape. Hence, on the evidence before me, it is not shown that the site constitutes previously developed land.
15. Moreover, whilst the appellant refers to the site being subject to instances of fly tipping, it is not demonstrated that this has been to such an extent that the land could be accurately described as despoiled, degraded or contaminated. Neither is it otherwise shown to be derelict or unstable, which is consistent with my observations. Taking these factors together, the proposal for residential development would conflict with policy H1 of the LP.

² Appendix 3, Appellant's Statement of Case

³ Page 8, Current Site Photograph, Design and Access Statement dated December 2019, prepared by PV Architects

16. Additionally, the proposal would not fall within the scope of infill development supported by policy H3 of the NP. This is defined as the infilling of a small gap within an otherwise built-up frontage or group of houses where they are surrounded on all sides by other buildings. The appellant accepts that the site does not fall within a continuous built up frontage⁴. The photographs⁵ provided further reflect that the disposition of the appeal site to its surroundings would not meet the description of infill development in policy H3, and so would not derive support from the NP.
17. My attention is drawn to policy H4 of the LP which contains policy direction for neighbourhood development plans for some Larger Villages and a contingency if they fail to deliver. This includes reference to the delivery of 96 homes at Sonning Common. Furthermore, it stipulates that if a Neighbourhood Development Plan has not adequately progressed with allocating sites to meet these requirements within 12 months of adoption of the LP, then planning applications for housing in that Larger Village will be supported provided that proposals comply with the other policies in the LP. It specifies that adequate progress would mean the neighbourhood development plan having reached submission stage with an appropriate level of allocation.
18. The evidence before me suggests that a review of the NP is underway⁶. Notwithstanding the appellant's assertion that insufficient sites will be allocated to meet the requirement in policy H4, and that the allocation of the appeal site would therefore be inevitable, I do not have all the information before me that would be relevant to such a review. Moreover, a specific process and timescale has been set out in policy H4, and there is still time to run before the contingency provided for is engaged.
19. The appellant highlights that as part of the evidence base for the LP and NP, the appeal site has previously been considered for residential development. Notwithstanding that some commentary⁷ suggested that the appeal site had limited development potential, this falls short of an allocation in the development plan indicating that it would be an appropriate location for the proposed development.
20. My attention is also drawn to paragraph 69 of the Framework, which generally recognises that small and medium sites can make an important contribution to meeting the housing requirement of an area. Nevertheless, paragraph 12 of the Framework stipulates that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
21. Reference is also made by the appellant to policy H16 of the LP. However, this primarily relates to backland, infill development and redevelopment within Smaller Villages and Other Villages and therefore, has little bearing on the circumstances of this case. In any event, the definition of infill is broadly similar to that in policy H3 of the NP and as such, I am not persuaded that the proposal would fall within the remit of this policy.
22. Accordingly, I find that the site would not provide a suitable location for residential development having regard to local planning policies as it would not

⁴ Paragraph 5.27, Appellant's Statement of Case

⁵ Appendix 8, Appellant's Statement of Case

⁶ Paragraph 5.6, Appellant's Statement of Case

⁷ Paragraphs 5.9, 5.10 & 5.12, Appellant's Statement of Case

meet with any of the specified exceptions for non-allocated residential development. Therefore, it would conflict with policy H1 of the LP.

Character and appearance

23. As previously described, there is a difference in character either side of the section of Peppard Road nearest to the appeal site. The prevailing countryside character on the eastern side of the road contrasts with the more domestic character evident on the western side. The appeal site has plentiful tree cover, which is protected by a Tree Preservation Order⁸. Together with the other vegetation on the site and absence of buildings, the site has a natural verdant appearance that contributes positively to the character of the area. My view on this is reinforced by the comments of both the Council's Forestry Officer and the Appellant's Arboricultural Consultant⁹ who agree that the trees within the site make a positive contribution to the local landscape.
24. Furthermore, as it is situated directly adjacent to agricultural land in the AONB, it is sympathetic to the mosaic of woodlands, common, grassland and hedgerows that in part, constitute the special qualities of the AONB. The proximity of the site to the AONB means that it is within its setting. This relationship can be appreciated in views from Blackmore Lane. I am mindful that paragraph 176 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's. It also states that development within the setting of AONB's should be sensitively located and designed to avoid or minimise adverse impacts.
25. The proposal would introduce 3 dwellings shown as substantial detached units on the updated indicative layout, onto land where there is generally an absence of built form. The presence of the dwellings together with their associated lighting, activity, vehicles, residential paraphernalia, fences and domestic garden planting would adversely change the woodland and natural character of the land. Furthermore, the proposed access arrangements would necessitate a visibility splay¹⁰ that would reduce the trees adjacent to the road thereby opening up the site. Although these are categorised as a group of low quality trees and planting could take place elsewhere in the site, it would nevertheless result in a reduction of tree cover at the most public part of the site. Consequently, this would make the domestic traits outlined above more noticeable.
26. Policy ENV1 of the LP states that development will only be permitted where it protects and, where possible enhances, features that contribute to the nature and quality of South Oxfordshire's landscapes. It expressly refers to individual trees, groups of trees and woodlands, hedgerows and field boundaries. The appellant relies on the updated indicative layout to show that, subject to appropriate measures being taken, the majority of significant trees could be protected during construction and retained as part of the development.
27. Be that as it may, I have concerns that the development would in the longer-term result in conflict with some of the protected trees on the site. Firstly, this layout shows a number of oak trees¹¹ in the rear garden areas of the northern two dwellings. Some of these are early mature specimens and given the long-

⁸ Reference number 20S16

⁹ Arbtech Arboricultural Statement dated 22.3.21, prepared by Alan Thompson FdSc (Arb.), M.ArborA

¹⁰ Drawing 2274-001, Appendix B, Technical Note prepared by Nick Culhane

¹¹ Trees numbered T3, T5, T6, T8 – Tree Survey prepared by Arbtech

lived nature of the species, all have a considerable remaining life span. It is not clear what account has been taken for the growth of these trees, which would be centrally positioned in the more private rear garden areas for the two northern plots shown. Although they are protected by a Tree Preservation Order, such a relationship is likely to cause tension with future occupants of the dwellings who would be likely to want to increase sunlight and the general usability of the space. It would also be likely to lead to concerns that the trees may cause damage to their property.

28. Similarly, the southernmost dwelling shown on the indicative layout contains two large beech trees. These would be sited in front of the dwelling, such that relatively speaking the unit would be positioned close to the rear eastern boundary. The garden space would be dominated by the trees, with a further group of trees to the south. This would make the garden space to the rear of the unit limited, and likely to be cast in shade. Consequently, it is foreseeable that there would be pressure from future residents to reduce the trees to limit or avoid these impacts.
29. Landscaping is a reserved matter. Although reference is made to additional tree planting being included as part of future landscaping proposals, the ability to plant along the eastern boundary for the southernmost plot in the layout shown would be limited given the proximity of the dwelling to it. This is reinforced by the respective new garden, scrub and woodland areas shown in Figure 3 of the Ecological enhancement plan¹². Additionally, given that the AONB is situated to the east, future residents of all three dwellings would be inclined to increase the outlook towards this pleasant aspect, rather than to maintain more tree planting that would further screen their views. On that basis, I am doubtful that the measures outlined to retain and manage the woodland areas shown in the Ecological Mitigation Plan realistically reflect how domestic grounds would be likely to be used over the 25 year period envisaged.
30. It follows that it is likely that the presence of the development would be discernible and would impact on the adjacent AONB. The internal lighting of the houses would be particularly apparent when the deciduous trees along the eastern boundary were not in full leaf. Moreover, the positioning of the dwellings in the updated indicative plan is different to that envisaged in the Design and Access Statement¹³ which considered the relationship with the AONB.
31. My attention is drawn to major residential development at Lea Meadows¹⁴. However, as this was on the opposite side of Peppard Road, it has a greater affinity with other residential development at the village. Consequently, the site does not have such an immediate relationship with the AONB as the appeal site. Hence, it is of limited weight and would not lead me to find otherwise in relation to the merits of the proposal before me.
32. In combination, these factors would have an urbanising effect that would be harmful to the rural qualities of the site and result in localised harm to the landscape. Due to the proximity of the site to the AONB, it would neither conserve nor enhance its special qualities.

¹² Page 10, Ecological Mitigation Plan prepared by Arbtech, dated 22.3.21

¹³ Pages 17-20, Design and Access Statement, December 2019, prepared by PV Architects

¹⁴ Application reference P14/S2391/FUL

33. The proposed access arrangements and illustrative layout plans fail to provide evidence that an acceptable scheme for 3 dwellings is capable of being advanced at the reserved matters stage without resulting in harm to the character and appearance of the area, and I am not persuaded that a suitable alternative arrangement would do so. Accordingly, I find that the proposal would result in unacceptable harm on this basis. Hence, it would be contrary to policy ENV1 of the LP which generally seeks to protect the landscape from harmful development and amongst other things, only supports development that conserves, and where possible, enhances the character and natural beauty of the AONB, including its setting.

Biodiversity

34. The Preliminary Ecological Appraisal Survey (PEA)¹⁵ identified that the site contains two small areas of deciduous woodland habitat which are likely to be lost as a result of the proposed works. The parties disagree whether this constitutes priority habitat. The Framework defines a priority habitat as one included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006.
35. The description of the woodland habitat provided in the PEA is broadly consistent with the wide-ranging priority habitat description for lowland mixed deciduous woodland provided¹⁶. On that basis, although the appellant contends the site does not hold typical priority habitat woodland¹⁷, I am persuaded that it does contain habitat of principle importance for the conservation of biodiversity meeting the Framework definition of priority habitat.
36. Amongst other things, Policy ENV2(3) of the LP states that development likely to result either directly or indirectly to the loss, deterioration or harm to priority habitats will only be permitted in certain circumstances. This sets out three criteria. Firstly, the need for, and benefits of the development in the proposed location must outweigh the adverse effect on the interests. Secondly, it must be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the interests. Finally, measures must be provided and secured, that would avoid, mitigate or as a last resort, compensate for the adverse effects resulting from development. Additionally, policy ENV3, which is concerned with biodiversity, refers to the mitigation hierarchy.
37. These policies align with paragraph 179(b) of the Framework which states that plans should promote the conservation, restoration and enhancement of priority habitats. Furthermore, it is consistent with the mitigation hierarchy in paragraph 180 of the Framework whereby avoidance of significant harm to wildlife species and habitats should be considered before measures to mitigate and compensate are employed. This is reinforced by advice in the Planning Practice Guidance¹⁸ which confirms that where development cannot satisfy the requirements of the mitigation hierarchy, planning permission should be refused.

¹⁵ Prepared by Arbtech, dated 9.7.20, Section 4.2, Page 15

¹⁶ Appendix 4 of Supporting Statement of Edward Church, Council's Countryside Officer

¹⁷ File Note: Ecology Comments Arbtech dated 13.8.21

¹⁸ Paragraph 019 Reference ID: 8-019-20190721

38. Although the Ecological Enhancement Plan¹⁹, that is based on the updated indicative layout, shows garden areas separate from retained woodland, retained scrub and new hawthorn scrub, these areas would still be likely to comprise part of the sub-divided grounds for future domestic occupants. They are unlikely to confine their domestic use of the grounds to the new garden areas shown. As such, activity, domestic paraphernalia and planting is likely to encroach into the woodland areas. Therefore, for similar reasons outlined above that would result in conflict with the trees, the presence of the dwellings proposed would result in urbanisation and activity which would be likely to result in deterioration of the habitat at the site. Neither am I convinced that the proposed long term management of the retained woodland would be realistic in these circumstances. Consequently, the development would be likely to cause significant harm to biodiversity.
39. Furthermore, the corrected Biodiversity Net Gain Calculation²⁰ (BNG) shows a 6.44% loss for habitat units rather than a gain as previously asserted. The appellant considers that off-site habitat provision with long term management could compensate for the loss, but few details are provided of where this would be provided, or of how it would be secured.
40. Accordingly, I find that the proposal would result in significant harm to biodiversity, and it is not otherwise shown that by using alternative sites this could not be avoided. Therefore, it would conflict with policies ENV2 and ENV3 of the LP which, amongst other matters, only support development that will conserve, restore and enhance biodiversity in accordance with the mitigation hierarchy.

Planning Balance and Conclusion

41. The main benefit of the proposal would be the provision of three additional dwellings towards the overall housing supply which would have reasonable accessibility to the facilities in Sonning Common. It would make more efficient use of the land, for which general encouragement is given in national policy. Furthermore, some economic benefits would arise from the construction of the dwellings, and there would be additional economic activity associated with the future occupants. Nevertheless, given the modest scale of the development, the extent of such benefits would be limited.
42. The appellant indicates that the proposal would improve the present appearance of the site which has been subject to fly tipping. However, despite being somewhat overgrown, I found that the site made a positive contribution to the character of the area. A reduction in fly tipping incidents might be addressed through a range of methods. It would not justify a permanent development that would be harmful to the character and appearance of the area. Accordingly, this does not attract weight as a benefit.
43. Balanced against that, is the harm that would be caused to the character and appearance of the area, the ecological value of the site and the conflict arising from the strategy to deliver new housing in the development plan. These matters attract significant weight, with great weight attributed to the harm that would result to the setting of the AONB.

¹⁹ Figure 3, Arbtech Ecological Mitigation Plan, 22.3.21, Appendix 5, Appellant's Statement of Case

²⁰ Spreadsheet and File Note dated 13.8.21

44. Planning law requires decisions to be made in accordance with the development plan, unless material considerations indicate otherwise²¹. No compelling reasons have been shown to justify my determining the development other than in accordance with the adopted development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

²¹ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990.