



## Appeal Decision

Site visit made on 4 May 2022

**by Paul Thompson DipTRP MAUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> May 2022**

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**Appeal Ref: APP/D3125/W/21/3273429**

**Land South East of Hillside, Swan Lane, Long Hanborough OX29 8BT**

- 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 Martin Few against the decision of West Oxfordshire District Council.
  - The application Ref 20/01602/FUL, dated 23 June 2020, was refused by notice dated 19 November 2020.
  - The development proposed is redesign to reduce previous application (20/00177/FUL) from 3 bed dwelling to two bed dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The 2021 Housing Delivery Test (HDT) results were published on 14 January 2022. The latest HDT result for the District does not alter the Council's position, with the approach remaining that no action is necessary in relation to the results. I have not, therefore, engaged further with the main parties in respect of this matter.
3. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have had opportunity to refer to the revised content of the Framework and I am satisfied that the revisions do not significantly alter the policies upon which this appeal turns.

### Main Issues

4. The main issues are:
  - Whether the proposed development would preserve the setting of the Grade II listed building, Swan House, and the character and appearance of the Millwood End Conservation Area; and
  - the effect of the proposed development on the living conditions of the occupiers of Hillside, Merryfields, and Swan House.

### Reasons

#### *Setting and significance*

5. The appeal site is situated on lower ground adjacent to the eastern boundary of Swan House. This is a Grade II listed former public house, now a dwelling, which originates from the late-17<sup>th</sup> or early-18<sup>th</sup> Century. It is constructed of coursed limestone rubble and its front, facing Millwood End, is pleasantly

balanced with a central door between a four-window range. The roof is steeply pitched with stone slates and anchored with chimneys to either end. In so far as it is relevant to the appeal before me, the significance of the listed building lies in its architectural and historic interest as a well-preserved late-17<sup>th</sup> or early-18<sup>th</sup> Century former public house, constructed to a high standard using quality natural materials.

6. Swan House also draws significance from its setting, which has evidently changed over time, principally to its east where land was quarried and then housing erected in the 20<sup>th</sup> Century, including those off the driveway serving the appeal site. The hard landscaped area, walls and gates at the site frontage and block retaining wall to its western edge are the latest alterations. It is unclear whether the latter benefits from planning permission. As a public house, it formed a crucial part of the historic settlement and served passing trade.
7. Views from Millwood End and the grounds of Swan House, out to the Cotswolds Area of Outstanding Natural Beauty (AONB), and from Swan Lane towards the listed building and other historic buildings nearby, which are experienced over the appeal site, all contribute to its setting. This further heightens the historic importance of its role in the development of Long Hanborough.
8. The listed building is also within the Millwood End Conservation Area (CA), which primarily focuses on the properties in Millwood End and some of the streets that lead from it, including Swan Lane. A reasonable proportion of properties are either Grade II listed or locally listed buildings, which originate from the 17<sup>th</sup> and 18<sup>th</sup> Centuries, and many are set within landscaped grounds. Although the majority of houses were constructed in the 20<sup>th</sup> Century and exhibit limited architectural qualities, they are visually coherent, so assimilate with the historic buildings. As outlined above, the land within the immediate context of the site has been developed with 20<sup>th</sup> Century housing. Despite this, in so far as it relates to the appeal, the significance of the CA today lies at least in part in the positive contribution made by the rich legacy of historic structures, the architectural legibility of their built fabric, and the spatial and landscaped qualities of the setting of the historic buildings therein.
9. The aspects of the architectural and historic interest and setting of Swan House mentioned above therefore form an integral part of the character and appearance of the CA, not least due to its prominent position at the junction of Swan Lane and Millwood End. While the site in itself is not necessarily a positive contributor to the CA, visibility over it enables the listed building to be appreciated within its context. These factors therefore contribute to the understanding and significance of both designated heritage assets.

#### *Effect of the proposal on heritage assets*

10. The appeal site is currently in domestic use and hard landscaped. The proposed dwelling would be constructed using a sympathetic palette of materials and the appearance of its grounds would be improved by new hard and soft landscaping, including to the retaining wall along the boundary with Swan House. It would also be situated on land lower than Swan House and be smaller in scale than Hillside, to its north. Despite these factors, the dwelling would stand above the boundary to the garden of Swan House and be visually prominent behind it, to the extent that it would enclose part of its rear garden and obscure some of the views out to the AONB beyond.

11. A large proportion of the views from the listed building and its garden would be likely to be unaffected by the proposed dwelling, as would views of its front façade from Millwood End and from Swan Lane, into the village. Nevertheless, the backdrop of Swan House, seen from around the junction of Swan Lane and Millwood End, and from within the building and its grounds, would be fundamentally altered due to the notable presence of the proposal. This would be harmful to the setting of the listed building. Given that the special interest of a listed building within the CA would be diminished, the character and appearance of the CA as a whole would also be incrementally harmed, particularly as those aspects of the setting of Swan House are crucial components of the significance of the CA.

*Public benefits and conclusions on the first main issue*

12. The statutory duties in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) are matters of considerable importance and weight and paragraphs 197, 199 and 200 of the Framework are also of paramount importance.
13. The proposed development would fail to preserve the setting of the listed building and would thereby diminish the character and appearance of the CA. In my view the harm that I have identified would be limited but, nevertheless, equate to less than substantial harm to the significance of these designated heritage assets. In such circumstances, paragraph 202 of the Framework and Policy EH9 of the West Oxfordshire Local Plan 2031<sup>1</sup> (LP) identifies that this harm should be weighed against the public benefits of proposals.
14. The appellant does not dispute that the Council is able to demonstrate 5.3 years of housing land supply, but the Framework confirms the Government's aim to significantly boost the supply of housing. The contribution made by small and medium sized sites is important to achieving that aim, but the proposal is only for one dwelling so it would be afforded limited weight.
15. Given the uncertainty surrounding whether there is permission for the block retaining wall within the site, the improvement to its appearance through cladding of its external face in natural stone and, thereby, the improvement of current site conditions to the setting of the listed building and the appearance of the CA, would be a heritage benefit of limited weight.
16. Social and economic benefits would arise from support of the services and facilities within the village, which include shops, a primary school, and railway station. The proposal would also contribute economically through short-term employment and procurement of materials during the construction period. However, these benefits would be limited in scale and kind.
17. I am mindful that the small area of tree planting at the site frontage replaces those which previously filled the majority of the site but, based on the existing site conditions, this would still equate to an environmental benefit, which I afford a limited amount of weight.
18. The primary design input of self or custom build properties should be from an initial occupier. The appellant has suggested that his daughter wishes to occupy the proposed dwelling, but it is unclear what input she may have had in the design of the proposed dwelling. In any event, I have not been provided

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<sup>1</sup> Adopted September 2018.

with a legal mechanism, such as a planning obligation, to ensure compliance with the provisions of the Self-Build and Custom Housebuilding Act 2015<sup>2</sup> and provide certainty of a self-build project, so I afford this benefit limited weight.

19. The public benefits I have outlined would collectively be of limited weight in the face of limited harm. However, they would not justify allowing development that would fail to preserve the setting of the listed building or the character and appearance of the CA. Therefore, in accordance with policies of the LP and Framework, considered together, I am not persuaded that there would be wider public benefits of sufficient magnitude to outweigh the great weight to be given to the less than substantial harm I have identified to the heritage assets.
20. In light of the above, I conclude that the proposed development would fail to preserve the setting of the Grade II listed building and the character and appearance of the CA. Hence, the proposal would not satisfy the requirements of the Act and it would conflict with the design and heritage aims of LP Policies C014, EH9, EH10, EH11, OS02 and OS4, and paragraphs 126, 130, 134, 197, 199 and 200 of the Framework.

### *Living conditions*

21. The proposed dwelling would be 4.6metres from the flank elevation of the property, with an eaves height of 4.3metres. The windows in the south façade of Hillside currently experience open outlook across the hard landscaped space within the appeal site. Outlook would remain available from windows at the front and rear of Hillside, which also serve those rooms at ground and first floor facing over the site, and there would be some visibility to either side of the proposed dwelling. Nevertheless, due to its close proximity to Hillside, the proposal would be likely to appear unduly oppressive and imposing when viewed from its south-facing windows. This would have an unacceptably harmful impact on outlook, to the detriment of the living conditions of the occupiers of Hillside.
22. I have had regard to the content of the documents referring to light provided by the appellant<sup>3</sup>, as far as they are relevant to the appeal scheme and it is likely that there would be some loss of light to the ground floor south-facing windows of Hillside. However, the resultant extent of harm would be limited given that the affected rooms are also served by other windows in Hillside.
23. There would be two parking spaces between the flank elevations of Hillside and the proposal. It is inevitable that there would be a change in the way in which the space adjacent to Hillside would be utilised, as it would directly serve a new property, but it is unlikely that this would lead to harmful levels of noise and disturbance. In particular, the noise, dust and fumes created by cars parked in the spaces and movements to and from them by occupants of the proposed dwelling, would be comparable with many similar residential settings in the locality and further afield.
24. The proposed dwelling includes a bathroom window in the west façade, a three-light window serving the southern bedroom and further windows to the stairs and eastern bedroom at first floor. While there would be some overlooking of the southeast corner of the rear garden of Swan House, this

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<sup>2</sup> As amended by the Housing and Planning Act 2016.

<sup>3</sup> Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BR209); and the Oxford Local Plan 2036, Appendix 3.7: Privacy, daylight, and sunlight: the 45 and 25 degree guideline.

would largely be from a tighter angle from the southern window and the bathroom window would be obscure glazed, which could be controlled by a planning condition. The east-facing windows would also face toward Merryfields, but it is likely that outlook would primarily be toward its roofs, with more limited visibility of other spaces around them. Overlooking of these neighbouring properties would therefore not be experienced by occupiers of those properties to an unacceptable extent.

25. Despite my findings in relation to light, noise and disturbance to occupiers of Hillside and overlooking of Swan House and Merryfields, I conclude that the proposal would have a harmful effect on the living conditions of the occupiers of Hillside regarding their outlook. Hence, the proposal would fail to accord with the aims in respect of living conditions expressed in Policies OS2 and OS4 of the LP and paragraph 130 of the Framework.

### **Other Matters**

26. Section 85 of the Countryside and Rights of Way Act 2000 (as amended) requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of AONBs when performing their functions. I have therefore had regard to this statutory duty in the appeal. The AONB lies to the north of the site, beyond existing built development. The proposed dwelling would be physically and visually separated from the AONB, as it would be read in the context of the intervening built form to the northeast and the other dwellings along the existing driveway. There would therefore not be harm to the scenic landscape qualities of the AONB.

### **Planning Balance**

27. I have already identified the benefits of the appeal scheme as part of the assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage assets. In terms of harm, the proposed development would not comply with development plan policy in respect of harm to the setting of the listed building, the character and appearance of the Millwood End Conservation Area and to outlook from Hillside.
28. The main parties agree that planning conditions can be utilised to address, amongst other things, matters of road safety, drainage, and ecology. Thus, these matters would have a neutral benefit, so would neither weigh in favour nor against the appeal scheme.
29. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposal are matters of great weight against the grant of planning permission that outweigh the benefits identified.

### **Conclusion**

30. The proposed development would be contrary to the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should not succeed.

*Paul Thompson*

INSPECTOR