



Appeal Decision

Hearing (Virtual) held on 15 March 2022

Site visit made on 16 March 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2022

Appeal Ref: APP/D3125/W/21/3281901

Land North East of 53 High Street, Ascott-under-Wychwood OX7 6AX

- 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 Bloombridge LLP against the decision of West Oxfordshire District Council.
 - The application Ref 21/00651/OUT, dated 23 February 2021, was refused by notice dated 29 June 2021.
 - The development proposed is outline planning application (with some matters reserved except access) for the demolition of existing building and construction of up to seven dwellings and new open space/memorial garden of approximately 0.06ha.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for the full award of Costs has been submitted by the Appellant. This application is the subject of a separate decision.

Preliminary Matters

3. The application was submitted in outline form with means of access to be determined at this stage. Therefore, I have treated the drawing showing the layout of the dwellings as indicative only.
4. The description of development and site address referred to above differ from the details in the application form. However, they have been agreed by the main parties and in my view accurately describe the proposal and its location.
5. Refusal reason No 2 in the Council's decision notice cited the lack of a completed legal agreement to secure an affordable housing contribution. A unilateral undertaking was provided during the course of the appeal with an obligation to make the required payment. The Council has raised no objection to its contents and therefore, I consider this matter has now been addressed.

Main Issues

6. The main issues are:
 - whether the proposal would constitute an appropriate form of development, having particular regard to the provisions of the development plan in respect of the location of development; and

- the effect of the proposal on the character and appearance of the surrounding area, including its location within the Cotswolds Area of Outstanding Natural Beauty (AONB).

Reasons

7. The appeal site comprises a large redundant cowshed and hardstanding area, with scrub vegetation and mature trees located along its boundaries. The site is wholly within the AONB, while there are a number of public rights of way (PROW) in the area and adjacent to the appeal site itself.

Policy Context

8. The supporting text to Policy OS2 of the West Oxfordshire Local Plan 2031 (2018) (Local Plan) classifies Ascott Under Wychwood as a village in the district's settlement hierarchy¹. The policy states that villages are suitable for limited development subject to compliance with a list of general principles. Amongst these are the requirements that proposals form a logical complement to the existing scale and pattern of development and/or character of the area, while in the AONB, great weight is given to conserving its landscape and scenic beauty.
9. More specific guidance on new housing development in villages is provided by Policy H2 of the Local Plan. The circumstances when new dwellings will be permitted in rural service centres include sites allocated for housing, on previously developed land within or adjoining the built-up area, on undeveloped land within the built-up area, and undeveloped land adjoining the built-up area where it meets a demonstrable identified housing need. Compliance with the general principles of Policy OS2 and any other relevant development plan policies is also required.
10. Policy BC1 addresses development within the Burford and Charlbury sub-area. It identifies that development outside of the Rural Service Centres will be limited to meeting local housing, community and business needs and will be steered towards the larger villages. The policy's supporting text, at paragraph 9.6.29, states that it will need to be convincingly demonstrated that a scheme would give rise to benefits to the specific settlement or sub-area (e.g. meeting identified local housing needs) and which would clearly outweigh any likely harms, including landscape harm.
11. There is, however, no exhaustive list identifying those larger villages or a specific interpretation in the Local Plan. In the absence of this, the Council broadly considers that a large village is determined by the population of the settlement and the range and extent of services it provides. Yet, without any clear guidance within the Local Plan on what distinguishes a larger village from other settlements in the district and having regard to its scale and number of local facilities, I have assessed the appeal scheme on the basis that Ascott Under Wychwood would fall into this category.
12. New development will also be required to meet the objectives of Policies T1 and T3. These require, amongst other things, that proposals are located in areas with convenient access to a good range of services and facilities, while maximising opportunities for walking, cycling and the use of public transport as alternatives to trips by private motor vehicle.

¹ Table 4b, West Oxfordshire Local Plan 2031 (2018)

Location of development

- a) Whether or not in the built-up area
13. Determining whether the site is within the built-up area, is a matter of planning judgement. Whilst the various maps submitted in evidence are useful in showing the scale and arrangement of buildings and spaces in the locality, my judgement has placed greater reliance on the factors on the ground in coming to a view.
 14. The appeal site has a frontage along a bend in the road where High Street merges with Mill Lane. The site is surrounded on three of its sides by a large agricultural field, which itself adjoins similar enclosures to the south, east and north. On the opposite side of the road there is a yard area with some Dutch barns that has planning permission for two, as yet unbuilt, dwellings (the Dutch Barn site)². That site adjoins further residential curtilages to the south along High Street and appears as a consolidated frontage along that part of the road.
 15. From No 30 High Street (No 30) looking towards the appeal site, the road curves revealing the two agricultural fields that separate it from the cowshed. This intervening space is sizeable in length while having a pastoral appearance that disassociates itself from the more domestic appearance of the built-up frontage that terminates at No 30.
 16. There are public footpaths close by that cross the agricultural field to the south and east of the appeal site. From those vantage points the appeal site can be seen to be mostly enveloped by pastureland, while the large gap separating the residential curtilage of No 30 is perceptible through gaps in the mature trees that line the boundary of the agricultural field.
 17. There are other undeveloped spaces between buildings along High Street. These mainly comprise driveways, gardens and other small, grassed enclosures, that have a more manicured and domestic appearance. In contrast the gap that separates No 30 from the appeal site is much wider in length while having a distinctly agrarian appearance of pastureland enclosed by post and rail fencing and hedgerow. This greater degree of separation from No 30, along with the cowshed's immediate pastoral setting, gives the perception of the appeal site being within an agricultural landscape rather than a built-up area.
 18. The proximity of the dwellings approved, but as yet unbuilt, opposite on the Dutch Barn site are noted. However, those would be separated from the appeal development by Mill Lane, while relating to a different part of the street's-built frontage. Accordingly, given the future presence of that approved scheme, the appeal site could be considered at best adjoining, rather than within, the built-up area.
 19. During my site visit I observed the site from the long-range views to the north from Mill Lane. From here the site is somewhat screened although parts of the cowshed are visible and seen in proximity with buildings within the settlement. Yet from these longer-range views the spaces that separate the built-up area from the appeal site are not clearly perceptible, and therefore those perspectives do not justify the appeal site being considered as part of the built-up area.
 20. Therefore, the appeal site and any future development would appear disconnected from the built-up part of the village by sizeable and obvious gaps that contrast markedly with the appearance and arrangement of the built frontages nearby. I do not find that the appeal site is within the built-up area of Ascot Under Wychwood

² LPA Planning Refs 20/01592/OUY and 21/02804/RES

and the proposal would fail to comply with the third point in the list of circumstances where new dwellings would be allowed by Policy H2.

b) Previously developed land (PDL)

21. Even though I have found the appeal site to be outside the built-up area it nonetheless adjoins it, and in those circumstances Policy H2 permits new dwellings on PDL. In this respect the National Planning Policy Framework (Framework) is less prescriptive, but nevertheless indicates that the use of PDL should be encouraged where suitable opportunities exist, while ensuring, amongst other things, that development is sensitive to its surroundings (Paragraph 85).
22. The Local Plan does not provide a definition for PDL. However, the Framework's glossary defines it as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. This excludes, amongst other things, land that is or was last occupied by agriculture.
23. The policies in the Framework are material considerations which should be taken into account when making planning decisions. Moreover, the Council's Local Plan would have had to be consistent with the Framework, to be found sound and be approved by the Examining Inspector.
24. The Framework's glossary sits within a separate Annex to the document's policies. Yet, the various definitions listed, underpin the policies, and are intrinsically linked to how they should be understood and applied. To take a different approach would be to ignore that part of the document, and its associated connection to the policies. There is also no clear indication in the Framework that the Glossary of terms should not form part of its policies.
25. Therefore, in the absence of any definition of PDL in the Local Plan, or anything explaining that it takes on a different meaning, I have relied upon the Framework's definition for the purposes of assessing this appeal and attribute great weight to it. Consequently, as there is no dispute between the parties that the appeal site was previously in agricultural use, it would in my view fail to accord with the definition of PDL as I have understood it, and the relevant exception in Policy H2 (second bullet point, p.47).
26. The appellant's understanding of PDL, insofar as it relates to the Local Plan, would be the converse of undeveloped land and includes all land that was presently or was in the past occupied by built development. As such, the appeal site would in the appellant's view be regarded as PDL, and in light of the alternate position, that it would be adjoining the settlement, it would accord with that provision of Policy H2.
27. To outline its position further, various court decisions have been presented by the appellant. These make the general point that when interpreting development plan policy, one must only look at the contents of the plan itself, without having to make recourse to other documents to discern its meaning. Those cases are acknowledged, yet in this instance I have used a clear definition from the Framework rather than come to some other interpretation of the term PDL. Furthermore, my finding on the issue has followed a rational approach given the Framework's status as a material consideration and the clear definition of the term PDL therein.
28. The Council regarded the appeal site as PDL in its pre-application advice, and also in an earlier refused application, albeit as part of a larger site. Additionally, the Dutch Barn site opposite was also regarded as PDL despite the presence of

agricultural buildings on it. It is noted that the Council acknowledges that these were incorrect interpretations, while the Planning Practice Guidance³ sets out that pre-application advice is not binding. Therefore, whilst I note this background, I have attached limited weight to those cases in my assessment.

29. In light of the above, I have found that the appeal site is not within the built-up area, nor does it comprise PDL. In my view, it would be undeveloped land adjoining the built-up area. In those circumstances, the explanatory text to Policy H2 requires convincing evidence of a specific local housing need for proposals to be considered acceptable, for example through a Neighbourhood Plan or needs specific to the settlement. Similarly, Policy BC1 requires development proposals to meet local housing need. Other than a generically worded commitment to a financial contribution towards affordable housing in the submitted planning obligation, I have not been presented with any substantive or convincing evidence that would meet the stated requirements of those policies.

c) Accessibility to local services

30. Ascott Under Wychwood has a small number of local facilities and services that include a local shop and public house. There is also a church and village hall, while there was reference at the Hearing to some local clubs and societies. It was noted during my site visit that most of those services and facilities are only a short walk from the appeal site along relatively quiet residential streets with footways along the majority of their length. These factors would encourage future residents to walk or cycle to access them. It is acknowledged that the range of services and facilities is modest, nevertheless, future residents would be likely to use them and in doing so support the vitality of the village.
31. The village train station is also within a safe and convenient walk or cycle journey from the appeal site. Although train services are limited to certain times of the day, they would still increase the transport options of future residents, and encourage those with limited or no access to a motor vehicle to make journeys to larger service centres by train.
32. In approving the Dutch Barn site nearby, the Council did not consider its location was inaccessible from the village's services and facilities, and although, in respect of the appeal site, I have come to a different position regarding its relationship with the built-up area, the distances to access those facilities would be similar and equally convenient.
33. Therefore, the appeal site, in my view, is located in a reasonably sustainable location, that would meet the aims of Policies T1 and T3 of the Local Plan.

d) Conclusion on main issue

34. Even though I have found that the appeal site would be accessible to a range of local services and facilities, it would nevertheless fail to satisfy the general terms of the housing and locational strategy outlined in Policies H2 and BC1 of the Local Plan, where they require development on undeveloped land adjoining a settlement to provide evidence that it is necessary to meet identified housing needs. This failure to follow the strategic direction outlined for new development would be unacceptable.

³ Reference ID: 20-011-20140306

Character and appearance

35. The Cotswolds AONB Management Plan 2018-2023 sets out policies that require proposal's to be compatible with and reinforce local distinctiveness through designs that respect local settlement pattern (Policy CE3).
36. The West Oxfordshire Landscape Assessment 1998 (WOLA) provides a more localised landscape character assessment. The document identifies a series of Landscape Character Areas (LCAs), describing in detail their landscape and settlement character together with guidelines for landscape enhancement and built development. A small portion of the appeal site's eastern half falls within LCA 6 – Lower Evenlode Valley. That LCA also surrounds the site to the south, north and east, thus forming part of its immediate setting. The WOLA sets out key characteristics of the LCA as large scale smoothly rolling farmland, with a very open and exposed character and having high intervisibility. The document notes that the area has a highly attractive and unspoilt character but with some localised variations in quality. It also notes that there are a number of factors that can potentially threaten landscape quality (p.45). Expansion and 'suburbanisation' of rural settlements and roads are identified as examples of such threats. Whilst the document's status as guidance is acknowledged, it is nevertheless an important tool for assessing proposals in the area and is therefore afforded weight.
37. Details of layout, appearance and scale have been reserved at this stage, although I have been presented with an indicative layout of what could be built at the site. It was indicated at the Hearing, that the proposed dwellings would likely be a storey and a half or two storey structures, to appear consistent with others in the settlement. The submitted layout also shows a memorial garden area proposed to the south of the existing cowshed. Indicative details of the species composition and arrangement of this area have also been provided.
38. The appellant has assessed the effects of a potential development at the site through a Landscape and Visual Impact Assessment (LVIA) which includes an analysis of the value of the site as well as a number of photomontages represented through a series of viewpoints. The content and conclusions drawn in the LVIA have been considered in my assessment of the proposal.
39. The cowshed and hardstanding area, like similar structures in the locality, have a functional and utilitarian appearance. A stand of tall trees is located along part of the site's north and east boundaries and combined with the open pastureland to the north south and east, they form an attractive rural backdrop around the appeal site, particularly when viewed from High Street and the PRow to the south and east. The appellant's LVIA assesses the landscape and visual sensitivity of the immediate area surrounding the appeal site as high, and in light of my own assessment I have no reason to disagree. Similarly, I do not dispute the LVIA's view that the AONB in general has a high landscape value and susceptibility to change.
40. The LVIA considers that the existing cowshed has a detracting influence within the landscape. Yet whatever 'value' is attached to the appeal site itself, it still forms part of the overall high value protected landscape of the AONB and is a localised component of the landscape setting of Ascott Under Wychwood within the sensitive Lower Evenlode Valley.
41. The properties that line both sides of High Street / Mill Lane are connected to each other by shared boundary walls and roadside vegetation. Although there are spaces between structures and dwellings, the boundaries between them have a

- unifying alignment and appearance, that gives the street a coherent and attractive character.
42. In contrast the appeal site is separated from those properties and their boundaries, by the two agricultural fields to the south and the highway to the site's west. This would result in the proposed dwellings appearing disconnected while failing to harmonise with the established pattern of residential development in the area. The effect of the proposal would harm the cohesive morphology of this part of the village and create a visually unsympathetic gateway and termination point to the settlement.
43. Given that the site would largely be placed on land currently occupied by the cowshed and hardstanding, it is unlikely that there would be direct impacts on the landscape character of the AONB. However, the urbanising appearance of dwellings and associated gardens, parking and domestic paraphernalia in this largely open setting with a backdrop consisting of pastoral land would appear incongruous within the AONB leading to harmful indirect effects on landscape character. This unacceptable juxtaposition would be clearly observed from High Street and the PROWs to the appeal site's south and east.
44. It suggested that the proposal would result in an improvement to the site through the removal of the disused cowshed, a structure that is somewhat dilapidated when viewed at close quarters. However, in contrast, a cluster of dwellings with associated gardens, parking and domestic paraphernalia would appear more intensive and less harmonious with its immediate setting. The interplay between the individual plots and the immediate agricultural land, which borders most of the site, would appear harsh and unfamiliar, particularly when viewed from the PROW to the south and east, from where the site's sense of disconnection from the settlement is more visible. Even though, the dwellings could be designed to be sympathetic and consistent with those in the locality, harm would nevertheless result from the scheme's discordant relationship with the established pattern of development and the consequential effects on the landscape setting of the AONB. Therefore, in light of my concerns, limited weight is given to the argument that the proposal would remove an unsightly building and improve the site's appearance.
45. The long-range viewpoints presented in the LVIA, show that the appeal site is predominately screened by vegetation or topography. In addition, there would be viewpoints where the proposed dwellings would likely be seen near to others in the settlement. Those perspectives present a deeper field of vision, where the appearance of the site and the proximity to other features nearby is less pronounced. It would be from the closer range viewpoints, particularly VR11 and VR13, where the contrast and the harm I have identified would be most appreciable. Therefore, I have given limited weight to the reduced impact of the proposal from longer range viewpoints.
46. The appeal site's frontage would be close to that of the Dutch Barn site opposite. However, despite the proximity of that development, the encompassing agricultural land and the proposed memorial garden would serve to reinforce the largely undeveloped character of the appeal site's setting. Therefore, even though the site would be partially adjoining the built-up area, the proposal would still be at odds with the area's pattern of development and harmful to the special qualities of the AONB.
47. The proposal encompasses a small area of land on the opposite side of High Street / Mill Lane that would be available for the parking of vehicles. This part of the appeal site would extend into the adjacent field and result in a modest loss of hedgerow and pastureland. The parking area would be contiguous with the Dutch

Barn site and although there would be some localised effects from the loss of vegetation, these would not amount to any material harm to the scenic qualities of the AONB.

48. Accordingly, the proposed development would result in significant harm to the character and appearance of the surrounding area, including that of the AONB. It would fail to accord with Local Plan Policies BC1, EH1, H2, OS2 and OS4 where they require proposals to conserve and enhance the landscape and scenic qualities of the AONB, respect village character and local distinctiveness and form a logical complement to the existing scale and pattern of development of the area. The proposal would also fail to accord with the provisions of the West Oxfordshire Design Guide 2016, where it requires proposals to respond to the existing settlement pattern and respect local character.
49. The proposal would also conflict with paragraph 130 of the Framework which seeks to ensure that developments are sympathetic to local character, including the surrounding built environment and landscape setting, paragraph 174 which requires that decisions should contribute to and enhance the natural environment by protecting and enhancing valued landscapes and paragraph 176 which requires great weight to be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.

Other Matters

50. The proposal would likely bring some increased expenditure in the locality through the construction process. Additionally, future occupiers would also purchase goods and services from the village shop or public house, that would help sustain the continued vitality of those facilities. Furthermore, the scheme would contribute to the overall objective to boost housing supply, while including a contribution towards local affordable housing provision. Yet, the net gain of up to 7 additional residential units would only have modest social and economic benefits, and I attach moderate weight to the benefits in that regard.
51. The additional homes brought about by the appeal scheme might encourage more users of the local train service that passes through Ascot Under Wychwood. However, this benefit only attracts limited weight, given the relatively small number of new homes proposed, and the possibility that not all future residents would use the service.
52. There would be some biodiversity benefits associated with the creation of the memorial garden, but there are no specific details of the final planting scheme in terms of species mix and the biodiversity it could support. Moreover, the additional planting would diminish somewhat the open character of the agricultural field and this part of the AONB. Therefore, only limited weight is attributed to this benefit.
53. I have given moderate weight to the provision of a turning circle for refuse vehicles given that there are limited opportunities for manoeuvring such large vehicles currently.
54. The additional parking spaces created, possibly for recreational users, would be modest and I only give this benefit minor weight as there appears to be no parking restrictions in place at present along High Street.
55. The site is within proximity to the grade II listed Yew Tree Farmhouse, a large, detached dwelling located on the northern frontage of High Street. The farmhouse has a landscaped front garden that is neatly enclosed by a low stone wall. The existing boundary features and garden space that surround the farmhouse make

an important contribution to its setting, from which it derives some of its significance. Given the presence of intervening buildings, the separation distance that could be maintained from the listed building, and the prospect of a design that would be consistent with the surroundings, I do not consider that the proposal would harm the farmhouse's setting and therefore its significance.

Conclusion and Planning Balance

56. I have found that the proposal would fail to accord with the Council's strategic policies for locating new housing, while there would be significant harm to the character and appearance of the surrounding area including the special qualities of the AONB. In this respect, it would be contrary to the Framework and Policies BC1, EH1, H2, OS2 and OS4 of the Local Plan.
57. The proposed development of up to 7 dwellings at the appeal site would offer potential benefits in terms of increasing housing supply as well as a contribution towards affordable housing. The site is within a relatively accessible location in a rural area as there are services and facilities within easy walking and cycling distance of the site and bus/train services accessing the wider area. There would also be social and economic benefits through increased spending in the locality as well as future residents helping to sustain local facilities. There would also be some improvements to local biodiversity and highway safety, through the provision of a memorial garden and additional parking and turning facilities respectively. I have outlined above that these benefits are afforded limited to moderate weight.
58. The scheme benefits however, do not outweigh the great weight which the Framework advises should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty. Similarly, they do not overcome the significant weight I have attributed to the harm upon the character and appearance of the area in general.
59. The conflict with the development plan and the Framework, when taken as a whole, and the associated harm identified are significant and overriding factors. Consequently, the material considerations in this case, including the contribution to housing supply and the associated benefits identified, do not indicate that the application should be determined otherwise than in accordance with the development plan. The appeal is therefore dismissed.

RE Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Carolyn Daly	Barrister, Francis Taylor Building
Paul Butt	Paul Butt Planning Ltd
Paul Cordle	Cordle Design
Professor Robert Adam	Robert Adam Architectural Consultancy

FOR THE LOCAL PLANNING AUTHORITY:

Chris Wood	Senior Planning Officer (Appeals)
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INTERESTED PARTIES

Nigel Braithwaite

Anne Braithwaite

Cllr Brian Leach (Chair, Ascott Under Wychwood Parish Council)

Nicholas Paines

Sue Richards

Richard Smith