



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: 19th July 2022

Appeal Ref: APP/D3125/W/21/3285075

Land East of London Lane, Ascott-Under-Wychwood OX7 6AN

- 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 Blue Cedar Homes Limited and Cornbury Estates Company Limited against the decision of West Oxfordshire District Council.
 - The application Ref 21/00506/FUL, dated 8 February 2021, was refused by notice dated 11 August 2021.
 - The development proposed is erection of 7 one storey age restricted dwellings for older people (65 years) with access, landscaping and associated infrastructure.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Blue Cedar Homes Limited and Cornbury Estates Company Limited against West Oxfordshire District Council, which is the subject of a separate Decision.

Procedural Matters

3. The Decision Notice identifies concerns with regard to the potential landscape and visual effects of the proposal, including to the Cotswolds Area of Outstanding Natural Beauty. Section 85 of the Countryside and Rights of Way Act 2000 (as amended) (the Act) requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of these areas when performing their functions. I have therefore had regard to these matters in the appeal, including my statutory duty.
4. The Planning Practice Guidance refers to the relevance of management plans for Areas of Outstanding Natural Beauty for assessing planning applications. Whilst these do not form part of the development plan, they help to set out the strategic context for development and provide evidence of the value and special qualities of these areas¹. In this context, the Cotswolds AONB Management Plan 2018-2023 is a significant material consideration, particularly as its objectives and policies align with the aims of the Framework.
5. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have referred to relevant revisions and I have had regard to any comments made.

¹ Planning Practice Guidance Paragraph: 040, Reference ID: 8-040-20190721, Revision date: 21 07 2019.

Main Issues

6. The main issues are:

- whether the appeal site would be a suitable location for the proposed development having regard to development plan policies relating to housing in rural areas, and the effect of the proposed development on the rural setting and character of the village, the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty, and the setting of the Grade II listed building, known as 4-6 High Street, and Brook Barn, a Non-Designated Heritage Asset;
- whether acceptable living conditions could be provided for future occupiers of the proposed dwellings, with regard to outlook, and any potential subsequent effect on trees; and
- whether suitable arrangements have been made in connection with the proposal to contribute to affordable housing provision off-site.

Reasons

Site and Surroundings, Significance and Setting

7. The appeal site lies on the southern valley slope of the River Evenlode to the east of the village of Ascott-Under-Wychwood. It concerns two paddocks northeast of London Lane which rise from the dwellings northwest in High Street and dip between where a stream is situated. Southeast of the site is a cluster of properties to either side of London Lane. Immediately opposite the site a small development of homes, granted permission on appeal², is under construction.
8. In that decision, the Inspector considered that the scheme would fill a gap between existing houses within an otherwise built-up frontage that extends beyond the aforementioned cluster. While the site of the current appeal forms a similarly sized gap between houses, its use and appearance share common characteristics with the varied pattern of fields and paddocks, enclosed by mature tree and hedge planting, that envelope the village. The established planting of boundaries provides a verdant backdrop to buildings provides a contrast to the harder exteriors of their built form, a transition to the countryside edge and therefore helps to define what is more urban and rural in form. The recreation ground east of the site has a managed appearance, but it is generally grassed and enclosed by mature planting, so it also shares many characteristics of neighbouring fields and paddocks. Given these factors, the site would not fall within the built-up area of the village.
9. Together with mature landscaping of fields surrounding it, the topography of the river valley ensures the village has an enclosed setting. However, the built form therein is highly visible from the valley sides, including from some of the Public Rights of Way (PROW) within the countryside beyond the village.
10. The houses to the east of the village are arranged in a coherent linear pattern, predominantly with a street frontage adjacent to a grass verge or footpath. There are instances of development at depth, including within designed estates, but these are predominantly found to the west of the village.

² Appeal Reference: APP/D3125/W/17/3179654, relating to 17/1067/FUL.

The architectural detailing of the houses to the east is varied, but typically incorporates long frontages, narrow gables, and steeply pitched roofs. The palette of materials is also uniform with creamy limestone walling and limestone slates used extensively.

11. To the northwest of the site is 4-6 High Street, a pair of 17th Century cottages that are designated as a Grade II listed building. As far as it relates to this appeal, its significance lies in its architectural and historic interest, particularly the high quality of materials used in its construction and its architectural composition and detailing. It also draws significance from its immediate setting within its grounds and the street, but also from its extended relationship with buildings surrounding it and the land in the site. Moreover, Brook Barn, a taller building of some architectural merit is immediately to its rear and forms a Non-Designated Heritage Asset (NDHA).
12. The mature planting between the northwest boundary of the site and the listed building reduces visibility between them and from High Street. However, the appellants' Heritage and Archaeology Statement demonstrates that vegetation is subject to seasonal change and is, in any event, ephemeral. At the time of my visit, the house adjacent to the site's southern boundary was visible between 6 and 8 High Street and the vegetation behind them. Given the position of No 8 and Brook Barn, views from the listed building would be likely to widen out into the site.
13. The agricultural landscape is likely to have been of great historic importance to sustaining and growing the village, particularly grazing of sheep. The undeveloped nature of the site and its planted boundaries are therefore an integral part of the setting of the listed building and Brook Barn, which contributes to their understanding and significance as heritage assets.
14. Taken together the features stated above, particularly the landscaped appearance and visual characteristics of the paddocks and fields around the village, including the site, and the linear form of built development, give rise to a clear and distinct pattern of development that makes a significantly positive contribution to the rural setting and character of the village and the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty (AONB). My assessment of the village characteristics therefore aligns with the common features outlined in the West Oxfordshire Design Guide 2016 (WODG) and West Oxfordshire Landscape Assessment 1998 (WOLA).

Housing in Rural Areas

15. Ascott-under-Wychwood is classified as a Village within the West Oxfordshire Local Plan 2031 (Adopted September 2018) (LP). While the LP exhibits some flexibility in respect of the approach to undeveloped land adjacent to built-up areas of settlements, there is greater restraint within the AONB, where demonstration of local need for development is required. This therefore reflects the principles outlined in the Framework of supporting some housing in rural areas, but also the great weight that should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.

16. The Planning Practice Guidance (PPG) sets out that there is a critical need for housing for older people³, the LP also identifies that the district has an ageing population and the supply of housing for older people is well below county and national averages. It therefore identifies a clear need to boost supply. It is unclear how the Council is progressing in meeting its aims in this respect but this identified need would go unmet without planning permissions to address it, which would unacceptably hinder older persons, potentially leading to needs being met by unsuitable accommodation or force residents to leave the district.
17. Policy H4 of the LP is supportive of specialist housing for older people, which includes age exclusive housing. There is no further clarification of what this entails but the PPG suggests that age-restricted general market housing⁴ qualifies as specialist housing and "is generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens, but does not include support or care services." Based on the intended occupants and the services proposed to be provided by the appellants, there can be no doubt that it would equate to such housing.
18. The main parties disagree on what constitutes 'local housing need' and whether this should be determined at settlement, parish, or Burford-Charlbury sub-area level. The appellant relies on a Counsel's opinion and the Council has referred to an Inspector's decision for a site at Stonesfield⁵. I can see no reason to depart from the well-reasoned approach adopted by the Inspector in that case. Moreover, the supporting text in paragraph 5.39 for LP Policy H2 states "Within the Cotswolds AONB, windfall housing proposals on undeveloped land adjoining built up areas will be particularly closely scrutinised and will only be supported where there is convincing evidence of a specific local housing need such as identified through a neighbourhood plan or affordable housing needs specific to a particular settlement, for example through a rural exception site". Policy BC1 identifies that development not in Burford and Charlbury will be limited to meeting local housing needs, which will be steered towards larger villages. In light of this, when the local housing need requirements of these policies are read together, this equates to the needs of a specific settlement.
19. To this end, the appellants have provided evidence that the village already has a high proportion of elderly residents in comparison with the county and England as a whole and the LP also points toward the population growth in the sub-area being highest in people aged 65 years or over. Furthermore, given the clear district-level need for specialist housing identified in the LP and the absence of appropriate provision in the village and sub-area, it is reasonable to conclude that there is likely to be some need for such housing in the village. While the appellants' reports on need and demand for the proposal are not without merit, they do not adequately quantify the need for the village in real terms. The apparent absence of accommodation such as that sought by the appellant in the village, the success of comparable schemes in the sub-area and the general aspiration of some older persons to seek owner-occupation do not provide assurances of the extent of need in the village. There is therefore insufficient substantive evidence to justify the need for the nature or extent of the development proposed for the village, including the housing mix of three 2/3-bedroom and four 2-bedroom bungalows.

³ Paragraph: 001 Reference ID: 63-001-20190626, Revision date: 26 June 2019.

⁴ Paragraph: 010, Reference ID: 63-010-20190626, Revision date: 26 June 2019.

⁵ Appeal Ref: APP/D3125/W/18/3209551 – Land north of Woodstock Road, Stonesfield.

20. In addition, the Unilateral Undertaking (UU) submitted with the appeal does not include any mechanism to ensure that future occupiers of the dwellings would be over 65 years of age or have a need to reside in the village, sub-area, or district. While the former could be ensured by planning condition, it is unlikely that a condition requiring the appellants to enter into a planning obligation in connection with the latter would be enforceable. The proposed dwellings could therefore be occupied in the future by persons with no such need.
21. The main parties also disagreed on whether Ascott-Under-Wychwood is a 'larger village'. The LP clearly distinguishes between Rural Service Centres, Villages and Small Villages, but it does not provide any criteria to determine how one should distinguish between the 'Villages' to identify one that is 'larger'. On this basis, fair reading of the LP would suggest Ascott-Under-Wychwood could reasonably be classified as a 'larger village', but this does not alter my conclusions regarding the above consideration of need.
22. The village features a limited range of facilities and services, including a community shop, public house, village hall, church, and a private primary school. London Lane rises south from the village and becomes progressively steeper, but I did not find it to be so steep that it would inhibit walking from the site to the available facilities and services. I also note that the Inspector for scheme opposite found it would be suitably located in relation to the village and would help to maintain its vitality by supporting its services and facilities.
23. The appellants' Transport Statement demonstrates that the proposal is not expected to generate a large number of journeys and the village is served by several bus services and rail connections to Oxford. However, these are limited in their scope and extent, so are unlikely to provide a reasonable alternative to private motorised transport to the majority of destinations. While some future occupiers may already reside in the village, others may not, and older persons are likely to have greater need for health services and facilities not found within the village. Accordingly, the existing services and facilities provided in the village would be unlikely to meet the specific day-to-day needs of future occupiers of the proposed development, which would increase the instances of travel from the village to other settlements.
24. These factors would therefore distinguish the proposal from the scheme opposite, particularly as there would be greater certainty as to the demand on health and other services and facilities situated elsewhere given the targeted occupants. I also do not find the absence of an objection from the Highway Authority to be determinative, as its response appears to relate to highway safety and convenience, not accessibility from the site.

Effect of the Proposal on Village Character, the Landscape and Scenic Beauty of the Cotswolds AONB, and the Setting of Heritage Assets

25. Due to its spatial distinction from the linear frontage character evident in London Lane and High Street, the proposal would stand alone and be arranged to some noticeable depth. The only building that would address London Lane would be a smaller service building. This would jar with the established grain of linear development to the east of the settlement, be visually separated from other cul-de-sacs to the west of the village, and blur how the village currently blends more naturally into the surrounding rural landscape of the AONB.

26. The form and layout of the road within the site would vary from one with footpaths on either side, in the first paddock, to a shared surface in the second paddock. The latter is similar to the established characteristics of the streets nearby but the former is an over-engineered highway environment more appropriate to a distinctly urban setting, not the rural nature of the village. In particular, it is straight and features a formal turning head and large areas of hard surfacing in the road and plots.
27. The proposed dwellings would utilise a palette of generally sympathetic materials to the Cotswold Design Code but would generally be similar in appearance to one another. This would fail to reflect the varied approach to the form and architecture of dwellings found in the east of the village.
28. The frontages of the proposed plots would be without walled enclosures or any meaningful hedge planting reflective of that which is found at other boundaries or properties in the village. The proposed planting would therefore not be integral to the layout of the appeal scheme, so would have a limited effect in softening the presence of built development and fail to enhance the rural landscape. In particular, plots 3, 4, 5 and 6 to the rear of the listed cottages are likely to be apparent from High Street and there would be visibility of several dwellings from the recreational ground. There may also be some visibility of the scheme from the PROW to the southeast, especially in winter months, as some existing houses neighbouring the site are apparent from it. The proposal would also be prominent in views through the site access from London Lane.
29. For these reasons, although I agree with the appellants Landscape and Visual Appraisal that the visual effects of the development are likely to be localised, this would not validate the intrinsically harmful urbanising effects that would result from the proposal, particularly to how built development in the settlement relates to the countryside. I have referred to the presence of estate development to the west of the village but the appeal site is located a discernible distance away to the east of the village, the linear form of which is largely intact. Moreover, the proposal would be typical of the expansion and suburbanisation of rural settlements that the WOLA identifies as a threat to landscape quality. Similarly, the linear development of houses under construction opposite the site would reflect the prevailing characteristics of the eastern part of the village and have an integrated effect, whereas the appeal scheme would appear as a visually intrusive extension into the countryside. The proposal would therefore neither conserve nor enhance the landscape and scenic beauty of the AONB.
30. I appreciate that neither the Council's Conservation Officer nor Historic England raised any objections to the proposal, but in exercising my statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) I have assessed the proposal afresh in light of the evidence before me. Accordingly, for the reasons outlined above, the proposal would be harmful to the setting of the listed building.

Public benefits

31. The aforementioned statutory duty in the PLBCAA is a matter of considerable importance and weight. The requirements set out in LP Policy EH9 and paragraphs 197 and 199 of the Framework are also of considerably important.

32. The proposal would be harmful to the setting of the Grade II listed building, which would have a harmful effect on its significance as designated heritage asset. In my view the harm that I have identified would equate to less than substantial harm to its significance. As the outlook toward the site and countryside forms only one part of the setting of the listed building, this would be at the lower end of less than substantial harm. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals.
33. The Council's Housing Land Supply Position Statement for 2021-2026 suggests that it is able to demonstrate 5.3 years deliverable housing land. There is a clear need in the district for specialist housing and the Government has an objective to significantly boost the supply of homes. The delivery of seven houses for older persons would be notable benefit. However, this is tempered by the absence of an identified need for the specific development proposed in the appeal for Ascott-Under-Wychwood and the absence of legal controls over future occupancy of the dwellings to ensure they remain available for older persons within the area of need. I am therefore only able to afford limited weight to the increase in the stock and choice of housing for older persons.
34. As I will set out in the final main issue, the proposal would contribute financially to the delivery of affordable housing off-site. Given the scale of the proposal, this amount would not be substantial but it would aid in the provision of such housing in the district. I therefore afford this benefit moderate weight.
35. There would be several other social benefits associated with the proposal, including its sense of community and security, the adaptability of the proposed homes, management for residents, and help and support for independent living. Like other proposals for new residential accommodation, the appeal scheme may also result in other existing accommodation becoming available, including in the village. However, given the magnitude of the proposed development, I would only afford limited weight to these benefits.
36. There would be some direct benefits to the local economy through jobs created for staff employed in the management and maintenance of the development, as well as in the shorter-term through the construction phase. Occupants of the proposed apartments would also be likely to contribute to supporting the services and facilities available in the village and elsewhere, but would be likely to increase the extent of journeys by private motorised vehicles to do so, which reduces the weight I can afford such a benefit. New Homes Bonus and additional Council Tax receipts in conjunction with the proposal would also only be likely to make a modest contribution within the district. Accordingly, these would all constitute benefits in social and economic terms but, for the reasons outlined and the magnitude of the proposed development, they would only be afforded limited weight.
37. The proposal would provide bat habitat boxes, sparrow terraces and swift nest boxes. This would be an environmental benefit but, given the quantum proposed, this would only be afforded limited weight.
38. Taking the above together, collectively the public benefits associated with the proposal would generally be of limited weight, but the harm that would be caused by allowing development, to the setting of the Grade II listed building, would be of greater significance. Moreover, in accordance with paragraphs 199 and 202 of the Framework, considered together, I conclude that the public

benefits do not outweigh the great weight to be given to the less than substantial harm I have identified.

Conclusions on the First Main Issue

39. In light of the above, I conclude that the site would not be a suitable location for the proposed development. There is insufficient substantive evidence regarding need for the appeal scheme in the village, as required by the Council's housing policies for rural locations such as the appeal site. It would also not have good access to the health and other services and facilities that would inevitably be required for the older persons occupying the dwellings.
40. The proposal would not be sensitively designed to assimilate within its rural context and it would erode the undeveloped qualities of the site, which are important to the rural setting and character of the village and the wider landscape and scenic beauty of the AONB. The harm to the AONB would be limited in its extent but, nevertheless, of great importance given the statutory requirement reflected in the Act and development plan. The proposal would also be harmful to the setting of the Grade II listed building, known as 4-6 High Street, and Brook Barn, an NDHA.
41. Hence, the appeal proposal would fail to satisfy the requirements of the Act and the PLBCAA; paragraphs 126, 130, 134, 174, 176, 197, 199 and 203 of the Framework; the relevant aims of LP Policies BC1, EH1, EH9, EH11, H2, H4, OS2, OS3, OS4, T1 and T3; and Policies CE3 and CE6 of the Cotswolds AONB Management Plan 2018-2023.

Living Conditions and Trees

42. The trees within the site are primarily found at its perimeter and the division between the two paddocks therein. These contribute to the overall setting of the village where they are visible from short distance views, particularly the PROW to the southeast and from the recreation ground. The trees within the site are visible from views into the site from and between buildings.
43. Despite the site being of a reasonable size for seven dwellings, they would generally be situated close to the tree and hedge planting at its boundaries, a point which is accepted by the appellant. They are shown on scheme drawings, but the broadly round annotations do not reflect the varied canopy spread.
44. I note the findings of the appellants' Arboricultural Impact Assessment, but the height and proximity of tree and hedge planting with the proposed dwellings would be likely to reduce the extent of sunlight that would be experienced in the private garden areas and adjacent rooms situated next to the site boundaries of plots 1 and 2. This would be detrimental to the living conditions of future occupants given the depth of their rear gardens, which would be shallow in comparison to others in the scheme and within the locality. The amount of light that would penetrate into these dwellings and their gardens is likely to be constrained and placed in shadow for parts of the day.
45. I acknowledge that it is good practice to manage trees and hedges, particularly to ensure their health in the long term, and that sensitive works should not compromise the visual amenity of trees, including those proposed to the trees adjacent to plots 4 and 5. Despite this, trees and other planting may be at risk in the face of pressures from occupiers in respect of shadowing, perceived or actual hazards to the dwellings in high winds, or nuisance from leaf litter.

Although I accept the latter may be less likely as the site is to be managed, but these are the principal reasons that buildings, especially residential properties, are not sited in close proximity to trees. The risk to the trees from potentially harmful works or removal are not just generalised fears but realistic and specific concerns that could harm the character and appearance of the site and its surroundings. Accordingly, I am not persuaded that it would be appropriate to protect against the removal or works to the trees through a controlling planning condition, as it may be ineffective in the face of such pressures.

46. I am mindful that the layout of the proposed development would include several areas of shared recreational space, but this would not obviate the need for the individual dwellings and gardens to be arranged in a manner to avoid harmful effects to future occupiers. In light of this, I conclude that acceptable living conditions could not be provided for future occupiers of the proposed dwellings, with regard to outlook and there would be subsequent pressures to remove trees and other planting within the site, which could be harmful to the character of the site and its surroundings. Hence, the proposal would conflict with the aims in respect of design and living conditions expressed in LP Policies OS2 and OS4 and paragraph 130 of the Framework.

Affordable Housing

47. The proposal is for seven dwellings, which equates to a smaller scheme in the context of LP Policy H3. Moreover, given that the AONB is a designated rural area, the policy requires provision from such schemes of financial contributions toward affordable housing off-site. The UU submitted with the appeal includes a commitment by the appellants to pay £94,500 to the Council upon occupation of no more than four of the dwellings. The appellant suggests this amount was agreed with the Council prior to the UU being submitted and it appears to be an appropriate mechanism to secure the contribution. In the absence of any substantive evidence to the contrary, I conclude that suitable arrangements have been made in connection with the proposal to contribute to affordable housing provision off-site. Hence, it would accord with the requirements of LP Policies H3 and OS5, and paragraph 64 of the Framework.

Planning Balance

48. 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 listed building, including the off-site provision of affordable housing, but this would result in compliance with the development plan regarding such provision.
49. There is agreement between the main parties that there would be an absence of harm in relation to matters of access, parking, traffic generation and highway safety, noise and land contamination. Furthermore, subject to agreement by planning conditions in respect of lighting, pollution control measures and an archaeological scheme of works, there would not be harm to ecology of the site or its surroundings or archaeological deposits within the site. There has also been in-depth discussion between the main parties to resolve local concerns identified regarding foul and surface water drainage. There is no substantive evidence before me that the proposal would affect the locality in respect of either. The absence of harm in respect of such matters would neither weigh in favour nor against the appeal scheme.

50. In terms of harm, the proposed development would not comply with the development plan in respect of the local need for the proposal, having regard to its location within the AONB; the effect of the proposal on the outlook for future occupiers of some of the proposed dwellings; and the effect of the design of the proposal on the rural setting and character of the village, the landscape and scenic beauty of the AONB, the setting of the Grade II listed building, known as 4-6 High Street, and Brook Barn, an NDHA.
51. 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 stated benefits.

Conclusion

52. 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 be dismissed.

Paul Thompson

INSPECTOR