



Appeal Decision

Site visit made on 19 July 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th August 2022

Appeal Ref: APP/Q3115/W/21/3285287

Horseshoe House, Stoke Talmage Road, Tetsworth, Thame OX9 7BU

- 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 J North against the decision of South Oxfordshire District Council.
 - The application Ref P20/S4389/FUL, dated 18 November 2020, was refused by notice dated 17 August 2021.
 - The development proposed is the erection of a new dwelling and the removal of the existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwelling and the removal of the existing dwelling at Horseshoe House, Stoke Talmage Road, Thame OX9 7BU in accordance with the terms of the application, Ref P20/S4389/FUL, dated 18 November 2020, subject to the conditions set out in the attached schedule.

Procedural Matter

2. A contaminated land questionnaire has been submitted in support of the appeal and offers no information to suggest land contamination may be present at the site. The Council is satisfied that Refusal Reason 3 has been addressed.

Main Issues

3. The main issues are:
 - a) the effect of the proposal on the character and appearance of the area; and
 - b) whether the development would provide acceptable living conditions for its occupants, with particular regard to noise from the adjacent motorway.

Reasons

Character and appearance

4. The site is located on Harlesford Lane, also a public bridleway, which links to Stoke Talmage Road. The land backs onto the M40, sitting at the base of the motorway embankment. It contains a rough hardstanding which at the time of my visit was being used for the storage of skips, and a single-storey dwelling comprising an extended mobile home. The latter is timber clad, which gives it the appearance of a building. To the west of the site, and also within the appellant's ownership, is a large industrial building with metal roller shutter doors. Associated with this is a concrete yard containing some former stables. Beyond the site is an agricultural building and a detached two-storey house.

5. The proposal is to replace the existing dwelling with a double fronted two-storey house constructed of red brick and tile, with solar panels on the elevation facing the lane. The design would be simple and inoffensive, and it would have some similarities to a traditional farmhouse. The Council argues that the development would be out of keeping with the existing agricultural appearance of the site, but in my view it would represent an improvement over the current situation. The mobile home and adjacent buildings are not especially attractive and they do not have a particularly strong character, or one which is worth mimicking or preserving. The new dwelling would be prominent within the lane, but this does not make it unacceptable as it would be read in the context of an established group of buildings.
6. The decision notice states that the development would be inside Key View 4 of the Tetsworth Neighbourhood Plan. However, I note that this view is from the north side of the M40 and looking towards the village. The site is positioned to the south of the motorway embankment and it would not affect any views of acknowledged significance. The embankment would screen all but the top of the roof of the dwelling in views from the village. The wider landscape and visual impact would be negligible, given the proximity of the site to the motorway and the negative influence this manmade structure has on local vistas. I note that planning permission has been granted for a large solar farm on land to the west and south of the site, with a transformer unit proposed for the adjacent field. This is a relevant material consideration and it reinforces my view that the proposal would not have an adverse impact on landscape character or quality.
7. Policy H18 of the South Oxfordshire Local Plan 2011-2035 (SOLP) sets out the criteria relevant to proposals for replacement dwellings outside of built-up areas of settlements. There is no suggestion that the residential use of the existing dwelling has been abandoned, or that the existing dwelling is subject to a temporary or time limited planning permission. Indeed, I note that it has been granted a S191 Lawful Development Certificate¹. The proposal makes satisfactory provision for vehicular access and parking, and an area of garden which is significantly larger than that provided for the existing dwelling. The site does not lie in the Green Belt and therefore criterion (iii) is not relevant.
8. Paragraph 4.85 of the supporting text to Policy H18 states that in all cases, the Council will seek to ensure that the new dwelling does not have a greater impact on the character of the site and its surroundings than the existing dwelling due to its scale, size, form or materials used. It is not clear why this is not part of the policy, but regardless I consider that the proposed dwelling would comply with the requirements for the reasons I have set out above.
9. Accordingly, I conclude that the proposal would not cause material harm to the character or appearance of the area. There would be no conflict with Policies H18, DES1, DES2 and ENV1 of the SOLP, or Policies TET1, TET3 and TET4 of the Tetsworth Neighbourhood Plan, insofar as these seek to secure high quality development which respects the local context, including the countryside, landscape character and important views.

Living conditions

10. The Council's main concern relates to the impact of the adjacent motorway on the living conditions of future occupants of the development. The application is

¹ Council Ref P07/E1428/LD

accompanied by a Noise Impact Assessment which concludes that noise within the dwelling can be controlled to an acceptable level, either using acoustically rated glazing and trickle ventilators, or mechanical ventilation. Other mitigating measures have been explored but have been found to be impractical, including the option of placing all noise-sensitive windows on an elevation facing away from the motorway. I have no reason to disagree with the findings of the report which has been prepared by a qualified acoustic consultant.

11. The acoustic environment outside of the dwelling is unlikely to meet the normal expectation for acceptability. The garden could be made private, but the noise of passing traffic would not translate to a tranquil location for relaxation. The same problem would arise within the dwelling, were occupants to open the windows, but there would at least be the option of keeping them shut.
12. It must be acknowledged that this is not an ideal location for a dwelling, given the proximity of the motorway. However, it is relevant to consider the current situation of a mobile home type structure without any significant garden. This dwelling is lawful and it could be occupied even in the scenario that the appeal was dismissed. The proposed dwelling would provide much improved sound insulation and a better standard of internal accommodation due to its uprated glazing and the heightened mass/sound-reducing properties of other building elements such as the external walls. Although the garden would be noisy, it would provide an external space where none presently exists and would thus represent an improvement over the current situation. Whilst I have noted the Council's concerns over air pollution, this would be no worse than existing.
13. The fallback position is a significant material consideration to which I have attached substantial weight. Whilst there would be a conflict with Policy ENV11 of the SOLP in relation to the impact from existing land uses on the proposed development, material considerations exist to justify a decision otherwise than in accordance with the development plan.

Conditions

14. I have considered the Council's suggested conditions against the tests set out in paragraph 56 of the National Planning Policy Framework and have also had regard to the appellant's comments on those conditions. I have amended the wording where necessary to improve precision and enforceability.
15. In addition to the standard commencement condition, I have attached a condition specifying the approved plans to provide certainty. In the interests of the character and appearance of the area, conditions are necessary to require the submission of details of materials and landscaping. I have also imposed conditions relating to foul and surface water drainage, to prevent flooding and to ensure that the development is properly drained.
16. To provide adequate living conditions for future occupiers of the dwelling, a condition is necessary to secure a scheme of acoustic mitigation which shall accord with the submitted Noise Impact Assessment. Likewise, a condition is needed to secure the energy efficiency measures recommended in the Energy Statement, to address the requirements of SOLP Policy DES10.
17. I have imposed conditions to require the provision of on-site parking and an Electric Vehicle Charging Point, in the interests of highway safety and to secure compliance with SOLP Policies DES8 and TRANS5. The Council's suggested

condition relating to the construction of access onto the unnamed highway does not pass the tests of necessity or precision.

18. The Council's withdrawal of Refusal Reason 3 was subject to the imposition of a condition to deal with unsuspected contamination which is encountered during construction. It is reasonable to impose this condition.
19. Although the proposal is for a replacement dwelling, the building footprints do not overlap and therefore it would be physically possible for both properties to coexist. A condition is therefore necessary to require the demolition of the existing dwelling within 2 months of the first occupation of the new dwelling.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Block Plan (amended 08/06/2021), Proposed Development – Elevations (amended 08/06/2021), Proposed Development – Floor Plans and Roof Plan and Proposed Bike and Storage Shed Plans and Elevations.
- 3) No development shall take commence until a surface water drainage scheme, including details of the size, position and construction of drainage works, has been submitted to and approved in writing by the local planning authority. The drainage scheme shall be designed to accommodate a 1 in 10 year storm + 40% CC and shall be implemented in accordance with the approved details prior to first occupation of the development hereby approved.
- 4) No development shall commence until a foul water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the size, position and construction of the drainage scheme, all coupled with supporting calculations to demonstrate efficacy. Development shall be carried out in accordance with the approved details before the dwelling is first occupied.
- 5) No development shall take place above ground floor slab level until details and samples of all materials to be used in the external construction and finishes of the development hereby permitted (including bricks, tiles, external doors, windows, rainwater goods and window heads and sills) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place above ground floor slab level until a scheme for the landscaping of the site has been submitted to and approved in writing by the local planning authority. The submitted details shall include:
 - a) a plan showing all new tree and shrub planting, including details of species, plant sizes and numbers/densities;
 - b) a plan showing any existing trees and shrubs on the site which are to be retained; and
 - c) any earth moving operations and finished levels/contours.

The approved landscaping scheme shall be implemented in the first planting season following the completion of the development or the first occupation of the dwelling, whichever is sooner. In the event of any of the trees or shrubs dying, being removed or becoming seriously damaged or diseased within 5 years of the completion of the development, they shall be replaced in accordance with the approved scheme, or as otherwise agreed in writing with the local planning authority.

- 7) No development shall take place above ground floor slab level until a detailed scheme for protecting the occupants of the dwelling from traffic noise from the M40 has been submitted to and approved in writing by the local planning authority. The submitted scheme shall make provision for:
- a) Acoustically rated glazing and ventilators to accord with the recommendations set out in Section 4 and Appendix F of the Noise Impact Assessment; and
 - b) Mechanical ventilation for those habitable rooms served only by windows facing northwards towards the motorway, such ventilation to extract air from the front of the property.

The approved scheme shall be implemented prior to the first occupation of the dwelling and it shall be maintained thereafter.

- 8) The dwelling hereby permitted shall not be occupied until all carbon reduction energy efficiency measures have been implemented in accordance with the Energy Statement and a Verification Report has been submitted to the local planning authority and approved in writing. The Verification Report shall demonstrate (with photographic evidence) that the energy efficiency measures have been implemented. These measures shall be retained and maintained as such thereafter in accordance with the Energy Statement and Verification Report.
- 9) The dwelling hereby permitted shall not be occupied until the parking area has been constructed, laid out and surfaced in accordance with the approved plans, such surfacing to be porous or directed to drain to a soakaway compliant with sustainable drainage (SuDS) principles. The parking area shall be retained unobstructed at all times, except for the parking of vehicles associated with the development.
- 10) The dwelling hereby permitted shall not be occupied until provision has been made for an Electric Vehicle Charging Point. The Electric Vehicle Charging Point shall be maintained in a working condition thereafter.
- 11) Within 2 months of the dwelling hereby approved being first occupied the existing dwelling on the site shall be demolished and any resulting materials removed from the site.
- 12) The developer shall confirm in writing to the local planning authority the presence of any unsuspected contamination encountered during the development. In the event of any contamination to the land and/or water being encountered, no development shall continue until a programme of investigation and/or remedial works to include methods of monitoring and certification of such works undertaken has been agreed with the local planning authority. Where land contamination investigation/remedial works are required this must be carried out by a competent person in accordance with current government and Environment Agency Guidance and Approved Codes of Practice such as Land Contamination: Risk Management 2020 and BS10175:2011 +A2:2017 'Investigation of potentially contaminated sites'.

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