



Appeal Decision

Site visit made on 6 September 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2022

Appeal Ref: APP/D3125/W/22/3294656

Vicarage Field, Church Road, Milton-Under-Wychwood OX7 6LQ

- 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 and Mrs Holmes against the decision of West Oxfordshire District Council.
 - The application Ref 21/03859/FUL, dated 26 November 2021, was refused by notice dated 11 February 2022.
 - The development proposed is erection of a detached dwelling and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal upon the character and appearance of the area, having particular regard to the effect upon the settings and thereby the significance of the Grade II listed St Simon and St Jude's Church (the Church) and the Grade II listed Lychgate and churchyard boundary walls (the Lychgate and walls); and
 - The effect of the proposal upon the living conditions of the occupiers of Vicarage Field, having particular regard to privacy.

Reasons

Effect on character and appearance and heritage assets

3. The appeal site is comprised of a parcel of undeveloped garden land that has an open grassy appearance whilst being bound by established planting to much of its perimeter. The site sits to the front of Vicarage Field, a detached bungalow and lies to the south of the Church and its well vegetated churchyard. Despite regular instances of residential development to the opposite side of Church Road relative to the site, the area has a green, spacious and semi-rural character and appearance.
4. The designated heritage assets situated closest to the site are the Church and the Lychgate and walls. The significance and special interest of the Church is derived, in part, from its age, its relevance to the historic evolution and rural history of the village, its historic building fabric and its attractive aesthetic appearance. This significance and special interest is further underpinned by the spaciousness and openness of its semi-rural setting, which is contributed to in no small part by the appeal site. The significance and special interest of the

Lychgate and walls is drawn principally from their historic association to the Church as well as from their traditional materials and ornate detailing.

5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
6. The proposed dwelling would face towards Church Road and be set back from the road by some 43m. However, it would be centrally positioned at the narrowest point of the grounds that presently serve Vicarage Field. Moreover, the proposed dwelling would extend almost the entire width of the site. Whilst its height would step down from two-storey to single-storey towards the site's southern boundary, a dwelling of considerable overall bulk and mass would be introduced to the site and would have an urbanising influence. Indeed, the new dwelling would erode the extent of the open area and the associated visual gap that exists between the churchyard and the neighbouring dwelling to the south, Heathfield House.
7. In addition, land in front of the dwelling would incorporate a private patio area and a gravel driveway leading to a car parking area. Whilst a condition could be imposed to ensure no gates, walls or fences are erected beyond the principal elevation of the new dwelling, the creation of vehicular access, parking and patio areas would reduce the open grassy appearance of the site. This would result in an urbanising change to the setting of the heritage assets by diminishing the undeveloped semi-rural qualities of the site, which would detract from the openness of the surrounding area.
8. Whilst I accept that the development would be set down in relation to ground levels and the existing boundary vegetation would provide some partial screening, the overall development would result in encroachment onto land which presently has an open, undeveloped character. I also note that planting cannot be relied upon to provide a permanent buffer to views. This is because it is ever evolving and reliant on regular maintenance to retain a consistent form.
9. Reference has been made to fallback positions offered by previous planning approvals (20/02939/FUL and 21/00776/FUL) at the site. Each of these permissions involves demolition of the existing bungalow and the development of two replacement dwellings. However, each of these schemes, when compared to the proposal now before me, would retain a greater proportion of the frontage of the site as open and grassed garden. Whilst the proposed dwelling's ridge height would be lower than that of a similarly located two-storey dwelling approved under permission 21/00776/FUL, the approved building width is wider across the site and that dwelling would not be accompanied by new driveway and patio areas to its frontage.
10. I acknowledge that the bungalow would be retained rather than replaced by a second two-storey dwelling. However, the key point is that the previously approved schemes would be set further back from the road beyond lesser disturbed garden space when compared to the appeal proposal. As such, the fallback positions hereby referenced would have different implications for the historic and built environment. Thus, despite likely implementation should this appeal be unsuccessful, they attract limited weight.

11. Consequently, the proposal would cause harm to the significance and special interest of the Church and the Lychgate and walls by bringing forward development within their settings. I would qualify that the degree of harm would, in each case be less than substantial. In accordance with paragraph 202 of the National Planning Policy Framework (July 2021) (the Framework), that harm should be weighed against any public benefits of the proposal.
12. The proposal would provide a dwelling with adequate access to local services. However, given the small scale of the proposal, the provision of one additional dwelling would attract only limited weight as a scheme benefit.
13. There are valid fallback positions, as discussed above, that involve the demolition of the existing bungalow and the construction of two dwellings. The proposal before me, meanwhile, involved the intended retention and insulation of the bungalow. Whilst this approach would take account of embodied carbon within the bungalow, the scale of the development proposal dictates that any benefit in this sense would be attractive of limited weight.
14. Accordingly, giving great weight to the conservation of the designated heritage assets, I consider that the less than substantial harm I have identified would not be outweighed by the scheme's public benefits when considered cumulatively.
15. For the above reasons, the proposal would cause unacceptable harm to the character and appearance of the area and to the significance and special interest of the Church and the Lychgate and walls.
16. As such, the proposal fails to accord with Policies OS2, OS4, EH9, EH11 and EH13 of the West Oxfordshire Local Plan 2031 (2018) (the LP). Collectively, these policies, amongst other things, seek to ensure new development conserves and enhances the significance of heritage assets, including their settings. In reaching this conclusion I have had regard to the guidance in the West Oxfordshire Design Guide (2016), which seeks to protect the historic environment.
17. In addition, the proposal would not accord with the policies of the Framework (Section 16) which seek to conserve and enhance the historic environment.

Living Conditions

18. The proposed dwelling would be sited in close proximity to Vicarage Field. Should the proposal be implemented, Vicarage Field would continue to occupy a spacious plot that would wrap around the dwelling. Due to the dwelling's orientation, its private amenity spaces would be located to the south and east of the property.
19. The proposed dwelling would have three first floor windows in its rear elevation facing towards the private amenity space to the south of Vicarage Field. Two of these windows would serve habitable rooms and would not be obscure glazed. This would result in close range views into the neighbouring private amenity space being available from the new dwelling's first floor habitable room windows.
20. Upon inspection, I observe that various external areas are actively used by the current occupants, with evidence of outdoor seating and a patio area. Moreover, the occupiers of Vicarage Field currently have a choice over how

they use the different parts of their garden. That choice would be reduced due to the significant adverse effect on privacy caused by overlooking from the proposed development.

21. Whilst the appellants have stated that they intend to refurbish Vicarage Field and make changes to its internal floor layout, the full details of these anticipated changes are not before me and I thus cannot be sure that an acceptable situation would ultimately prevail.
22. Consequently, the proposal would result in an unacceptable level of overlooking of private amenity space. The proposal therefore fails to accord with Policies OS2 and OS4 of the LP. Collectively these policies, amongst other things, seek to ensure new development does not have a harmful impact on the amenity of existing occupants, or the use or enjoyment of land nearby.
23. The proposal would also fail to accord with the Framework (para 130), where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

Other Matters

24. The appeal site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB). The Framework requires that I must give great weight to the conservation and enhancement of the landscape and scenic beauty of an AONB. In this instance, given the siting and scope of the development and its immediate residential context, I find that there would be no adverse impacts to the AONB and that as such its landscape and scenic beauty would be conserved.
25. My attention has been drawn to a 1993 appeal decision and a more recent 2020 appeal decision (APP/D3125/W/20/3250709), both relating to the appeal site. The 1993 appeal decision was determined under different national and local policies. I therefore attach little weight to it. The more recent appeal decision relates to a scheme for three detached dwellings which considerably differs to the proposal now before me, which is for one dwelling alongside the retention of Vicarage Field. Whilst the Inspector identified that the proposed development to the rear of the site would not be harmful to local character, it too is a decision of limited relevance to my considerations. In any event, I have dealt with this appeal on its own merits.

Conclusion

26. The proposal conflicts with the development plan when read as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

Helen Smith

INSPECTOR