



Appeal Decision

Site visit made on 11 October 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/D3125/W/22/3301411

Butlers Court Farm, Butlers Barn, Main Road, Alvescot OX18 2PU

- 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 Malvern Estates Plc against the decision of West Oxfordshire District Council.
 - The application Ref 22/00473/FUL, dated 16 February 2022, was refused by notice dated 26 April 2022.
 - The development proposed is the construction of one dwelling and a detached garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area, having particular regard to the Alvescot Conservation Area;
 - whether the proposed development would preserve the setting of the nearby Grade II listed buildings; and
 - the effect of the proposal on flood risk.

Reasons

Character and Appearance

3. The appeal site consists of a flat parcel of overgrown grassland situated adjacent to Main Road, the main thoroughfare running through Alvescot. It is a prominent site as you enter the village from the north-west, with an overgrown low level drystone wall, interspersed with a few mature trees, running along the boundary with Main Road. Mature trees lie along the western boundary, with a large mature tree positioned on the north-western corner of the site. The built form on the south-western side of Main Road is slightly more sporadic and set back further from Main Road than the built form on the north-eastern side, which is more built up in the form of substantial detached properties and barn conversions and are positioned closer to Main Road. The dominant building material for domestic properties in the village is stone.
4. The site is within Alvescot Conservation Area (CA). The significance of the CA derives from its varied rural character, based on a history as a small farming community. Butlers Court is identified in the CA character appraisal as one of the early farms in the village. The CA appraisal states that Alvescot has a

loose-knit character and does not possess a strongly defined edge. The CA appraisal also mentions the drystone walling of various heights which can be seen throughout the village, albeit I noted on my site visit that it was common for there to be breaks in the walling to allow for pedestrian and vehicular accesses. The appraisal also refers to the small parcels of open land in the village which form valuable components of the character area and allowing a variety of attractive cross-views.

5. Historically, the appeal site was part of a slightly larger site, which has since been sub-divided, with a 20th Century dwelling known as Butlers Court Farm being constructed to the south-west of the appeal site. Holly Court House has also been constructed on the adjacent parcel of land. Therefore, whilst it has agricultural origins, the appeal site and its surrounds has been subject to change. As such, although the appeal site, in its undeveloped form, reinforces some of the characteristics that contribute to the significance of the CA, unlike some of the other parcels of open land in the village, it does not allow for particularly 'attractive cross-views', with the predominate view from Main Road looking towards the 20th Century additions of Holly Court House and Butlers Court Farm.
6. However, due to the scale of the proposal, which would involve the erection of a 2-storey dwelling, with living accommodation in the roof space, a two-storey rear projection and a narrow 2 storey side aspect, it would result in a substantial sized dwelling, which would be a stark and incongruous addition to the prominent site. The use of timber cladding on the garage and the rear projection, rather than make a reference to its agricultural setting, would add to the incongruity of the proposal. Whilst pitched roof dormers are visible elsewhere in the village, these tend to be on older properties, which are smaller in overall scale. Furthermore, the large detached double garage, with living accommodation above, would further emphasise the inappropriate scale of the proposal. Therefore, due to the scale and design of the proposal, the development would fail to preserve the character and appearance of the CA.
7. Whilst a degree of openness would be retained to the north and south of the proposal, the siting of the proposal, due to its proximity to Main Road, would also appear at odds with the existing development on the south-western side of Main Road. It would appear as a much more dominant building in the streetscene unlike the existing dwellings of Butlers Court Farm and Holly Court Farm, which sit further back from the main thoroughfare and are thus more discrete in the streetscene.
8. Therefore, due to the siting, scale and design of the proposal, the development would fail to preserve the character and appearance of the CA. The harm to the significance of the CA would be less than substantial. I am obliged to attach considerable importance and weight to the desirability of avoiding any harmful effect in accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Paragraph 202 of the National Planning Policy Framework (the Framework) (2021) states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
9. The development would provide a five bedroomed residential unit in an area which is currently unable to demonstrate a five year supply of deliverable

housing sites. However, whilst the development would provide some moderate economic and social benefits associated with the provision of an additional residential unit, these public benefits would not be significant enough to outweigh the harm to the CA identified.

10. Taking the above matters in to consideration, I conclude that the development would fail to preserve the character and appearance of the CA and would not meet the requirements of Section 72 of the Act. The proposal would conflict with Policies OS2, OS4, H2, EH2, EH9, EH10 and EH13 of the West Oxfordshire Local Plan 2031 (Local Plan) (adopted September 2018). In combination, these policies seek to ensure that new development respects the historic, architectural and landscape character of the locality, contributes to local distinctiveness and, where possible, enhances the character and quality of the surroundings. They also require great weight to be given to conserving and/or enhancing the significance of designated heritage assets including the special architectural and historic interest, character and/or appearance of the District's CA's and their settings. This includes, amongst others, the location, form, scale, massing, height and external appearance of the development conserving or enhancing the special historic or architectural interest, character and appearance of the CA.
11. It would also be contrary to the guidance in the West Oxfordshire Design Guide 2016 Supplementary Planning Document (SPD), most notably Part 6 which relates to CA's and states that special attention should be given to design, scale and massing, and use of materials, so that the existing character of the area is not harmed, and Part 11 which sets out that the final design of new development should respond meaningfully to its context. It would also be contrary to the principles set out in Section 16 of the Framework, which requires great weight to be given to heritage assets' conservation.

Setting of the Listed Buildings

12. There are a number of Grade II listed buildings close to the appeal site, most notably Shill House, the gatepiers, wall and railings of Shill House, the Granary, Manor Farmhouse with barn attached, and Butlers Court. The significance of each of these designated heritage assets derives from their individual historical and architectural special interest and built form. The setting of the majority of these designated heritage assets is best experienced within their relatively enclosed grounds associated with each of the private residential properties. The setting of the gatepiers, wall and railings is best experienced from Main Road, directly in front of the appeal site. Due to the proximity of the appeal site to these listed buildings, and its current undeveloped nature, the appeal site contributes towards the rural character and setting within which these designated heritage assets would have originally been set, albeit the construction of Holly Court House and Butlers Court Farm and other alterations including to boundary treatments and the surfacing of the road itself, have impacted on that setting.
13. Section 66 (1) of the Act requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great

weight should be given to the asset's conservation; the more important the asset, the greater the weight should be.

14. The appeal site is situated directly opposite Shill House, and its associated gatepiers, wall and railings to the front of the site, which are Grade II listed in their own right. Whilst the setting of the house itself is predominately influenced by its private, enclosed grounds within which it sits, the ornate design of the listed gatepiers with moulded cornice and ball finials, the curved dwarf rubble stone wall and the associated wrought iron railings, with small, spearheaded finials, form an important part of the setting of Shill House, and thus its significance.
15. The appeal site, due to its undeveloped nature and proximity, partly influences the setting of Shill House, and especially its associated gatepiers, wall and railings. There is a clear intervisibility between the appeal site and the gatepiers, wall and railings. Whilst the proposal would not 'rival' the scale and design interest of Shill House and does not introduce any boundary treatments along Main Road, the harm to the character and appearance of the area that I have identified above, due to the inappropriate siting, scale and design of the proposal, would consequently harm the open and undeveloped setting that Shill House and its associated boundary treatments currently sits within. This would consequently harm their significance.
16. The setting of the Granary is heavily influenced by the group of converted agricultural buildings, known as 1 to 7 Home Farm Barns, within which it sits. Whilst glimpses of the Granary are possible from Main Road, due to the intervening vegetation and stone boundary wall to the front of the Granary, there is no clear visual or functional relationship between the appeal site and the Granary. Therefore, it is considered that the setting of the Granary would be preserved.
17. Manor Farmhouse with a barn attached, which has in itself been converted to residential use, is seen in the context of the appeal site briefly when travelling along Main Road. However, the setting of Manor Farmhouse and its converted barn are heavily influenced by the highway of Main Road and the wide pavement which runs to the front. Therefore, whilst there is a brief visual relationship between the appeal site and Manor Farmhouse, the setting within which these assets are now experienced would be preserved.
18. Butlers Court is a relatively enclosed site, set back from Main Road and enclosed with mature vegetation. The appeal site would have historically been part of the agricultural land associated with Butlers Court. Therefore, whilst it functionally relates to the setting of Butlers Court, visually, there is little intervisibility between the two. The conversions of the Old Stables, Butlers Barn and Court Barn to residential use have also changed the former agricultural setting of Butlers Court. Therefore, it is considered that the setting within which Butlers Court is now experienced would be preserved.
19. Therefore, in view of the above, whilst I have found that the proposal would preserve the setting of the Granary, Manor Farmhouse and the attached barn and Butlers Court, the proposal would fail to preserve the setting of Shill House and the gatepiers, wall and railings associated with Shill House. The harm to the significance of the listed buildings would be less than substantial. Therefore, under the terms of Paragraph 202 of the Framework, I must weigh

the less than substantial harm to the significance of the heritage assets against the public benefits of the proposal.

20. The harm to the significance of the Grade II listed buildings is something to which I have given considerable importance and weight to. The Framework also requires that great weight should be given to heritage assets' conservation. Therefore, whilst there would be some social and economic public benefits arising from the proposal which I have already acknowledged above, these would not be sufficient to outweigh the harm that the proposal would cause to the significance of the designated heritage assets.
21. I conclude that the development would fail to preserve the setting of Shill House and the associated gatepiers, wall and railings. It would not meet the requirements of Section 66 of the Act. The proposal would conflict with Policies OS4, EH9 and EH11 of the Local Plan. In combination, these policies seek to ensure that new development conserves or enhances areas, buildings and features of historic significance. Great weight and importance will be given to conserving and/or enhancing the significance of designated heritage assets including the special architectural and historic interest of Listed Buildings, with regard to their character, fabric and their settings.
22. It would also be contrary to the guidance in the SPD, most notably Part 7 which relates to listed buildings and states that any proposal likely to entail harm to the setting of a Listed Building is unlikely to be supported and Part 11 which sets out that the final design of new development should respond meaningfully to its context. It would also be contrary to the principles set out in Section 16 of the Framework, which requires great weight to be given to heritage assets' conservation.

Flood Risk

23. As part of their appeal evidence, the appellant has provided a Surface Water Drainage Strategy (prepared by HSP Consulting) (dated August 2022). This concluded that the additional investigation works found that infiltration drainage solutions could not provide a reliable means of discharging surface water from the proposed development. An alternative drainage strategy is therefore recommended which discharges to the public sewer network at the south of the appeal site. Therefore, the appellant has requested consent from Thames Water to discharge into the surface water sewer close to the appeal site. However, I am unaware that an agreement has been reached.
24. Furthermore, the Surface Water Drainage Strategy states that once capacity is confirmed with Thames Water, this would enable the drainage strategy to be formalised. Given that Thames Water have not yet confirmed that there is capacity to discharge into the nearby sewer, a drainage strategy cannot yet be formalised. Consequently, I cannot be satisfied that the proposal would ensure that surface water from the development site would be adequately dealt with, and that the development would not increase flood risk to any existing property or land beyond the site boundary.
25. The appellant suggests that an appropriately worded condition could address the drainage and flood risk matters. I have not been provided with any suggested wording by either party. Based on the evidence before me, given the lack of certainty I have in regard to this fundamental matter, a condition to

deal with surface water drainage would not pass the tests of precision and reasonableness, as stated in paragraph 56 of the Framework.

26. Consequently, the proposal would not ensure that surface water from the development site would not result in adverse flood risk. It would be contrary to Policy EH7 of the Local Plan which requires development to avoid flood risk to people and property where possible and managing any residual risk. The policy also requires all sources of flooding to be addressed and measures to manage or reduce their impacts, onsite and elsewhere, incorporated into the development proposal, which the proposal would fail to do.

Other Matters

27. It is common ground between the parties that the Council is unable to demonstrate a five-year housing land supply. Paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development. In respect of paragraph 11(d) of the Framework with regard to decision-making, this means that where the policies which are most important for determining the application are out-of-date (including applications involving housing where the Council cannot demonstrate a five-year housing land supply), permission should be granted unless (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 confirms that this includes the policies of the Framework concerning designated heritage assets.
28. The harm to the designated heritage assets that I have identified above gives rise to conflict with specific Framework policies, most notably paragraph 199, which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Accordingly, the presumption in favour of sustainable development does not apply to this appeal.
29. I note that the Council's appeal statement makes numerous references to the settlements of Witney and Ducklington, which does not seem applicable to the appeal site. Whilst this may have caused some regrettable concern to the appellant, it does not materially affect my consideration of the planning merits of the appeal proposal.

Conclusion

30. The appeal scheme would conflict with the development plan when read as a whole. There are no material considerations, including the approach of the Framework and that are worthy of sufficient weight, that would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

Laura Cuthbert

INSPECTOR