



Appeal Decision

Site visit made on 8 March 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th April 2023

Appeal Ref: APP/C3105/W/22/3293884

Land North of Camp Road, East of Holly Trees and 1 Jalna Lodge, Upper Heyford

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Sharon Haddy and Mandy Borton against Cherwell District Council.
 - The application, Ref 21/03190/F, is dated 16 September 2021.
 - The development proposed is erection of dwelling, detached garage, widening of vehicular access and all associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has not issued a decision notice. However, I have had regard to paragraph 2.4 of the Council's appeal statement that sets out the reasons the Council would have refused the development proposed. The main issues below are taken from this.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for development with regard to the Council's spatial strategy for the area; and
 - the effect of the proposal on the significance of the Rousham Conservation Area and setting of the Upper Heyford Conservation Area.

Reasons

Location

4. Policy ESD1 of the Cherwell Local Plan, Part 1 (2015) (Local Plan) seeks to mitigate the impact of development within the District on climate change by, amongst other things, at a strategic level, distributing growth to the most sustainable locations. Policy Villages 1 of the Local Plan builds on this spatial strategy by recognising that village clustering allows for minor residential development to be accommodated within the built-up limits of service centres and smaller satellite villages. Although, permits only infilling and conversions within the built-up limits of other villages, such as Upper Heyford.

5. I note that Inspectors that have determined previous appeals relating to residential proposals on the appeal site and land adjacent have concluded that the site is not within the built-up limits of the village¹. From the evidence before me and my observations on site I am also of this view.
6. The appeal site is part of an undeveloped paddock located on Camp Road between the detached properties of Holly Trees to the west and The Old Post House to the east. To the northwest of the site is a more recently developed 'L' shaped group of houses, Nos 1 and 2, Lodge Cottage and Paddock Cottage. An access drive to this group of houses, a parking area and garden space are sited between the appeal site and Holly Trees. Part of the remaining area of the paddock is positioned between the appeal site and The Old Post House.
7. I recognise that the appeal site, the remainder of the undeveloped paddock, and The Old Post House are not within the non-coalescence zone or identified as Local Green Space by Policy PD3 of the Mid-Cherwell Neighbourhood Plan (2019) (NP). However, the purpose of Policy PD3 is to prevent coalescence of any development proposals at Heyford Park with the village of upper Heyford. This is to ensure that the separate identity of each settlement is maintained. Neither Policy PD3 nor Figure 18 of the NP define a settlement boundary for Upper Heyford. In this regard, individual sites must be assessed on a case-by-case basis.
8. The Old Post House is surrounded by fields, including the appeal site, and the remainder of the undeveloped paddock. There is currently a relatively large gap between the built form to the west of the appeal site, on the edge of the village, and The Old Post House, which the appeal site in its current form contributes to positively. There are also views through this gap to the wider countryside beyond. This visually reinforces the extent of the built-up area as ending before the appeal site, with Holly Trees and the 'L' shaped group of houses forming a clear settlement edge. Both the appeal site and The Old Post House therefore lie beyond the built-up limits associated with the village. Thus, Policy Villages 1 does not apply to the proposal.
9. Notwithstanding this, the proposal would not result in a new isolated home in the countryside. It would be located on the edge of Upper Heyford village and within walking distance of Heyford Park providing access to a range of local facilities and services. It would also be very close to the bus stop on Camp Road providing services to Bicester. Accordingly, it would support these local services and help to enhance and maintain the vitality of the rural communities in accordance with paragraph 79 of the National Planning Policy Framework (the Framework).
10. Nonetheless, saved Policy H18 of the Cherwell Local Plan (1996) (1996 Local Plan) deals with the construction of new dwellings beyond the built-up limits of settlements and grants planning permission only where there is an essential need for a new dwelling. There is no substantive evidence before me of an essential need for the proposed dwelling. The proposal would therefore conflict with saved Policy H18 of the 1996 Local Plan.
11. For the reasons above, despite the location being accessible to local facilities and services, it would be contrary to the Council's spatial strategy and would

¹ Appeal Reference: APP/C3105/W/18/3219210

conflict with saved Policy H18 of the 1996 Local Plan and Policy ESD1 of the Local Plan.

Conservation Areas

12. The appeal site is within the Rousham Conservation Area (RCA). I have therefore approached this appeal in the context of Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, which requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
13. The RCA consists of a relatively large area of landscape, including some landscape located north of Rousham house and Park that was designed in the picturesque tradition by William Kent. The significance of the RCA derives from the designed landscape and from the rural setting of the Cherwell Valley that it provides to Rousham House and Park, comprising flood meadows of the Cherwell and surrounding farmland. All views of the area are identified of significance in the RCA Appraisal (2018).
14. The RCA includes the rural villages of Upper Heyford and Lower Heyford, which have their own conservation areas. The RCA Appraisal recognises it to be fundamental that development in these settlements is sensitively designed and sited to ensure that the international significance of the Rousham landscape is preserved. Development at the settlement edges, such as the appeal proposal, it identifies as being of particular concern.
15. The boundary of the Upper Heyford Conservation Area (UHCA) is located a short distance north of the appeal site. Therefore, the duty under Section 72(1), which relates to any buildings or other land within a conservation area, does not apply in this case in relation to the UHCA. Nevertheless, Policy ESD15 of the Local Plan requires new development to conserve, sustain and enhance designated heritage assets including conservation areas and their settings. This approach is consistent with the Framework, which explains that the significance of a heritage asset derives not only from its physical presence but also from its setting.
16. The RCA provides the setting of the UHCA. Although there is limited intervisibility between the appeal site and the UHCA, Camp Road is one of the principal approaches into the village, thus the appeal site forms part of the rural and open surroundings in which the UHCA is experienced. While the appeal site is not identified specifically as an important green space of historic significance, the UHCA Appraisal (2018) identifies the open and aesthetic quality of the countryside adjacent to the village as integral to its character and appearance. The significance of the UHCA, in so far as it relates to this appeal, derives from it being a historic settlement and includes the linear morphology of the village and its valuable open rural setting provided by the RCA.
17. The appeal site in its current undeveloped form makes a positive contribution to both the RCA and the setting of the UHCA. Although there are houses nearby, the site is beyond the edge of the settlement and, despite not being farmed, has an open and rural character, which adds to the significance of both conservation areas. I note that the cottages to the northeast of the appeal site that form part of the existing settlement fringe are a more recent development. However, this does not lead me to a different perspective.

18. I recognise that the proposal would not affect any of the views specifically identified as being of particular importance in the UHCA and RCA Appraisals. However, all views of the RCA are identified as being of significance. While other built form and some evergreen trees may be positioned close to the appeal site, most of the site is bounded by the remainder of the paddock and the access drive and garden space associated with the group of cottages to the northwest. I note that the accompanying photosheets to the Landscape and Visual Technical Note (July 2021)² show that during the spring and summer when the trees have their leaves, and the hedges are larger and denser, views of the proposal would be limited. However, I saw on my visit that during the winter months when most of the tree canopies are bare and the hedge cut back, the site can be seen from multiple public vantage points, including Camp Road, Kirtlington Road and the Public Right of Way (PROW) that runs between the two. The site is particularly prominent from the PROW as you approach Camp Road. Given the PROW is slightly elevated above Camp Road and the appeal site, views are afforded through the site to the countryside beyond. This visually separates The Post House from the settlement fringe of the village.
19. The appeal proposal seeks to address the Inspectors' reasons for dismissing the previous residential proposals on the site and adjacent land. It would provide a single dwelling of a barn conversion style and design. It would no longer present a prominent frontage to Camp Road but would be orientated so that its side elevation would front the highway. It would also retain open paddock to the east, providing a gap between it and The Old Post House. This would result in a looser grain and more irregular pattern of development than the previous residential proposals, which would be more in keeping with the character of the settlement fringe.
20. Nevertheless, the proposal would diminish the open and rural character of the appeal site and its surroundings. In addition to the dwelling itself, its domestic curtilage would wrap around it. Unlike the relatively open frontages of the neighbouring cottages, the proposal would be fully surrounded by boundary enclosures, including a 2m high stone wall along the western boundary. Although in wider longer views the proposal would appear as part of the existing built form to the west of the site, closer to the site, particularly during the winter months, the extension to the built form associated with the village would be prominent. It would encroach into the open countryside setting of the village and would not relate to the historic linear pattern of the settlement. This would harm the significance of the RCA and the setting, and subsequently the significance, of the UHCA.
21. Overall, for the reasons above, I find the harm to the significance of the RCA and UHCA would be less than substantial. As such paragraph 202 of the Framework requires this harm to be weighed against the public benefits of the proposal.
22. In terms of benefits, the proposal would make use of an underused site and could be built out quickly. It would provide a good quality 3-bed single storey adaptable dwelling in an accessible location close to local services and facilities, which is a type of housing that has been identified as being in demand in the local area.

² Reference: 7595.AJ.001

23. The Council cannot demonstrate a five-year supply of deliverable housing sites. Its five-year housing supply figure, set out in the Cherwell Annual Monitoring Report 2021, is 3.5 years, which shows there to be a significant shortfall in supply. In view of this, the provision of any additional housing, particularly a type that is adaptable, accessible and in demand, carries significant weight. Nevertheless, the single dwelling in this case would make only a modest contribution to the District's housing supply.
24. The proposal would have social and economic benefits resulting from the construction of the new dwelling and subsequent occupation, as future occupants would be likely to contribute to the viability of the services and facilities in Upper Heyford and Heyford Park. It would also have environmental benefits resulting from the incorporation of sustainable measures such as electric car charging points. However, the modest scale of the proposal means that these benefits would also be modest.
25. Paragraph 199 of the Framework gives great weight to the conservation of designated heritage assets including conservation areas. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. I must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas. Given this, the modest benefits resulting from the proposal do not outweigh the harm I have identified to the significance of the conservation areas.
26. Accordingly, the proposal would conflict with Policy ESD15 of the Local Plan and the aim of the Framework to conserve and enhance the historic environment.

Other Matters

27. It has been put to me by the appellant that pre-application advice and feedback were sought on the application and that the Council did not respond, contrary to paragraphs 38 to 41 of the Framework. Whether or not that was the case and while I appreciate the benefit of early engagement and potential frustration that the lack of a response might cause, I must consider the appeal before me. I have found that the location of the development would be contrary to the Council's spatial strategy and the proposal would harm the significance of the conservation areas.
28. The appellant has also brought to my attention that the proposal is acceptable with regards to many other considerations, including highways, ecology, and the living conditions of neighbouring occupants. However, the proposals acceptability in these regards does neither address nor outweigh the harm that I have identified, nor justify conflict with the development plan.

Planning Balance and Conclusion

29. Overall, I have found that the proposal would result in harm to the significance of the RCA and UHCA, which is not outweighed by public benefits. The location of the development would also be contrary to the Council's spatial strategy. Thus, it would conflict with the development plan as a whole.
30. It has been put to me by the appellant that Policy H18 is inconsistent with the Framework. Irrespective of this, given the shortfall in housing supply, paragraph 11d) of the Framework falls to be considered. Accordingly, planning permission should be withheld where the application of policies in the

Framework that protect heritage assets provides a clear reason for refusing the development proposed, as is the case here.

31. I have found the proposal would conflict with the development plan read as a whole. Having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR