



Appeal Decision

Site visit made on 8 August 2023

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/D3125/W/22/3313464

Land part of Mistral, Witney Road, Ducklington, Oxfordshire OX29 7TN

- 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 Christopher Mills against the decision of West Oxfordshire District Council.
 - The application Ref 22/02425/FUL, dated 23 August 2022, was refused by notice dated 21 October 2022.
 - The development proposed is construction of detached dwelling with detached garage. New driveway and associated boundary treatments.
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Decision

1. The appeal is allowed and planning permission is granted for construction of detached dwelling with detached garage. New driveway and associated boundary treatments at Land part of Mistral, Witney Road, Ducklington, Oxfordshire OX29 7TN in accordance with the terms of the application, Ref 22/02425/FUL, dated 23 August 2022, subject to the conditions contained in Schedule 1 of this decision.

Applications for costs

2. An application for costs has been made by Mr Christopher Mills against West Oxfordshire District Council and this is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposal upon the character and appearance of the area and linked to this whether the development proposed would lead to the coalescence of Ducklington and Witney.

Reasons

4. Policy H2 of the West Oxfordshire Local Plan 2031 (LP) (adopted 2018) identifies in what circumstances new development in 'villages' would be permissible. Ducklington is identified as one of these 'villages' in the LP. It states that on undeveloped land within the built-up area provided that the proposal is in accordance with the general principles in the plan and in particular the general principles in Policy OS2 that new dwellings would be permitted. Policy OS2 states that villages are suitable for limited development which respects the village character and local distinctiveness and would help maintain the vitality of these communities. A single dwelling would be limited development in relation to the size of Ducklington.
5. The site is located at the end of the Witney Road which leads onto a large roundabout that has several large commercial units around it. The sign

welcoming people to Ducklington is located ahead of the site and both vehicular users and pedestrians must pass this sign before the site going into the village. Moreover, the site is bound by Witney Road on one side and the A415 on the other side and these two roads bound this part of the village with the dwellings typically located between them. The village sign clearly identifies that you are entering the Ducklington and the two roads that wrap around the site act as both a physical and visual boundary to the village. The mixed conifer and deciduous hedge that bounds the site also contributes towards this. The West Oxfordshire Landscape Assessment (1998) Key Settlements Plan for Ducklington also identifies this same boundary as a strong landscape edge to the village. Accordingly, the site is within the built-up area of the village.

6. Even if the site was not considered to be within the built-up area, it is not disputed that the council cannot identify a 5-year housing land supply. As such, there is substantive evidence that the proposal would be necessary to meet identified housing need and as a result, the proposal would also comply with Policy H2.
7. The residential development in Ducklington appears to have been undertaken sporadically with many twentieth century cul-de-sacs with variation in terms of the scale and design of the dwellings. However, there is a consistent use of materials, and this visually connects the developments and makes a positive contribution to the villages distinctive character.
8. The detailed design of the dwelling and the garage has incorporated local architectural features and materials and would relate well to the residential development in this part of the village. Additionally, the proposed scale of the dwelling would be commensurate with the neighbouring properties. Accordingly, the design and scale of the proposed development, when viewed in isolation, would respect the villages distinctive character.
9. As the site is located at the end of the village it does contribute to the transition between the village and the commercial development around the roundabout. However, given the urbanising effect the commercial development has had upon the area, this area does not have a typical rural character and the appeal site does not transition to a rural landscape. There are dwellings further along Witney Road and these are attractive buildings typically set within spacious gardens and this creates a semi-rural character. Mistral and the appeal site are bound by a continuous tree and hedgerow belt and as a result there is no clear division between the site and Mistral. Whilst the character changes between the village and the roundabout, the site is viewed as part of the village.
10. The setting of this section of the village is influenced by the commercial development on the roundabout that looms over the area given the large scale and siting of these buildings. These factors limit the value this small site contributes to conserving the setting of the village which has been eroded by this commercial development and the engineering works associated with the roundabout. Accordingly, the openness of the site makes a very limited contribution to the villages setting.
11. The site is grassland bound by tall hedgerows and this well-maintained garden does make a positive contribution to the character of this part of the village, insofar as it is an attractive garden. The proposed development of the site

would erode the openness of it which would urbanise the site and thus harm the positive contribution it does make at this entrance to the village.

12. However, the site is bound by the commercial development as well as the residential development along Witney Road and in relation to the wider setting of the village, the erection of a dwelling on this site would not harmfully urbanise this end of the village. The developed site would still be viewed as part of the semi-rural character associated with the village and given the limited scale of the proposal the site would still positively contribute to the transition to the commercial development on the roundabout. The limited scale of the development and the location of the site within the built-up area of the village would conserve the local landscape. Furthermore, the occupiers of the proposed dwelling would also contribute towards maintaining the vitality of the community through patronage of local services and facilities.
13. The site is flat and there are open views across it, despite being enclosed by the tall boundary hedges and trees. The roads that wrap around the site and the large roundabout act as a visual boundary to the village and after that point there is a clear visual change between the village and the more urban and commercial development around the roundabout. From the site Witney is not clearly visible and the views between the two settlements are blocked by the development around the roundabout and the A40 flyover.
14. This lack of intervisibility and the very limited size of the site, in relation to the wider gap between the two settlements, means the site makes a very limited contribution to maintaining the gap between them. The development of this site would partially erode the gap between the two settlements, however, a single dwelling on this small site would not harmfully erode the gap between the two settlements and would not lead to the coalescence of them.
15. Therefore, the proposal would not harm the character or appearance of the area and would not lead to the coalescence of Ducklington and Whitney. Consequently, it would accord with Policies H2, OS2, OS4 and EH2 of the LP. It would also generally accord with the West Oxfordshire Design Guide (2016), the National Design Guide (updated 2021) and the National Planning Policy Framework (the Framework). These seek to ensure development is delivered in a hierarchical manner and would respect the village character and local distinctiveness.

Other Matters

16. Whilst I note that an appeal was dismissed for a single dwelling on this site in 2008 a new local plan has since been adopted and there has been further development on the roundabout next to the site. Accordingly, the character of the area as well as the policy position has substantively changed since that appeal was determined and as such, I attach limited weight to this matter in making my decision.

Conditions

17. In the interest of clarity, I have revised the suggested conditions where I have considered it necessary to do so.
18. Further to the statutory commencement condition it is necessary in the interest of certainty that the development is carried out in accordance with the approved plans. Whilst reference is made to the materials proposed within the

supporting documentation the plans themselves identify that the materials are to local authority approval. This discrepancy between approved documents could cause confusion when it comes to discharging the conditions. Furthermore, the surface materials are important to local distinctiveness. Therefore, in the interest of the character and appearance of the area as well as certainty it is necessary for the materials to be approved by the council prior to above ground building work.

19. A condition requiring a surface water drainage scheme is necessary in the interest of ensuring proper provision for surface water drainage is delivered and flooding is not exacerbated in the locality.
20. The materials that the windows and doors would be built from would be covered by condition 4 and as such it is not necessary to require further details to be submitted in another condition. Additionally, the specific design of the windows and doors in the area have not been identified as making a significant contribution to the character of the area. Accordingly, there is no substantive evidence before me that such detailed control over the design of the windows and door is necessary in the interest of the character and appearance.
21. A condition requiring the parking and turning areas to be constructed prior to occupation is necessary in the interest of highway safety. Given that the proposal is for a single dwelling where there would be a very limited number of vehicular movements it is not necessary to mark out the parking spaces themselves.
22. A condition to secure other ecological enhancements including bat and bird boxes is necessary to secure the associated benefits. To ensure protected and priority species are not harmed by the proposal, it is necessary that the development is undertaken in accordance with the measures outlined in the West Oxfordshire District Council's Precautionary Method of Working. In addition, details of external lighting and hedgehog gaps and / or holes is necessary for the similar reasons as well as to secure the biodiversity enhancements.
23. The mixed conifer and deciduous hedge that bounds the site makes a positive contribution to the character and appearance of the area and as such it is necessary to include a condition requiring their retention and replacement.
24. The Framework identifies prudent use of natural resources as a key element of achieving sustainable development. Whilst there are mandatory national water efficiency standards set out by Building Regulations, the Planning Practice Guidance (2015)¹ allows for local planning authorities to require new dwellings meet the tighter Building Regulations option requirement of 110 litres/person/day, where there is a clear local need. Policy OS3 of the LP sets out the optional Building Regulations requirement for water efficiency of 110/litres/person/day. This is a policy in a LP adopted after the PPG and there is no evidence before me that this policy is inconsistent with national policy. Accordingly, it would be necessary to include a condition related to this in the interest of the prudent use of natural resources.
25. There is no substantive evidence before me that the previous use of the site or the surrounding uses would result in site being at risk from contamination. In

¹ Paragraph: 014 Reference ID: 56-014-20150327

light of this, it is not reasonable or necessary to include a condition requiring contamination assessments to be undertaken.

Planning Balance

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise.
27. The Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites. The Framework states that the relevant policies for the supply of housing are to be considered out of date if the local planning authority cannot demonstrate such a supply. For decision making this means that where the relevant development plan policies are out of date, planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Paragraph 11 of the Framework sets out the presumption in favour of sustainable development and the tilted balance in paragraph 11d) of the Framework is engaged in this case.
28. In terms of the adverse impacts, there would be a limited negative effect on the character and appearance of the area, although the development can be sited to reduce the harm and incorporate design measures to mitigate the impact to an acceptable level. The proposal would have a modest negative environmental effect in terms of the use of natural resources arising from the use of the private motor car in this semi-rural location, although it is unlikely to generate a significant number of vehicle movements. The proposal accords with the overall aims of all other relevant development plan policies set out in the LP. Other potentially adverse effects would be overcome or satisfactorily mitigated by planning conditions.
29. Against that, the proposal would provide social and economic benefits through contributing to the supply and mix of housing in the area, providing construction jobs and supporting local services and facilities. The Framework promotes sustainable development, and the additional dwelling would make a positive, albeit modest contribution to the supply of housing and supporting the vitality of the village and the surrounding rural communities. This would support the economic and social objectives of sustainable development that weighs in favour of the proposal.
30. In environmental terms, the appellant states that the scheme's design, landscaping, biodiversity enhancement and efficient use of the land would amount to environmental benefits. These benefits are tempered by the scale of development as one dwelling, but nevertheless carry modest weight in favour of the proposal.
31. Consequently, the adverse impacts arising from this development do not significantly and demonstrably outweigh the scheme's benefits. The proposal would therefore represent a sustainable form of development when assessed against the Framework read as a whole, which is a material consideration in favour of the development. The factors above collectively provide the material considerations to grant planning permission other than in accordance with the development plan.

Conclusion

32. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal is allowed.

G Sibley

INSPECTOR

Schedule 1

- 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: Ref: 2210 – 002 and 2210 – 003.
- 3) Prior to the commencement of development hereby approved, a full surface water drainage scheme shall be 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 and results of soakage test carried out at the site, to demonstrate the infiltration rate. Three test results should be submitted for each soakage pit as per BRE 365, with the lowest rate (expressed in m/s) used for design. The development shall be carried out in accordance with the approved details prior to the first occupation of the development. The development shall not take place until an exceedance flow routing plan for the flows above the 1 in 100 year +40% climate change event has been submitted to and approved in writing by the Local Planning Authority.
- 4) Before above ground building work commences, a schedule of materials (including samples) to be used in the elevations of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be constructed using the approved materials and shall be retained thereafter.
- 5) The car parking and turning areas shown on the approved plans shall be constructed before first occupation of the development hereby approved. The development shall not be occupied until space has been laid out in accordance with Plan Ref: 2210-002 to enable two vehicles to enter, turn around and leave the curtilage in a forward gear. This shall then thereafter be retained and used for no other purpose.
- 6) The development hereby approved shall be carried out in accordance with the measures outlined within the West Oxfordshire District Council's Precautionary Method of Working. The recommendations shall be implemented in full, unless otherwise submitted to and approved in writing by the Local Planning Authority.
- 7) Before the erection of any external walls hereby approved, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall show how and where external lighting will be installed (including the type of lighting), so that light spillage into wildlife corridors will be minimised as much as possible. All external lighting shall be installed in accordance with the specifications and locations set out in the approved details, and these shall be maintained thereafter in accordance with these details. Under no circumstances should any other external lighting be installed without prior written consent from the Local Planning Authority.
- 8) Before the erection of any external walls, details of the provision of integrated bat roosting features and integrated nesting opportunities for birds within the walls of the development hereby approved, as well as hedgehog gaps and / or holes within new fences and / or walls, shall be

submitted to and approved in writing by the Local Planning Authority. The details shall include a drawing and or drawings showing the types of features, their locations within the site and their positions of the elevations of the buildings, and a timetable for their provision. The approved details shall be implemented before the development is first occupied and thereafter permanently retained.

- 9) The existing mixed conifer and deciduous hedge along the north, east and western boundary of the land shall be retained at a height of not less than 5 metres and that any plants which die shall be replaced in the next planting season with others of a similar species and shall be retained thereafter.
- 10) The dwelling hereby approved shall not be occupied until the means to ensure a maximum water consumption of 110 litres use per person per day, in accordance with Policy OS3 has been complied with for that dwelling and retained in perpetuity thereafter.