



Appeal Decision

Site visit made on 29 August 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2023

Appeal Ref: APP/C3105/W/23/3315481

Land North East of Fringford Study Centre, Rectory Lane, Fringford OX27 8DP

- 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 A Bradbury against the decision of Cherwell District Council.
 - The application Ref 22/00998/F, dated 30 March 2022, was refused by notice dated 12 August 2022.
 - The development proposed is the construction of a four-bedroom detached dwelling with garage and access.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a four-bedroom detached dwelling with garage and access at Land North East of Fringford Study Centre, Rectory Lane, Fringford OX27 8DP in accordance with the terms of the application, Ref 22/00998/F, dated 30 March 2022, subject to the conditions set out in the schedule attached to this decision.

Applications for costs

2. An application for costs was made by Mr A Bradbury against Cherwell District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. Fringford is characterised by a mix of properties, most of which are detached and occupy well proportioned, maturely landscaped plots. The spacious, loose-knit development pattern along Rectory Lane together with the abundance of greenery throughout the village provides for a verdant, semi-rural character and appearance.
5. The appeal site occupies a corner position between Rectory Lane and Farriers Close and comprises a vacant plot, covered by dense vegetation including several protected trees. The site is slightly raised above the adjacent lane and the topography of the site is generally flat. A dwarf stone wall encloses the front part of the site. The site's contribution to the character of the area lies in its verdant appearance.
6. The proposed two storey dwelling would be positioned broadly central in the plot and would front the lane. The submitted plans show that the overall plot

size together with the scale, appearance and external finish of the dwelling would be contextually in keeping with the surrounding area.

7. The removal of a 'C' class sycamore is indicated within the submission. The available evidence suggests that the sycamore in question does not hold high amenity value and based upon on my own observations at my site visit, I have no reason to disagree with this assessment. The other protected trees and existing hedgerows would be retained and incorporated into the development along with the new hedgerow planting identified on the site plan.
8. The appeal proposal would introduce built form onto an undeveloped gap of land. However, given the extent of landscaping to be retained, including all but one of the protected trees, the verdant character of the appeal site would be maintained as would the semi-rural character and appearance of the surrounding area. Furthermore, having regard to the prevailing pattern of built form together with the overall plot size and scale of the proposed dwelling, it would not read as an overly intensive form of development. Therefore, the sense of spaciousness and loose-knit structure of Rectory Lane would not be eroded.
9. The section of dwarf stone wall, although of a traditional appearance is of a relatively moderate length and height, and it has limited presence along the lane. Therefore, I do not consider that its removal would be of detriment to the site's immediate surroundings or indeed the character and appearance of the wider village.
10. I have had regard to the appeal decision¹ which relates to an alternative development on the site, and it is acknowledged that the Inspector concluded that the combined loss of the trees and introduction of the proposed built form would alter the appearance of the street scene to a significantly harmful degree. However, unlike this scheme, the current proposal seeks to retain all but one tree and thus is materially different. It therefore does lead me to a different conclusion.
11. For these reasons, I find that the appeal proposal would not harm the character and appearance of the area and therefore would accord with Policies ESD 15 of the Cherwell Local Plan 2011-2031 together with saved Policies C28, C30 and C33 of the Cherwell Local Plan 1996. Collectively, and amongst other aspects these policies seek to ensure that development proposals respect and enhance local landscape character and the built environment. The proposal would also be consistent with the design objectives of the National Planning Policy Framework (the Framework) where they seek to secure the creation of high-quality buildings and places.

Other Matters

12. The appeal site lies within an area of archaeological potential. The Council's report indicates that a condition requiring an Archaeological Written Scheme of Investigation would provide sufficient opportunity to examine and record any archaeological features unearthed during the development. Although the interested parties are critical of the Archaeological Evaluation submitted, there is no compelling evidence before me to indicate that such an approach would

¹ APP/C3105/A/10/214069

be unacceptable. Therefore, I have no reason to disagree with the Council's conclusions on this matter.

13. For the purposes of Local Plan Policy 1, Fringford is classified as a Category A village. These are recognised as the most sustainable rural settlements in the district and the policy provides for appropriate minor development, including infilling. The delegated report sets out that the appeal development would amount to infilling and, based on the available evidence I have no reason to disagree with this conclusion. Consequently, whilst I have had regard to the concerns expressed regarding the principle of the development including access to services and housing need, the evidence does not indicate that the proposal would be inconsistent with the spatial strategy for the district.
14. The proposed plans indicate adequate provision for the parking and turning of vehicles within the appeal site boundary. Further, whilst acknowledging the concerns in relation to construction traffic, given the scale of development, I am not persuaded that these movements would result in an unacceptable or severe impact on highway safety. The lack of street lighting and pedestrian footways were noted at my site visit. However, there is no evidence before me to suggest that this would be prejudicial to highway safety.
15. Due to the orientation of neighbouring dwellings together with the intervening distances which I observed at my site visit, I am satisfied that adequate living conditions would be safeguarded. Whilst mindful of the concerns expressed, no substantive evidence has been provided which would indicate harm.
16. The planning application form indicates that surface water would be discharged to a soakaway. Concerns in relation to land drainage and the potential for surface water flooding have been put to me by interested parties. Nevertheless, there is no cogent evidence before me to suggest that there are land drainage issues in the area. In any event, a condition securing a surface water drainage scheme would provide sufficient control in this regard.
17. The planning application was accompanied by an Ecological Appraisal. In responding to the planning application consultation, the Council's ecologist did not raise any concerns regarding the findings or quality of the assessment and, in the absence of any robust evidence to indicate otherwise, I have no reason to doubt the adequacy of the assessments.
18. The Arboricultural Impact Assessment details various tree protection measures including exclusion zones, protection barriers and ground protection during the construction phase. Based on this information and subject to a planning condition securing the implementation of the protection measures, I am satisfied that the well-being of the protected trees would not be threatened.
19. It is understood that there is a planning condition attached to the permission for the neighbouring development which requires the retention and maintenance of the appeal site in the interests of visual amenity and public open space. This condition however does not prejudice my consideration of the appeal proposal. Further, whilst mindful of the administrative errors highlighted by the interested parties, there is no evidence to suggest that any party was prejudiced.

Conditions

20. I have had regard to the various planning conditions that have been suggested by the Council and I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and for clarity and consistency.
21. In addition to the standard time limit condition (Condition 1), I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty (Condition 2). The appeal site lies within an area of archaeological potential and therefore, a condition requiring the undertaking of a written scheme of investigation is reasonable and necessary to ensure that any features of archaeological interest are recorded (Condition 3).
22. In the interests of the character and appearance of the area, a condition relating to external materials (Condition 4) is imposed. For the same reason, and to ensure that the local environment is enhanced, a condition securing details of landscaping and biodiversity measures, including implementation and maintenance is necessary (Condition 5). A surface water disposal scheme is necessary to ensure surface water is disposed of appropriately (Condition 6).
23. To minimise the effect of the proposal on ecological features, a condition requiring the implementation of the mitigation measures set out in the Ecological Appraisal is necessary (Condition 7). To safeguard the integrity of the protected trees and ensure their future well-being, I have imposed a condition requiring adherence to the Arboricultural Method Statement (Condition 8). A condition requiring the provision of the access and on-site parking/turning is necessary in the interests of highway safety (Condition 9).
24. Conditions restricting the future enlargement, improvement or alteration of the dwelling including any outbuildings or means of enclosure have been recommended by the Council. I acknowledge that the scope of permitted development rights could potentially allow further development within the site. However, I am mindful of the advice set out within paragraph 54 of the Framework which indicates that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. Based on the available evidence together with the above and the advice set out within the PPG, I am not persuaded that there is sufficient justification. Therefore, the condition would fail the tests of reasonableness and necessity. The suggested condition relating to water efficiency is not necessary as it would duplicate Part G of the Building Regulations.

Conclusion

25. In determining the appeal, I have had regard to the concerns expressed locally. However, for the reasons outlined above, and having regard to the development plan as a whole and all other relevant material considerations, including the Framework, the appeal is allowed.

H Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans;
 - Proposed Floor Plans 02
 - Proposed Elevations 03
 - Site Plan 04
 - Block Plan Drawing 05
3. No development shall commence on site (including groundworks, site, or vegetation clearance) until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. Following approval of the Written Scheme of Investigation and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research, and analysis necessary to produce an accessible and useable archive and a full report for publication shall be submitted to the local planning authority within two years of the completion of the archaeological fieldwork.
4. No development shall take place above slab level until a schedule of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
5. No development shall take place above slab level until a Landscaping and Biodiversity Enhancement scheme including an implementation and management strategy has been submitted to and approved in writing by the local planning authority. The Landscaping scheme shall include details of hard and soft landscaping, including any tree removal/retention, existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities. The development shall thereafter be undertaken strictly in accordance with the details so approved.

Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, and shrubs of the same size and species.

6. No development shall take place above slab level until details of surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details prior to first occupation of the dwelling and maintained as such thereafter.
7. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Ecological Appraisal dated February 2021.
8. The development hereby permitted shall be carried out in accordance with the Arboricultural Method Statement contained within the Arboricultural Impact Assessment and Tree Protection Strategy, dated 22 June 2022.
9. The proposed access, parking and turning facilities shall be provided in accordance with the approved plans prior to the first occupation of the development hereby permitted. The access, parking and turning facilities shall thereafter be permanently retained.

END OF SCHEDULE