



Appeal Decision

Site visit made on 5 September 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18.10.2023

Appeal Ref: APP/D3125/W/22/3313201

Home Farm, Mount Skippett, Ramsden, Chipping Norton OX7 3AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr J Legard on behalf of Legard and Cashell Holdings Ltd against the decision of West Oxfordshire District Council.
 - The application Ref 22/02364/PIP, dated 19 August 2022, was refused by notice dated 23 September 2022.
 - The development proposed is described as 'Permission in principle for the construction of up to four dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner heading is taken from the planning application form, however I have removed the superfluous words which are not acts of development.
3. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages. The first stage (permission in principle) establishes whether a site is suitable in principle. The second stage (technical details consent) is when detailed proposals are assessed. This appeal relates to the first stage.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
5. An indicative site layout plan was submitted as part of the application. I have treated this as being for illustrative purposes only.
6. I note that the lawfulness of the current use of the site is disputed, and that an Enforcement Notice (EN) has been served by the Council and an appeal lodged against it. However, it is not within my remit to comment upon the lawfulness of that use, nor the likely outcome of the EN appeal.
7. The submissions indicate that the Highway Authority comment in relation to the planning application, was based on the assumption that the existing use of the site was lawful. In light of the now apparent uncertainty in relation to that matter, and concerns raised by the Council and interested parties, although not a reason for refusal, the Council has raised an objection on that basis. The

appellant has had the opportunity to comment upon that matter and, indeed has done so. Therefore, no injustice would arise if I considered the effect on highway safety as a main issue in this appeal.

8. There is no dispute between the parties regarding the proposed land use or the amount of development. The Council's officer report confirms that it considers the use would be compatible with the residential surroundings and that the site could accommodate up to 4 dwellings.

Main Issues

9. The main issues are therefore (i) whether the development would be in a suitable location having regard to development plan policies, the National Planning Policy Framework (the Framework) and access to services; and (ii) the effect of the proposed development on highway safety.

Reasons

Location

10. The appeal site comprises a former farmyard which lies at the end of the existing built development on Skippett Lane. It includes an area of hardstanding and a group of single storey former agricultural buildings and adjoining land. It is currently used for storage, office, and workshop purposes in connection with the car servicing and sales business which operates from the site. The site fronts the lane in part and is bound by the neighbouring residential properties and adjoining agricultural land.
11. Policy OS1 of the West Oxfordshire Local Plan 2031 adopted 2018 (LP) sets out the presumption in favour of sustainable development, and that planning applications that accord with relevant policies in the LP will be approved, unless material considerations indicate otherwise.
12. Policy H1 of the LP sets out the housing supply targets to meet identified housing needs of the area for the plan period up to 2031, to be delivered in accordance with the strategy set out in LP Policy OS2. Policy OS2 of the LP sets out the settlement hierarchy for the location of new development, with a significant proportion being directed to the main service centres. Villages are identified as being suitable for limited development which respects their character and local distinctiveness and would help to maintain the vitality of these communities. Development in the small villages, hamlets, and open countryside, however, is limited to that which requires and is appropriate for a rural location and which respects the intrinsic character of the area. Proposals for residential development are to be considered under Policy H2 of the LP.
13. The supporting text for Policy H1 indicates that windfall developments on sites that are not allocated for housing can include previously developed (brownfield) land where the current use may no longer be viable. It also sets out that it is important that windfall development supports the delivery of the Local Plan strategy, specifically that it should contribute to meeting housing needs in sustainable locations, recognise the intrinsic character and beauty of the countryside and, where appropriate, encourage the re-use of previously developed land.
14. Policy H2 of the LP sets out that in small villages, hamlets and open countryside new dwellings will only be permitted where they comply with the

general principles set out in Policy OS2 and in specific circumstances. The proposal does not fall within the exceptions listed in Policy H2.

15. The appeal site lies on the edge of Mount Skippett, a small hamlet comprising scattered development of farmsteads and residential properties. The spacious layout of the development along Skippett Lane, and surrounding agricultural land, contribute to the pleasant semi-rural character of the area. This differs from the more densely built-up character of the main part of Finstock village. Whilst development extends in a linear form for the most part continuously outwards from Finstock towards Mount Skippett, on at least one side of the main road, the settlements are nevertheless distinctly different in character and appearance.
16. Moreover, due to the separation distance between them, the site is visually and functionally divorced from the village of Finstock. As such it cannot be reasonably said that the appeal site is located on the edge of Finstock, but rather it forms part of the separate hamlet of Mount Skippett. Consequently, as Mount Skippett is not identified as a village in the settlement hierarchy set out in Table 4b of the LP, the appeal site is therefore on the edge of a hamlet for planning policy purposes.
17. The nearest bus stop is located at the junction of Skippett Lane with High Street. The service runs daily Monday - Friday, with several busses operating throughout the day between the towns of Witney and Chipping Norton as well as local train stations. Whilst the bus stop is a short distance from the appeal site, the route to it is however along an unlit lane without a footpath.
18. The development would not be isolated from other dwellings but there are no facilities, aside from the bus stop within a short distance of the hamlet itself. There are a range of amenities within nearby Finstock, including a primary school, church, village hall, public house and village shop. However, due to the separation distance, these facilities would be beyond a reasonable walking distance. In addition, given the absence of streetlights and roadside pavements along Skippett Lane, it is likely that this would further discourage trips by foot or bicycle and that trips from the site to Finstock would be made by car.
19. Moreover, it is likely that residents would need to travel to a broader range of facilities at larger settlements further away from the site. As such, it is unlikely the location of the proposal would promote the use of sustainable modes of travel as advocated in the Framework. Instead, it is probable that occupants and visitors would be highly reliant upon private motorised transport to get to and from the development.
20. I note the appellants suggestion that by 2030 all new motorcars will be electric and therefore any harm with regards to the lack of realistic sustainable travel options would be reduced in the medium term. However, I cannot be certain that residents or visitors to the site would use electric vehicles in the future.
21. Reference has been made by the appellant to examples of cases where permission was granted by the Council for new residential development on sites that are not significantly nearer to facilities and services within Finstock than the appeal site¹. I recognise that the appeal site is geographically close to these sites. However, not only are they closer in proximity to the main built-up

¹ 16/04252/FUL and 15/03722/FUL

form of Finstock, but they also benefit from a greater degree of ease of accessibility to the bus stop and local services, as there is for the most part a footpath along the main road. The appeal site therefore does not benefit from the same relationship with the village and facilities and services therein. My attention is also drawn to an appeal decision at Ramsden². However, the site in that case also has a different relationship with the village, and was considered to be an infill plot. It is therefore not directly comparable to the appeal scheme, and in any event each case must be considered on its own merits.

22. For the foregoing reasons, I conclude the development would not be in a suitable location having regard to development plan policies. It would be on the edge of a hamlet and would be in clear conflict with LP Policies H1 and H2 which set out the development strategy and settlement hierarchy, including the provisions of the LP that apply to windfall sites, and Policy OS1, which amongst other things supports proposals that accord with the policies in the LP. Also, for the above reasons, it would be in an unsuitable location when having regard to accessibility and the aims of the Framework.

Highway safety

23. Skippett Lane is a rural lane, which is single track in part, with sections of high boundary hedges along it. It has a tight bend and incline not far from the appeal site and is devoid of streetlighting and a separate footpath. Given the difficulties for vehicles to pass, and the fact that the lane would be a shared space between pedestrians, cyclists and vehicles, traffic associated with the development would be likely to give rise to highway safety implications through an increased risk of pedestrian and/or vehicle collisions.
24. Whilst I have not been provided with a copy, the appellant indicates that a traffic survey has been undertaken which demonstrates that the proposal would result in a significant reduction in traffic movements. It is suggested that this would include goods vehicles and large vans, recovery trucks, to and from the site and would have benefits in terms of highway safety. Even if this were to be the case, given the uncertainty regarding the lawful use of the site, the existing traffic associated with the car sales and repair use cannot be relied upon to justify the development. As such, there is no substantive evidence to demonstrate that the proposal would not have a harmful effect on highway safety.
25. For the above reasons I therefore conclude that the proposal would harm highway safety. Accordingly, it would conflict with the aims of the Framework, which among other things, states that development should ensure that safe and suitable access to the site can be achieved for all users.

Other Matters

26. The proposal would contribute to housing supply where there is an identified shortfall, which is not undermined by the fact that the proposal seeks permission in principle. There would also be short term economic benefits of additional housing during the construction phase as well as social benefits. These benefits are tempered by the modest amount of development, but nevertheless carry moderate weight in favour of the proposal.

² APP/D3125/A/14/2220555

27. The development would offer benefits in terms of the appearance of the site, it would also enable the relocation of the existing business to an alternative site with more modern and suitable buildings and away from neighbouring residential properties. Nevertheless, it was evident at my site visit that the site itself is not particularly unsightly. Furthermore, I have not been presented with any compelling evidence that the existing site and buildings are not suitable for business use or that the existing use has a significant detrimental effect on the living conditions of neighbouring properties. Moreover, given the uncertainty regarding the lawful use of the site, any perceived benefits in that regard would be of limited weight.
28. Whilst I note interested party comments regarding the physical condition of the highway and the potential for further damage to the surface caused by construction vehicles, this would be a private matter between the parties involved. Interested parties have also raised concerns relating to scale and siting of the proposed dwellings, the effect of the development on existing trees, drainage, and biodiversity, including protected species. However, such matters are not for consideration as part of the appeal proposal, which relates solely to the principle of the development.

Planning balance and conclusion

29. There is clear conflict with the development plan and the broad strategy for the distribution of development and the increase in travel by car. The Council indicates that it is not able to demonstrate a 5 year supply of deliverable housing sites. As such, relevant policies for the supply of housing should not be considered up-to-date and paragraph 11 d) of the Framework falls to be considered. In so far as this appeal is concerned this indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
30. The development would result in the delivery of up to 4 additional housing units, together with the associated economic and social benefits. It would also offer benefits in terms of the relocation of the business, as set out above.
31. Paragraph 79 of the Framework supports development in rural areas located where it will enhance or maintain the vitality of rural communities. The proposal would therefore have benefits in that regard for both Mount Skippett and Finstock. In addition, paragraph 120 of the Framework indicates that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. Notwithstanding the current lawfulness or otherwise of the current use of the site, it has been in use for business purposes for a significant amount of time preceding the existing use. Significant weight is attached to these benefits.
32. Set against this, for the reasons set out above, there is no substantive evidence that the proposal would not have an adverse effect upon highway safety. I attach significant weight to this harm.
33. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

34. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

E Worley

INSPECTOR