



Appeal Decision

Site visit made on 15 November 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2023

Appeal Ref: APP/V3120/W/23/3323192

Site of 1 Sugworth Crescent, Radley, Abingdon, Oxfordshire OX14 2JR

- 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 P Everley against the decision of Vale of White Horse District Council.
 - The application Ref P22/V1120/FUL, dated 5 May 2022, was refused by notice dated 30 November 2022.
 - The development proposed is erection of two dwellings with associated access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two dwellings with associated access and landscaping at Site of 1 Sugworth Crescent, Radley, Abingdon, Oxfordshire OX14 2JR in accordance with the terms of the application, Ref P22/V1120/FUL, dated 5 May 2022, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. Since the Council made its decision, on 5 September 2023, a revised version of the National Planning Policy Framework (the Framework) has been issued. However, the only substantive revisions relate to national policy for onshore wind development in England, and the changes to national planning policy do not materially affect this appeal. I have taken the Framework into account in reaching my decision.

Main Issues

3. The main issues are:
 - i) whether or not the proposal would be inappropriate development in the Green Belt in terms of the Framework and development plan policies, and the effect upon openness of the Green Belt; and,
 - ii) the effect of the proposal on the character and appearance of the area.

Reasons

Development in the Green Belt

4. The appeal site forms part of an area of land next to Kennington Road. Planning permission¹ has been granted in 2022 (the 2022 permission) for a single dwelling on the land to the immediate north, which would replace a

¹ Ref P21/V3119/FUL

dwelling that was previously on the site. The road access for Sugworth Crescent lies further to the north and there are residential developments to the southern and western sides. The site is located in the Oxford Green Belt.

5. Whilst the site lies within the parish of Radley, it has a very close relationship with Kennington as a settlement. The appeal site lies next to residential development, has a visual association with the new housing development, known as The Lawns, to the north-east on the opposite side of the road, and it forms part of a developed area on this side of the road. Consequently, even though there is generally open land to the east, the site is clearly distinguishable from the wider undeveloped countryside and forms part of the character of Kennington as a village location.
6. Core Policy 13 (CP13) of the Vale of White Horse District Council Local Plan 2031 Part 1 Strategic Sites and Policies (adopted 2016) (the LP Part 1) sets out the Council's policy to protect the openness and permanence of the Oxford Green Belt. The policy includes a list of specific villages in the authority area whereby limited infilling within the Green Belt is deemed as not inappropriate development. The policy does not identify Kennington as one such village. Policy PP.2 of the Radley Neighbourhood Plan 2018-2031 (adopted 2018) (the RNP) requires that the Green Belt around Radley will be protected, and that inappropriate development will not be supported except in the very special circumstances identified in the Framework and Policy CP13 of the LP Part 1.
7. The Council accepts that Policy CP13 of the LP Part 1 is not fully in accordance with the updated Framework. This is because Policy CP13 only identifies limited infilling as not inappropriate development within certain villages.
8. Although the development plan remains the starting point for the determination of the appeal, the Framework is an important material consideration. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraph 149 establishes that the construction of new buildings in the Green Belt is inappropriate, subject to certain exceptions. One such exception is limited infilling in villages, as listed at paragraph 149 e) of the Framework.
9. There is no definition of 'limited infilling' within the Framework or the development plan. As such, this is a question of planning judgement on an assessment of the site and its surroundings. In my view 'limited infilling' would be filling a small gap within existing development, such as the building of one or a small number of houses on a plot in an otherwise built-up frontage or area.
10. Given the existence of the 2022 permission, there is a real prospect that the dwelling approved would be constructed on the adjacent site and, as such, this forms a baseline against which an assessment of the appeal scheme can be considered. Even though dwellings immediately adjacent to the site have access onto Sugworth Lane or Sugworth Crescent, the dwelling at 151 Sugworth Lane is orientated to face Kennington Road, and the site nevertheless lies between other development within a frontage of development alongside the road.

11. The appeal site is a relatively modest plot, which on the ground reads as part of the settlement, in an otherwise largely built-up area along this side of Kennington Road. It forms part of a clearly identifiable built-up frontage of residential development, and it does not extend the built frontage. Consequently, the proposal for two dwellings on this site would be 'limited infilling'.
12. Even if the site is not previously developed land for the purposes of paragraph 149 g) of the Framework, for the reasons given above, the proposal constitutes limited infilling in a village. It therefore accords with the exception under paragraph 149 e) of the Framework and is not inappropriate development in the Green Belt.
13. In terms of the effect on openness, there is no requirement to consider the impacts on openness or the purposes of the Green Belt as this is implicitly taken into account within this exception. Such development is not to be regarded as harmful to either the openness of the Green Belt or the purposes of including the land within the Green Belt. Having regard to s38(6) of the Planning and Compulsory Purchase Act 2004, the Framework constitutes a material consideration that justifies a determination otherwise than in accordance with the development plan.
14. I have been referred to an appeal relating to 2 Sunningwell Road. I have not been provided with all the details and plans of that proposal. Nonetheless, the circumstances of that proposal were different in that the site was not in-between other development along the frontage of a street. Moreover, the Inspector was not satisfied that an alternative scheme was anything more than speculative because no planning permission had been granted for such a scheme. Accordingly, this example does not alter my opinion in this case.
15. Even though planning permission for a single dwelling on the land to the immediate north was granted on the basis that it would comprise a replacement dwelling, this does not alter my findings on this main issue.
16. In conclusion on this main issue, the proposal would be contrary to Policy CP13 of the LP Part 1 and Policy PP.2 of the RNP. This is because the development is not located in one of the specified villages where limited infilling is considered not to be inappropriate development in the Green Belt. However, I give limited weight to the conflict with these policies due to these being inconsistent with the Framework. Therefore, on the issue of the Green Belt, the Framework is a material consideration that would justify a decision other than in accordance with the development plan. Additionally, notwithstanding the policy conflict with the Framework, the appeal scheme is in general accordance with the aims of the LP Part 1 Policy CP13 and Policy PP.2 of the RNP in that it would not cause urban sprawl and would preserve the rural setting of the city of Oxford.

Character and appearance

17. The area surrounding the appeal site is predominately a residential area. Even though the dwellings within Sugworth Crescent are largely detached dwellings, the area comprises a mix of different styled bungalows and chalet bungalows, with detached and semi-detached dwellings.
18. Whilst those dwellings immediately adjoining the appeal site have access onto Sugworth Lane or Sugworth Crescent, there are variations to the pattern and

layout of plots, and dwellings further to the north have accesses onto Kennington Road.

19. The appeal scheme is a semi-detached pair of chalet style bungalows that would be of a similar scale and height and on a comparable plot width to nearby properties. Having regard to the variation in design of bungalows in the locality, they would be designed and would be constructed in materials that are compatible with the context of existing housing.
20. The plot depth of the proposed development would be much shallower than that of the existing adjacent housing and the proposal would result in a shorter plot for the 2022 permission. However, the proposal would retain sufficient visual gaps to its neighbours to not appear as over-development. Moreover, the depth of plot would not be overly discernible from the street, so as to cause harm to the character and appearance of the area.
21. Parking to the frontage of dwellings is a common feature within the locality, including along Sugworth Lane, within Sugworth Crescent and further along Kennington Road. Moreover a landscape buffer is proposed, the specific details for which could be secured by condition, to soften the appearance of the area of hardstanding proposed.
22. Accordingly, the proposal is consistent with Core Policy 37 of the LP Part 1, which seeks to ensure that development is of high quality design that responds positively to the site and its surroundings. Whilst not referred to in its reason for refusal, the Council has referred to Policy PP.2 of the RNP in its statement. For the reasons given above, I find no conflict with Policy PP.2, which amongst other things, seeks to protect and maintain the openness and permanence of the Green Belt. I also find no conflict with the provisions in the Framework in relation to achieving well-designed places.

Other Matters

23. I have had regard to the concerns of local residents and Radley Parish Council, including reference to living conditions particularly with regard to overlooking and light, waste and water drainage (utilities), highway safety and flood risk, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. There is no compelling evidence before me that would lead me to come to a different conclusion to the Council and, from my own observations, I concur with the Council's findings on these matters.
24. Reference has been made to informal advice given before the application was submitted. However, pre-application advice is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all material factors. I note the reference to the removal of trees, however, there is no substantive evidence that trees were protected by a Tree Preservation Order.

Conditions

25. The Council has provided draft conditions, in the event that the appeal was allowed. I have assessed these against the relevant tests set out in the Framework and I have amended the wording and re-ordered accordingly, where this is necessary. I have limited the use of pre-commencement clauses

to where it is essential for the condition to achieve its purpose and I sought the written agreement of the appellant to the pre-commencement conditions. I have had regard to any comments received where necessary.

26. As well as the standard time condition, a condition specifying the approved plans is necessary to provide clarity and in the interests of certainty.
27. Although the submitted drawings show the position, width, and sightlines of the proposed access to the site, in the interests of highway safety, it is reasonable and necessary to impose a condition requiring that the precise details of the design and construction of the access be submitted. Given the integral nature of access to the development, it is necessary to secure the details prior to commencement.
28. In the interests of an effective drainage system to minimise flood risk and in the interest of public health, prior to commencement conditions would be manifestly necessary to secure details of surface and foul water drainage schemes. Conditions requiring the submission of hard and soft landscape works and their implementation, as well as details of boundary treatments are necessary and reasonable in the interests of the character and appearance of the development and surrounding area. Given the integral nature of the landscaping elements, it is necessary to secure the details prior to commencement.
29. In the interests of biodiversity, a condition requiring bat and bird boxes is reasonable and necessary. In the interests of highway safety, conditions requiring the provision of car parking and turning space are necessary. To encourage the use of sustainable modes of transport a condition requiring the provision of bicycle parking is necessary.
30. There is some detail with the submitted information to indicate the materials to be used, but this is not at a level sufficient to ensure suitable materials are to be used. Therefore, in the interests of the character and appearance of the building and the surrounding area, a condition requiring samples or full details of materials to be submitted would be reasonable and necessary.
31. The Environmental Protection Team suggested conditions to restrict the permitted hours of construction or demolition and to control construction dust and noise. However, having regard to the limited scale of the appeal scheme and its relationship with residential neighbours, such a condition would not be necessary.

Conclusion

32. For the above reasons, having regard to the development plan as a whole, the Framework, and all other material considerations, the appeal should be allowed.

J White

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. The development hereby approved shall not be carried out except in accordance with the details shown on the following approved plans, 190294-A-Ex-80A, 210364-1, 190294-A-Pr-P140H, 190294-A-Pr-160D and 190294-A-Pr-150D, except as controlled or modified by conditions of this permission.
3. Prior to the commencement of development, details of vehicular access to the site shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include visibility splays in both directions. The access and visibility splays shall be provided prior to the occupation or use of the development and, thereafter, the visibility splays shall be permanently maintained free from obstruction to vision as far as the application site is concerned.
4. Prior to the commencement of development, a full surface water drainage scheme in accordance with the surface water drainage hierarchy as set out in Part H of the Building Regulations, including details of the size, position and construction of drainage works, shall be submitted to, and approved in writing by, the Local Planning Authority. The drainage scheme shall be designed to accommodate a 1 in 100 year storm plus 40% climate change and shall be implemented in accordance with the approved details prior to the occupation of the development hereby approved.
5. Prior to the commencement of development, a full foul 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. Thereafter the scheme as approved shall be implemented prior to the occupation of the development hereby approved.
6. Prior to the commencement of development, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials, schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme.
7. All hard and soft landscape works shall be carried out in accordance with the details and programme approved under Condition 6 above and shall be fully implemented within the first planting season following the first occupation/use of any part of the development. Thereafter, the landscaped areas shall be maintained for a period of 5 years. Any trees or shrubs which die or become seriously damaged or diseased within 5 years of planting shall be replaced by trees and shrubs of similar size and species to those originally planted.

8. Prior to the use or occupation of the new development hereby approved the site's internal and external boundaries shall be enclosed in accordance with a detailed scheme which shall first have been submitted to and approved in writing by the Local Planning Authority.
9. Prior to the first occupation of the development hereby approved, bat and bird boxes shall be provided on site in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
10. Prior to the use or occupation of the development hereby approved, the car parking spaces shown on approved drawing number 190294-A-Pr-P140H shall be constructed, surfaced and marked out. The parking spaces shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking spaces shall be kept permanently free of any obstruction to such use.
11. Prior to the use or occupation of the development hereby approved, the turning space shown on approved drawing number 190294-A-Pr-P140H shall be constructed to enable motor vehicles to enter the site, turn around and leave in a forward direction. The turning space shall be constructed to prevent surface water discharging onto the highway. Thereafter, the turning space shall be kept permanently free of any obstruction to such use.
12. Prior to the use or occupation of the development hereby approved, provision for parking bicycles on the site shall be made in accordance with the details shown on approved drawing number 190294-A-Pr-P140H and thereafter retained in perpetuity.
13. Prior to their use in the development hereby approved details/samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall 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/samples.

End of Schedule