



Appeal Decision

Site visit made on 23 January 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/Q3115/W/23/3321386

Land Immediately To The South Of 'Manscombe', Cox's Lane, Stoke Row, Henley-on-Thames RG9 5QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Tina Collins against the decision of South Oxfordshire District Council.
 - The application Ref P22/S3167/O, dated 30 August 2022, was refused by notice dated 3 November 2022.
 - The development proposed is erection of one new dwelling, comprising 4/5 Bedrooms, approximately 240 sqm plus double garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application leading to this appeal sought outline planning permission with all matters reserved for future consideration. I have treated the submitted drawings as illustrative. In line with Article 5(3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, a plan shows the area for a proposed access point to serve the development. This detail has been considered in my assessment.
3. As part of the appeal, the appellant has provided an arboricultural impact assessment report, a preliminary ecological appraisal dated 29 June 2023 (PEA 2023) and a drawing showing visibility splays. These were not before the Council when its decision was issued but it has had the opportunity to comment on them as part of the appeal process. No injustice would be caused to the Council or any other party by considering the extra documents.
4. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. The revisions do not materially affect the parts of the Framework pertinent to this appeal and so there is no need to invite comments on it from the Council or the appellant.
5. On 22 November 2023, all designated Areas of Outstanding Natural Beauty in England and Wales became 'National Landscapes'. However, the legal designation and policy status of these areas are unchanged, so I have proceeded on this basis.

Main Issues

6. In light of the extra information, the Council no longer raises concerns due to the development's particular effects on trees and on highway safety. I find no

reason to disagree with the Council on these matters. Therefore, the main issues are (i) whether the development would preserve or enhance the landscape character and scenic beauty of the Chilterns National Landscape Area of Outstanding Natural Beauty (the AONB), (ii) whether it would be in a suitable location having regard to the policies of the South Oxfordshire Local Plan 2020 (LP) and the Framework, and (iii) its effect on biodiversity and protected species.

Reasons

The effect on the AONB

7. The appeal site lies in the AONB. Cox's Lane is a fairly narrow road without pavements nor street lights. It is highly influenced by roadside trees and vegetation as well as views of fields and undeveloped land. Manscombe can be clearly seen from the road and there are other properties off Cox's Lane. However, these tend to be spaced out and, in some cases, set back from the road. Consequently, the lane has a strong rural feel that reflects its location within the wider countryside in the AONB. The appeal site contributes positively to this character as it is undeveloped and contains trees and hedgerows.
8. While details are not before me for consideration, it is fair to expect the proposal would change the appearance and nature of the site. The erection of a building would reduce its openness. Also, the development would introduce parking and domestic activity with associated paraphernalia onto the land. It would be possible to position the house away from the road so as to retain most of the existing vegetation. Even so, the creation of the access would require removal of existing trees and bushes on part of the site. This would open up views into the plot so it is likely the house, parking and garden would be seen from the road.
9. For these reasons, the development would be read as an encroachment of development into the countryside. It would undermine the site's natural appearance, its tranquil character and its contribution to the rural qualities of the AONB. Additional planting as suggested would not fully address nor overcome the adverse effects of the scheme. The proposed house could be designed to be sympathetic to the style and form of Manscombe or other dwellings within the area. However, compatibility in these respects would not justify the identified detriment to the visual qualities of the countryside.
10. Therefore, I conclude the development would not preserve or enhance the landscape character and scenic beauty of the AONB. In these regards, it would be contrary to LP policies STRAT1, ENV1, DES1 and DES2. Amongst other things these look to ensure development enhances and respects its surroundings with the highest level of protection to the landscape and scenic beauty of the AONB. Also, the proposal would fail to recognise the intrinsic character and beauty of the countryside as required under paragraph 180(b) of the Framework.

Suitability of location

11. Under appendix 7 of the LP, Stoke Row is defined as a smaller village. LP policy STRAT1 allows housing within smaller villages but seeks to limit development outside settlements. Also, under the terms of LP policies H1, H8 and H16, infill residential development is acceptable within smaller villages. At the same time,

part 3 of LP policy H1 only allows development outside settlements in certain circumstances, none of which apply in this case.

12. The LP does not define a settlement boundary for Stoke Row. As such, it is a matter of planning judgement as to whether the proposal would be within the village.
13. Buildings in Stoke Row tend to be along or near to the main road through the village. However, the appeal site and Manscombe are away from the main road with intervening open and vegetated land. Also, the lack of pavements leading to the appeal site from the main road suggest the development would be read as being beyond the confines of the village. Consequently, the location of the development would not accord with the referred to LP policies.
14. Furthermore, properties along Cox's Lane are spaced out and not seen together. As a result, the appeal site does not appear as a small gap in a continuous built up frontage. Therefore, the proposal would not accord with the definition of infill development as set out in LP policy H16.
15. The appellant has referred me to planning permissions granted for housing on other sites at Stoke Row and at Lower Shiplake. However, from the submissions I am unclear as to the factors that led to permission being granted for these cases. It would seem from the Council's response that at least some of these other sites were deemed to lie within a settlement and so the schemes would comply with LP policies on the location of housing. Therefore, the referred to cases do not affect my views on the acceptability of the appeal site as a location for a new house.
16. The development would be within a fairly short walking distance from the facilities in the village. It would be convenient for residents of the proposal to use the local shop, school, pub and other services. In these respects, the dwelling would accord with the provisions of the Framework as it would be located so as to enhance or maintain the vitality of a rural community.
17. However, acceptability in these regards does not fully address nor override the identified conflict with LP policies, particularly policies STRAT1 and H1. In light of the LP policies, I conclude the development would not be in a suitable location.

Biodiversity and protected species

18. LP policy ENV3 states that all development should, as a minimum, avoid a loss of biodiversity. All proposals should be supported by evidence in the form of a recognised biodiversity accounting metric. In light of the LP policy, the appellant's preliminary ecological appraisal dated 22 July 2022 recommends a biodiversity metric calculation be undertaken. While noting there is opportunity to include ecological enhancements within the development, the appraisal also recognises there may be a requirement for off-site enhancements to avoid a net loss of biodiversity.
19. No metric has been provided to demonstrate the development would safeguard or enhance biodiversity. In this respect, there is a conflict with LP policy ENV3. Moreover, without such information, it would seem that off-site works may be required to prevent a loss of biodiversity in overall terms. No details are provided on what off-site measures would be needed and how they would be

- secured. As such, the submitted information is insufficient in terms of its detail to demonstrate the development would prevent a loss of biodiversity.
20. The PEA 2023 follows on from the initial ecological appraisal and has been produced after a field survey. It includes a description of the habitats on the site and provides comments on the likelihood of protected and priority species being present on the land.
 21. The PEA 2023 notes nearby ponds to the site may be suitable for breeding great crested newts (GCNs), which are a protected species. Also, the site is in an amber zone as shown on a GCN Impact Risk Zone map for South Oxfordshire. This means it is likely to support GCNs if it contains suitable terrestrial habitat. As a consequence, the appraisal advises the site will need to be registered on the district level licensing scheme (DLL).
 22. No information is before me to show an application has been made for the site to join the DLL scheme. The Council refers to advice from Natural England that states in such circumstances evidence is needed to show no risk would be caused to GCNs or an assessment of risk is provided with proposed safeguarding measures. No such evidence or assessment has been provided.
 23. In any event, the Conservation of Habitats and Species Regulations 2017 (as amended) impose a duty on me to consider whether European Protected Species such as GCNs would be affected by the development and whether associated mitigation measures would be effective. The submissions indicate it is likely that GCNs would be present on the site, although there is no evidence as to what extent they may exist. Also, there are no details on mitigation measures to address any risk of harm. The imposition of a planning condition to address this matter would not allow me to carry out a proper assessment as required under the aforementioned regulations. Also, without details of measures to avoid, mitigate or compensate for adverse effects, part 3(iii) of LP policy ENV2 indicates the development should not be permitted.
 24. The PEA 2023 concludes the development would have no significant effect on sites designated for their nature value. The field surveys found no evidence of reptiles on the site and that bat foraging and commuting is insignificant. A common toad was found during the reptile survey and this is a priority species. However, the Council advises that individuals of the species are likely to colonise garden habitats once established and so measures could be provided to compensate for the development's adverse effects. Also, the loss of species rich native hedgerow to create the proposed access could be addressed through compensatory new planting. I have no reason to dispute the acceptability of the development in these regards.
 25. However, for the above reasons, I conclude insufficient information has been provided to demonstrate the development would avoid a net loss of biodiversity and to show it would not cause harm to GCNs, as a protected species. Also, there is significant doubt whether any harm in these respects could be appropriately addressed through mitigation measures. In these regards, the development would not accord with LP policies ENV2 and ENV3. The Council's refusal reason also refers to LP policy STRAT1 but this contains no provisions relevant to this issue.

Other Considerations and Planning Balance

26. The application leading to this appeal was submitted prior to the publication of the Framework. As such, footnote 79 of the Framework applies and so the provisions of paragraph 76 should not be considered. It follows that under the provisions of paragraph 77 of the Framework there is a requirement for the Council to demonstrate a minimum of 5 years' supply of sites for housing. The Council advises it can demonstrate only 4.2 years' of supply. In such circumstances, footnote 8 and paragraph 11(d) of the Framework dictate that planning permission should be granted unless the circumstances as set out in sub-paragraphs 11(d)(i) or (ii) apply.
27. As a single dwelling, the proposal would make only a limited contribution to the housing stock. Residents would support local businesses in the village but again the advantages are modest as only accommodation for a single household would be provided.
28. The Framework dictates that great weight should be given to conserving and enhancing the landscape and scenic beauty of the AONB. The identified detriment to the AONB caused by the proposal would in itself outweigh the benefits of the scheme. Therefore, policies of the Framework that protect assets of particular importance provide a clear reason for refusing development. The circumstances as set out in paragraph 11(d)(i) exist and so the presumption in favour of allowing the development does not apply.
29. Moreover, the identified conflict with LP policies on the location of housing and risk of harm to biodiversity and protected species also count against the proposal. I find the adverse effects of the development would significantly and demonstrably outweigh its benefits. The proposal would be contrary to LP policies when read as a whole and there is insufficient justification to grant planning permission contrary to the development plan.

Conclusion

30. For the reasons given above I conclude that the appeal should be dismissed.

Jonathan Edwards

INSPECTOR