



Appeal Decision

Site visit made on 8 November 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2024

Appeal Ref: APP/Q3115/W/23/3322954

**Gabriels, Chalkhouse Green Road, Kidmore End, Reading, Oxfordshire
RG4 9AU**

- 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 and Mrs Bishop against the decision of South Oxfordshire District Council.
 - The application Ref P22/S2698/FUL, dated 21 July 2022, was refused by notice dated 13 January 2023.
 - The development proposed is described as 'New dwelling within the residential curtilage and to the rear of Gabriels, with existing access off Coopers Pightle.'
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling within the residential curtilage and to the rear of Gabriels, with existing access off Coopers Pightle, at Gabriels, Chalkhouse Green Road, Kidmore End, Reading, Oxfordshire RG4 9AU in accordance with the terms of the application, Ref P22/S2698/FUL, dated 21 July 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.
3. On 22 November 2023, all areas in England and Wales designated as an Area of Outstanding Natural Beauty (AONB) were retitled National Landscapes. There has been no change to the legal designation and policy status of these areas. For the avoidance of doubt, I have used the term AONB which remains in the latest version of the Framework.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area and highway and pedestrian safety.

Reasons

Character and appearance

5. The appeal site forms part of the rear garden of Gabriels, a red brick and tile semi-detached dwelling that fronts Chalkhouse Green Road. The surrounding area is predominantly residential in character, comprising dwellings in generous plots with mature gardens including hedgerows and trees, which contribute to the pleasant verdant character of the area.

6. The appeal proposal would see the erection of a detached dwelling and parking/turning area on the site. The Arboricultural Impact Assessment & Method Statement prepared by Tamla Trees dated October 2022 (AIA) indicates that, with the exception of 2 small ornamental specimens (T2 and T3), as well as a section of Beech hedge, the existing trees are to be retained. The appeal submissions indicate that the existing overhead cables have been in place for some time and have not prejudiced the wellbeing of the existing Copper Beech tree (T5) within the hedge to the front boundary of the site. Despite its close relationship with the front of the proposed dwelling, subject to pruning works, there is nothing to suggest this tree would not be retained, albeit in a reduced form.
7. There is dispute between the parties as to the likely effect of the proposed development on the Silver Birch (T1) and Horse Chestnut (T6) trees within the rear garden of Gabriels, close to the boundary of the site. The Council indicate that neither T1 nor T6 meet the relevant criteria to warrant statutory protection. Nevertheless, given their form, health, and vigour they are prominent landscape features in the locality and contribute positively to the verdant setting of the site.
8. The AIA suggests that any harm to the trees could be avoided through the proposed tree protection measures set out therein. Given the no dig construction and permeable nature of the gravel driveway, together with its degree of incursion into the root protection area (RPA), it would be unlikely to have an adverse effect on the health and growth of T6. However, due to the depth of excavation and likely extent of incursion of the proposed drainage field into the RPA's of T1 and T6, particularly given the potential influence of the existing driveway on the RPA of T6 is unknown, I cannot be certain that the proposal would not harm the future wellbeing of the trees or lead to their decline and subsequent loss.
9. It is the Council's contention that should the trees be lost, with limited scope for replacement planting of any significance, the development would fail to assimilate into its context and would have an adverse effect on the character and appearance of the area.
10. The existing trees both on and close to the site, as well as those around them, offer benefits in terms of softening the impact of the proposed development. Nevertheless, the dwelling would be modest in scale and due to its siting, height and design would assimilate comfortably within the surrounding built form and would not be an unduly prominent or anomalous feature. Moreover, the extensive tree coverage in the wider vicinity of the site would not be undermined by the development. The proposal, even in the absence of the trees which may be directly affected, and lack of any substantial replacement planting, would therefore not appear unduly dominant in the street scape or lead to any tangible harm to the overall character and appearance of the area.
11. The Framework explains that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONBs which have the highest status of protection in relation to these issues. Whilst the appeal site can be seen from Coopers Pightle, and the adjoining residential properties, it is not visibly prominent in views from the wider open countryside.

12. The proposal would have a close relationship to the neighbouring residential development coterminous with the appeal site and on the opposite side of Coopers Pightle, as well as the main built-up part of the village. It would therefore be well contained within the existing built form, and surrounding tree coverage. As such, having regard to the site context and the scale, design and appearance of the dwelling, there would be no harm to the visual qualities and essential characteristics of the AONB in terms of its landscape and scenic beauty.
13. For the foregoing reasons, I conclude the proposed development would not harm the character and appearance of the area and would conserve the landscape and scenic beauty of the AONB. In that regard it would accord with the combined aims of Policies DES1 and DES2 of the South Oxfordshire Local Plan 2011-2035 adopted December 2020 (LP) which seek high quality design which reflects the character of the local area and enhances and complements its surroundings and Policy ENV1 of the LP which sets out that development in an AONB will only be permitted where it conserves, and where possible, enhances the character and natural beauty of the AONB. It would also accord with Policies LCI and LCDPG of the Kidmore End Neighbourhood Development Plan (2011-2035) made September 2022 (NDP) in so far as they require proposals for infill development to conserve the character of the relevant village and reinforce and where practicable enhance local distinctiveness, as well as advice in the Council's Joint Design Guide adopted June 2022 in relation to trees within the built environment.

Highway safety

14. The proposed dwelling would be served by the existing vehicular access to the appeal site from Coopers Pightle, an unadopted cul de sac which serves a small number of residential properties in addition to Kidmore End Cemetery. A public right of way also runs along Coopers Pightle.
15. When egressing Coopers Pightle at its junction with Chalkhouse Green Road, visibility is somewhat restricted. Chalkhouse Green Road is residential in character, with private driveways onto it and a speed limit of 20 mph. The carriageway is narrow in part and is devoid of a dedicated footpath. For these reasons traffic using Chalkhouse Green Road would be likely to be travelling at reduced speeds. Moreover, at the time of my site visit, which I appreciate is a snapshot in time, both Chalkhouse Green Road and Coopers Pightle were very lightly trafficked.
16. While there are some facilities within the village, the private car is nevertheless likely to be a significant transport mode for future occupiers of the development. However, given that the site is currently in use for the parking of vehicles to the rear of Gabriels, any uplift in the volume of traffic associated with the appeal proposal for a single dwelling would not be significant. Consequently, it would not have a tangible effect on the overall volume of traffic using the junction. Furthermore, there is no evidence that the existing junction is not operating safely, with Crashmaps data indicating that no injury accidents have been recorded in the preceding 10 years.
17. The Inspector in a recent appeal at Land between Coopers Pightle & Butlers Orchard¹ also found the junction to be acceptable for a greater number of

¹ Appeal Ref: APP/Q3115/W/22/3310731

dwellings. While the Council wishes to maintain its objection to the scheme on highway safety grounds, there is no particular evidence before me to indicate the findings of the previous Inspector to be flawed.

18. For the foregoing reasons the proposal would not give rise to harm to highway or pedestrian safety. Accordingly, it would comply with Policy TRANS5 of the LP, in so far as it requires development proposals to provide for a safe and convenient access for all users to the highway network and Policy LTSRU of the NDP which sets out that developments should not cause an unacceptable reduction in road safety for all users.

Other Matters

19. By virtue of the siting, scale and height of the proposed dwelling it would not appear as an unduly dominant feature when viewed from the adjoining residential properties. Furthermore, a change of view from a private window is not in itself regarded as a planning consideration.
20. Given the position of the proposed rooflights in the plane of the roof they would not give rise to any direct overlooking of the adjoining properties or their gardens. Subject to a condition to ensure the first floor side window in the south west elevation would be obscure glazed, there would be no direct overlooking towards Arnen.
21. The first floor window in the north east elevation of the new dwelling would be a considerable distance from the rear elevation of the neighbouring property at Olive Dene. Moreover, any view from the window towards the rear of the dwelling and garden at Olive Dene would be at an oblique angle, with intervening boundary planting. As such, it would not result in any direct overlooking or loss of privacy to the occupiers of Olive Dene. The orientation of the proposed dwelling, and position of the first floor dormer windows to the front elevation, together with the driveway between the properties, would prevent any direct overlooking of the existing house or garden at Hazeley Cottage.
22. Concerns have also been expressed by interested parties regarding noise and disturbance, dust, fumes, and light pollution as a result of the development. However, the Council did not object to the proposal on these grounds. Given the scale of the development, for a single dwelling, and in the absence of any substantive evidence that leads me to a different conclusion, I have no reason to disagree with this view.
23. Whether or not conditions attached to a previous planning permission were complied with is not for consideration as part of this appeal. It has been brought to my attention that existing trees were removed from the site prior to the planning application being submitted. However, there is nothing before me to suggest the trees were protected or the works to remove them were unauthorised. I have therefore assessed the proposal based on my observations on site and the evidence before me.
24. The position of the soakaway would be a civil matter between future owners of the adjoining land and the proposed development. Interested parties have raised concerns regarding land ownership in relation to the extent of the appeal site and whether the correct notice was served, however, there is nothing before me to suggest that the correct procedure has not been followed.

Furthermore, the Council's approach to the publication of pre-application advice is not a matter for consideration as part of the appeal.

Conditions

25. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance (PPG) and the Framework. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the PPG. In addition to the standard timescale condition, I have imposed a condition specifying the relevant plans to provide certainty. A condition to secure details of external materials is necessary to ensure a satisfactory appearance to the development.
26. A condition relating to site levels is not necessary given that the site is relatively flat, and the height of the building is shown on the submitted street scene elevation. It is necessary to impose a condition to require the first-floor side window in the south-west facing elevation of the dwelling to be obscure glazed to ensure the privacy of the occupiers of the adjoining property.
27. A condition to ensure compliance with the Energy Statement is necessary, in accordance with Policy DES10 of the LP. I have removed the requirement for the submission of a Verification Report as it has not been shown that this is necessary given the other parts of the condition. It is necessary to control noise levels from the air source heat pump to safeguard the living conditions of the occupiers of neighbouring properties. In the interests of highway safety, a condition is necessary to secure details of the construction of the turning and parking areas.
28. While the proposed site plan includes some details of soft landscaping and boundary treatment, a condition to secure clarification of those details not shown is necessary, in the interests of the character and appearance of the area. Given my findings in respect of the trees, notwithstanding the appellants' assertion that they would be retained, a condition is not necessary to secure the tree protection measures.
29. A condition to secure a scheme of biodiversity enhancements is necessary in accordance with LP Policy ENV3 and advice in the Framework. Such a scheme would explain and justify the type and nature of features necessary, and the Council will have the opportunity to consider the details submitted. As such there is no requirement at this stage to specify the precise features that would be appropriate.
30. Conditions to require details of surface water and foul water drainage are also necessary to ensure the development does not exacerbate flooding or pollution in the locality. The Council's suggested list of requirements, which is overly prescriptive, is not included to allow the parties to agree details.
31. The Council has suggested a condition removing permitted development rights under certain classes of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The Framework advises that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Bearing in mind the limitations of the GPDO in terms of size and position of development permitted, I have not been presented with any compelling

evidence that the site circumstances are such to justify the removal of these permitted development rights to safeguard the living conditions of the occupiers of the adjoining properties or the character of the area.

32. The installation of electric vehicle charging points is covered by the Building Regulations. However, the Council has raised uncertainty that the cost cap set out in the regulations may be prohibitive in terms of the provision of an electric vehicle charging point. A condition is therefore necessary to secure such provision in accordance with Policies TRANS5, ENV12 and EP1 of the LP.

Conclusion

33. For the reasons set out above, the appeal is allowed.

E Worley

INSPECTOR

Schedule of Conditions

- 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: P100 Rev A, P101 Rev A, P102 Rev A, P103, P200 Rev A, P201 Rev A and P202 Rev A, P203, P300 and P104 Rev A.
- 3) No development above slab level shall take place until a photographic schedule of all materials to be used in the external construction and finishes of the development hereby permitted has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and permanently retained thereafter.
- 4) The dwelling hereby permitted shall not be occupied until the first floor en-suite window in the south-west facing elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained in perpetuity thereafter.
- 5) Prior to the first occupation of the dwelling hereby approved, all carbon reduction energy efficiency measures shall be implemented in accordance with the Energy Statement prepared by Mr Neil Hazell dated 12th October 2022. The measures therein shall be permanently retained and maintained thereafter.
- 6) The approved air source heat pumps shall be installed, maintained, and operated to ensure that the rating noise level from the equipment does not exceed the background noise level at the boundary of the premises. Measurement and rating of noise for the purposes of this condition shall be in accordance with BS4142 (2014) [or other guidance that may supersede that guidance] 'Methods for rating and assessing industrial and commercial sound'. The measurement location shall be 1 metre from the facade of the nearest noise sensitive receptor.
- 7) Prior to the first occupation of the development hereby approved a turning area and car parking spaces shall be provided within the curtilage of the site so that motor vehicles may enter, turn round, and leave in a forward direction and vehicles may park off the highway. The turning area and parking spaces shall be constructed, laid out, surfaced, drained and completed to be compliant with sustainable drainage (SuDS) principles in strict accordance with specification details to be submitted to and approved in writing by the local planning authority prior to the commencement of development. The turning area and car parking spaces shall thereafter be kept available for such uses at all times.
- 8) Prior to the construction of any development above slab level, a scheme for the landscaping of the site, including the planting of live trees and shrubs, and the provision of boundary treatment shall be submitted to and approved in writing by the local planning authority. These details shall include schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities). The boundary treatment shall be implemented in

accordance with the approved details prior to the first occupation of development and thereafter permanently maintained in accordance with the approved scheme. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 9) Prior to the commencement of any development above slab level, details of a scheme of biodiversity enhancement measures to be incorporated into the development, designed in conjunction with a suitably qualified ecologist, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented in accordance with the approved details prior to the first occupation of the development and shall be retained in perpetuity thereafter.
- 10) Prior to the commencement of the development hereby approved, excluding demolition, a scheme for the provision of surface water drainage from the development, including future maintenance and management of the scheme, shall be submitted to, and approved in writing by the local planning authority. The approved drainage scheme shall be fully implemented prior to the first occupation of the development and maintained and managed in accordance with the approved details in perpetuity thereafter.
- 11) Prior to the commencement of the development hereby approved, excluding demolition, a scheme for the provision of full foul water drainage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first occupation of the development and shall be retained in perpetuity thereafter.
- 12) Prior to the first occupation of the dwelling hereby approved, an electric vehicle charging point shall be installed at the property. The charging point shall be retained for use for use by the occupiers of the dwelling in perpetuity thereafter.

*******end of conditions*******