



Appeal Decision

Site visit made on 27 February 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2024

Appeal Ref: APP/C3105/W/23/3330400

Land at Lince Lane, Kirtlington, Oxfordshire, OX5 3JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Gurbax Singh against the decision of Cherwell District Council.
 - The application Ref is 22/03719/OUT.
 - The development proposed is the erection of 9 live/work units, each with C3 Residential and integral B1 office, on former quarry with more recent agriculture use.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The proposal is in outline format with all detailed matters, other than the access to the site, reserved for subsequent consideration. Detailed plans have been put forward for the live/work units but these are annotated as 'draft' and I have treated them as for illustration only.

Main Issues

3. The main issues are;
 - Whether the proposal involves previously developed land (PDL);
 - The accord with the strategy in the development plan;
 - The effect on the character and appearance of the area;
 - The effect on the setting of the Oxford Canal Conservation Area and the Listed Bridge; and
 - The mix of residential units and whether an efficient use of land.

Reasons

Background

4. The appeal site comprises part of an open field which lies in an area of countryside to the west of the village of Kirtlington. It has a field access to Lince Lane and there are hedges with occasional mature trees around the southern, eastern and part of the western boundaries of the site. The River Cherwell and the Oxford Canal flow to the west of the site.

Whether previously developed land (PDL)

5. The appellant says that the land was previously used for quarrying but it has been poorly restored and is not suitable for agriculture as large stones (cobbles) remain. It is submitted that the proposal accords with section 11 of the National Planning Policy Framework (the Framework) in making effective use of land especially that which has been previously developed.
6. The Glossary to the Framework defines PDL as land that is or was occupied by a permanent structure and any fixed structure surface infrastructure. However there are specified exclusions to this definition including where the land has been developed for mineral extraction where restoration has been carried out under development management procedures. Also excluded is developed land where the remains of the permanent structure or fixed surface structure have blended into the landscape.
7. In this case although there is evidence of the land being used for quarrying some time ago (although the Parish Council refer to this as illegal tipping), at my site visit I did not see any evidence of permanent or fixed surface structures on the appeal site. If these had existed in the past they have now blended into the landscape. Moreover, the surface of the appeal site itself appeared to be largely free of sizeable stones. Although the appellant refers to ruderal (plants growing on rubbish) I could not see any reason why the land could not be grassed over and used for basic grazing or forestry. I note the Agricultural Land Classification Report submitted by the appellant with his 'final comments' and I agree that the land should be regarded as Grade 4 and not the 'best and most versatile land', but such classification does not rule out all agricultural or forestry uses.
8. Overall it appears to me that if the land had been quarried it has been reasonably restored and it does not look out of place in the surrounding rural landscape. I conclude on this issue that the appeal site should not be regarded as PDL as set out in the Framework.

Accord with the development plan and national strategy

9. Saved Policy H18 of the Cherwell Local Plan limits new housing development outside of the built-up limits of settlements to specific forms of development which have a recognised need to locate in the countryside and for existing undertakings. This is consistent with the Framework which advises in paragraph 84 that isolated homes in the countryside should be avoided unless specific circumstances apply. Policy PD1 of the Neighbourhood Plan also restricts new development in the countryside to sites immediately located adjacent to a defined settlement boundary.
10. In this case the site is located well away from any settlement and lies in an isolated position in the countryside. None of the exceptions set out in Policy H18 or the Framework apply and therefore the proposal does not accord with development strategy set out in the prevailing parts of the development plan.
11. Moreover, on the information submitted it appears that the site lies away from sustainable modes of transport and the occupiers of the live/work units would be mostly dependant on the use of a car to reach facilities for day to day living. The development proposed in this location would conflict with section 9 of the Framework which indicates that the planning system should manage patterns of growth and ensure that significant development is focused in locations which are or can be made

sustainable, through limiting the need for travel and giving a choice of transport modes.

The effect on the landscape character

12. The area around the appeal site is a mixture of open fields, and small areas of woodland. There is a golf course to the north of the site but this retains an open verdant character albeit that the fairways and greens are manicured.
13. This contrasts with the proposal for nine buildings, which are likely to be two storey in height with business activity on part of the ground floor and residential accommodation at first floor. These buildings would have a prominent and imposing visual impact in the local rural landscape. The scale and form of the development proposed would accentuate its visual and physical remoteness from a settlement or other built development in this area of countryside.
14. In terms of the proposed access to the site and new footway, on the limited information submitted it appears to me that the visibility splays necessary for the safe use of the new access would require the removal of a substantial length of roadside hedge. While this could be replaced within the site in the medium to long term, in the short term this lack of natural screening would increase the exposure of the development in the rural landscape. The footway itself would also have a harmful urbanising effect on the local landscape.
15. Overall on this issue, even though I am only dealing with the principle of development I find that it would not be likely to integrate well into the rural landscape but would appear as an isolated and prominent feature which would harm the verdant character of the area. The proposal would conflict with the provisions of Policy ESD13 and saved Policy C28 as the development would harm and be a visual intrusion into open countryside. The development would also conflict with part 15 of the Framework which recognises the intrinsic character and beauty of the countryside.

The effect on the setting of the Oxford Canal Conservation Area and Listed Bridge.

16. The Council refers to the setting of the listed building of the Oxford Tilting Bridge and to the setting of the Oxford Canal Conservation Area, however little information is given to be able to assess the significance of these heritage assets and the location of the Tilting Bridge. I have assumed that it is in the position shown on the appellant's location plan annotated as 'drawbridge'.
17. At the visit I considered the relationship of the assets to the proposed development. The Oxford Canal is situated to the west of the appeal site and the intervening land largely comprises an area of woodland. Viewed from around the appeal site I could not see the alignment or apparatus of the canal or traffic upon it. Similarly, with the (remains of the) Tilting Bridge the position of this would mostly be screened from the appeal site by bankside vegetation.
18. Bearing in mind the outline nature of the proposal, on the limited evidence put to me and my observations on site, I find that it has not been demonstrated that there would be intervisibility of the development proposed and the Canal Conservation Area and the listed bridge. Therefore, I find that the setting of the heritage assets would not be harmed by the proposed live/work units and there is no conflict with the relevant policies of the development plan or national guidance.

Mix of dwellings and whether efficient use of land

19. The Council takes issue with the density of the development put forward and says that it is likely that there would be an inappropriate mix of only large residential units. However, the proposal is in outline format to consider the principle of development and with only the details of the access to the site to be considered at this stage. If the principle was clearly acceptable the Council would be able to assess the form and density of the development and the mix of housing when reserved matters are submitted. I am therefore not able to consider these issues as determinative ones in this appeal.

Planning balance

20. On the main issues I have found that the present state of the site means that it should not be considered as PDL but as a green field site situated in open countryside. Mixed residential and commercial development here, as live/work units, would not accord with the strategy in the development plan as the site has an isolated position in the countryside well away from any recognised settlement. Moreover, the scale and form of the development would be likely to have a very imposing and dominating effect on the local rural landscape which would significantly harm the character of the area. The site does not lie in a sustainable location and development here would not help limit the need for travel particularly by car.
21. The proposal would therefore conflict with the provisions of the development plan as stated above and parts of the Framework.
22. This finding has to be balanced with other considerations. I note the appellant's desire to have a mixture of housing and office use in the same buildings but I am not convinced this would result in sustainable development as the site is remote from other facilities. I accept that it has been shown that the land is not in the 'best and most versatile' classification but that does not rule out all but Calcareous grassland as the appellant's suggests. The proposal would deliver new housing but the Council says it can demonstrate an adequate supply of new housing land at the moment to meet its strategic requirements and this position has not been challenged. I acknowledge that the development proposed could have design and transport elements which could be in the interests of sustainable development but these should be regarded as fairly standard components of development now and not extraordinary benefits.
23. While there would be limited social, economic and environmental benefits, I conclude that the proposal does not accord with the Framework when this is read as a whole and the proposal is not sustainable development as encouraged by the Framework.
24. Overall, I find that the modest increase in housing and employment that would result, plus the off-site ecological benefits, do not clearly outweigh the harm that I have identified or the conflict with the development plan. This indicates that the appeal should not be allowed.

Conclusion

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

David Murray

INSPECTOR