



Appeal Decision

Hearing held on 12 December 2023

Site visit made on 13 December 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st May 2024

Appeal Ref: APP/F1610/W/23/3327512

Grafters, Fosseway, Lower Slaughter, GL54 2EY

- 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 Peter Gilder against the decision of Cotswold District Council.
 - The application Ref 22/04004/FUL, dated 10 November 2022, was refused by notice dated 9 February 2023.
 - The development proposed is Change of use of existing dwelling and erection of extensions to create 40 bedroom hotel and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. Both main parties have made representations with regard to the Framework and I have taken these into account in considering this appeal.
3. The third reason for refusal on the Council's decision notice relates to highway safety. However, both the Council and the Highway Authority have confirmed that this reason for refusal has been addressed. I have considered this appeal on that basis.
4. During the appeal process there were some outstanding matters pertaining to flood risk which were being discussed between the Appellant and the Environment Agency (the EA). These issues are discussed under 'other matters'.
5. During the appeal process the appellant submitted several additional and revised plans including: SK01, SK02, DR L 1000 B (to replace DR L 1000) and 1981-200B (to replace 1981-200).
6. In considering whether to accept these plans I have had regard to the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin) and I have applied the substantive and procedural tests.
7. The revised plans provide for visibility splays and a vehicle swept path analysis along with minor alterations to the internal road layout to facilitate a turning head in the south-eastern corner of the appeal site. From a substantive and procedural perspective, these changes are all very minor and do not fundamentally alter the development as previously proposed and consulted on.

I therefore made a procedural decision during the Hearing to accept the amended and additional plans.

Main Issues

8. There are four reasons for refusal on the Council's decision notice. The third, relating to highway safety has already been addressed. The first and second both relate to the principle of development and the fourth relates to character and appearance. As such, the main issues are:
- Whether the principle of the proposed development is acceptable, with particular regard to the Council's strategy for the location of hotel development.
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Principle

9. The appeal site is located outside of any defined settlement boundary and is therefore in the countryside for the purposes of planning policy. Bourton-on-the-Water is a settlement located to the south-west of the appeal site. This settlement includes an industrial park located approximately 800m along the A429. Other nearby settlements include Lower Slaughter and Stow-on-the-Wold. There is a builder's merchant directly to the north of the appeal site and there are equine facilities, a fuel station and a building supply site on the opposite side of the A429. However, the wider prevailing form and scale of development between the aforementioned settlements comprises sporadic residential and agricultural buildings of a relatively small scale.
10. Part of the appeal site overlaps an area which is subject to planning permission granted for an electric car charging service station and associated works (EV Charging Station) under appeal reference APP/F1610/W/20/3248674. The proposed development would result in a reduction in the number of EV charging spaces associated with the consented EV charging station. Nonetheless, the hotel car park would also include a significant number of EV charging spaces.
11. The Council has cited Local Plan¹ Policies EC3 and EC11, amongst others, in their reasons for refusal. Local Plan Policy EC11 relates to 'tourist accommodation' and it deals partly with hotels. Part 1 outlines that new hotels will only be permitted in certain circumstances, including (part 1a) where the proposal is provided through the change of use of existing buildings and (part 1b) where the proposal would be located within the settlement boundaries. Part 1b does not apply given that the site is in the countryside. Part 2 relates to existing tourist attractions and is not therefore relevant.
12. During the hearing, one of the main points of contention centred on whether the proposal amounted to a change of use (with extensions) or a new building. The Local Plan does not define what is meant by the term 'change of use' for the purpose of applying Policy EC11 Part 1a.

¹ Cotswold District Local Plan 2011-2031 (Adopted August 2018)

13. Whilst a 'change of use' is a type of planning application, there is no indication that the definition of this term for the purpose of applying Policy EC11 is constrained such that it must exclude any operational development. Indeed, Local Plan paragraph 9.11.1 outlines in part that 'hotels in rural areas can be provided successfully by the conversion and improved use of existing buildings'. The references to 'conversion' and 'improved use' indicate that operational development, including extensions, may not necessarily be excluded.
14. Taking all of this into account, it is a matter of planning judgement whether a development comprises a change of use with extensions capable of falling within the remit of Part 1a of Policy EC11.
15. The planning application form provides details of the amount of existing and proposed floorspace. The existing gross internal floorspace of the dwelling is listed as 340sqm. In stark contrast, the proposed gross internal floorspace of the hotel would be approximately 1727sqm. This indicates that the proposals would more than quadruple the size of the total existing floorspace of the dwelling. This alone² is sufficient to show that the proposals amount to far more than a 'change of use with extensions'. Even if I were to accept that extensions were also allowed under Part 1a of Policy EC11, operational development which results in such a vast increase in floorspace is far more akin to a new building.
16. In addition, the plans indicate that the vast majority of the new floorspace would be accommodated in two new wings to the rear of the dwelling. Nonetheless, the fact that these elements of the proposal would be less visible from public viewpoints has no bearing on whether the proposal amounts to a 'change of use' for the purpose of applying EC11. This is because, whilst Policy EC11 may be partly designed to limit the visual impact of new hotels on rural areas, it is primarily a spatial policy which aims to focus such development on more sustainable locations, such as within existing settlements. Visual impact has no bearing on the latter.
17. The overall size, floorspace and volume of the proposed hotel would completely dwarf that of the existing detached two-storey dwelling in physical terms. For this reason, the proposal is not solely a 'change of use' for the purpose of applying Policy EC11. Furthermore, even if one were to contemplate that the proposal includes 'extensions' (as opposed to it comprising an entirely new building), given their sheer size, they go far beyond what I consider reasonable for the purpose of applying Policy EC11(Part 1a). Whilst I acknowledge that there is no prescribed limit on the size of extensions, there is equally no clear stipulation that extensions are included. Again, this comes down to a matter of planning judgement. The proposal therefore conflicts with Policy EC11 which sets out the Council's strategy for the location of new hotel development.
18. Local Plan Policy EC3 relates to 'all types of employment generating uses'. For reasons already given in relation to Policy EC11, given the size of the development in relation to the existing dwelling, it would not be 'small-scale' within the terms of Policy EC3.
19. I accept that there are some larger buildings within close proximity to the appeal site (including equine facilities a fuel station and builder's merchants)

² Bearing in mind that the floorspace increase is not the result of the installation of additional floors.

and that there is permission for an EV charging station directly adjacent to the location of the proposed hotel. Nonetheless, overall, the prevailing local context is one of limited and sporadic small-scale residential development in the countryside.

20. Furthermore, a hotel with 1727sqm of gross internal floorspace which would accommodate 18 full time employees and provide 40 bedrooms, would not be consistent with the scale of other more modest employment generating uses in the surrounding area. This is another reason why the development cannot be considered small-scale within the meaning of Policy EC3.
21. For these reasons, even if I accept that there is a demonstrated business case³ (criterion 2b) and/or that the proposal facilitates the retention or growth of the EV charging station (criterion 2c), the proposal does not gain any support in principle from Policy EC3.
22. In terms of the harm which arises beyond the conflict with the Council's strategy for the location of hotel development, the location of the development is such that there are only limited options for utilisation of sustainable modes of transport. The appellant acknowledges that the majority of the trips generated by the hotel would be made by car⁴. In terms of sustainable transport options, cycling would not be a realistic option for many, given that the A429 is a busy road which is narrow in places and subject to a 50mph speed limit. Even if one were to consider that this did not present a barrier to cycling for some⁵, this mode of transport is unlikely to be suitable for many, including children, disabled people and elderly people.
23. There is an existing bus stop to the south of the appeal site. This is within a reasonable walking distance but is not currently accessible from the appeal site via a footway. The development includes proposals to install a new bus stop on the western side of the highway (adjacent to the fuel station) and make this accessible through the introduction of a new footway and pedestrian crossing. Nonetheless, the appellant's evidence⁶ demonstrates that the bus services available at present are very infrequent (with the main service providing one bus every hour) with no services at all provided on Sundays.
24. I accept that the provision of new infrastructure to facilitate use of sustainable modes of transport does go some way to meeting criterion 'a)' of Local Plan Policy INF3. However, for the reasons outlined above, it is still very unlikely that any meaningful proportion of visitors/guests would utilise the local bus services. On that basis the development does not actively support travel choice to a sufficient degree and the result would be an over-reliance on the private motor vehicle and a development which fails to give priority to pedestrians and cyclists (criterion b of Policy INF3). The proposal would therefore conflict with Policy INF3. Local Plan Policy INF4 is not relevant to accessibility as it is primarily concerned with highway safety.
25. Local Plan Policy EC8 sets out the preferred locations for main town centre uses. Part 7d allows for main town centre uses in out-of-centre locations where a sequential test has been undertaken. The applicant submitted a Sequential

³ Letter and Statement of Evidence produced by Alder King

⁴ Paragraph 5.28 Planning Statement of Case

⁵ As reflected in an e-mail from Saddle Skidaddle dated 04 December 2013

⁶ TAS Issue 1 Paragraph 6.52 to 6.58

Assessment⁷. Nonetheless, even if the proposal does comply with Policy EC8 and the equivalent provisions of Framework Paragraph 91, this does not overcome the conflict with policy EC11. This is because the Development Plan should be read as a whole and Policy EC11 makes specific provision for the location of tourist accommodation stating the 'only' circumstances where new hotels will be permitted.

26. In summary, the proposed development would conflict with Local Plan Policy EC11 which relates specifically to the principle of developing new hotel accommodation. There would also be a conflict with Local Plan Policy INF3, given that there would be an over-reliance on the private motor vehicle.

Character and Appearance

27. I have already concluded that the proposed development would be disproportionate to the existing building, given the increase in overall size, floorspace and volume. Nonetheless, the location of the new building is set back from the highway and the landform is sloped such that, despite its significant volume, the development (other than the predominant form of the original dwelling) would be barely visible from the highway or other public viewpoints. Indeed, the fact that the development would be largely located to the rear of the existing dwelling (away from and below the highway) is a further mitigating factor.
28. In addition, despite a more sparsely developed character in the wider area, the appeal site and its immediate surroundings are characterised by relatively large buildings. Within this context, whilst large, the development would not result in any harm to this character. The impact on the wider rural character and landscape would be extremely limited given the aforementioned characteristics. Additional planting and landscaping measures could further reduce the visual effect of the proposal.
29. Even taking into account the prospect of the completion of the EV Charging development, the cumulative visual impact would be barely any greater than that of the EV Charging Scheme in isolation. This is largely because the main wings of the hotel would be visually obscured from public viewpoints. Furthermore, the proposed parking area - which would be located further towards the highway - involves spaces which already have consent under the EV Charging permission. As such, the visual impact of parked vehicles would not be any greater than that already consented.
30. I note concerns with regard to lighting, however this is a matter which could be effectively controlled by a planning condition requiring a lighting scheme to be submitted and approved prior to commencement of development. In addition, there is already a significant degree of lighting both within the appeal site, much of which could be replaced or removed.
31. The appeal site is located within the Cotswold National Landscape. In determining this appeal, I have had regard to the duty under section 85(1) of the Countryside and Rights of Way Act 2000 (as amended) (the CRW Act). This requires that relevant authorities have regard to the purpose of conserving and enhancing the natural beauty of a National Landscapes. Furthermore,

⁷ 02 November 2022 Produced by Pegasus Group

Paragraph 182 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes.

32. The special qualities of the Cotswold National Landscape include (but are not limited to) its limestone geology, elevated arable landscapes, river valleys, dry stone walls and ancient woodland. None of these key characteristics would be adversely affected by the development for reasons already given. As such, the proposal would conserve the natural beauty of the landscape. There would not be any net positive effect on the National Landscape, this is because the primary elements of the proposal are not visible within the landscape, particularly from public viewpoints.
33. In summary, the proposed development would conserve the natural beauty of the National Landscape and it would not be harmful to the character and appearance of the area. It would therefore accord with Local Plan Policy EN2, which seeks to ensure that Proposals are of a high-quality design that respects the character and distinctive appearance of the locality. The proposal would also comply with the relevant provisions of the Framework in relation to AONBs (now referred to as National Landscapes). In addition, it is common ground between the main parties that the proposal does not constitute 'major development' for the purpose of applying Framework Paragraph 183.

Other Matters

Flood risk

34. The appellant and the EA have been involved in discussions as to whether the EA flood map should be updated to reflect data and findings reported in the appellant's planning application and appeal documents. Nonetheless, flood risk was not included within the Council's reasons for refusal and given that I am dismissing this appeal on other grounds it is not necessary for me to consider this matter further.

Interested Parties

35. There have been several representations from interested parties in support and opposing the application. To the extent that representations objecting to the proposal fall beyond the scope of the main issues of this appeal, it is not necessary for me to consider them further, given that I am dismissing the appeal. The representations in support of the proposal primarily relate to the need for low-cost accommodation in the local area which I address below.

Need for lower cost accommodation

36. The supporting text associated with Policy EC11 (paragraph 9.11.6) expresses a need for 'lower cost accommodation' in the district. Indeed, this is supported by the appellant's own assessment and by representations received from some interested parties. Nonetheless, whilst the Sequential Assessment might demonstrate that there are no alternative sites for low budget hotels of the type proposed, this does not mean that sites suitable for other types of low cost accommodation (for example touring caravans and camping⁸) are not potentially available in the district. As such, the demand/need for low cost accommodation is not a consideration which outweighs the conflict with the development plan policies.

⁸ As referred to at Local Plan Paragraph 9.11.6

Planning Balance

37. There would be many benefits associated with the proposed development. It would utilise previously developed land and would help to meet the need for low-cost tourist accommodation in the district. It would also provide employment and it would result in a trickle-down economic benefit from the expenditure of hotel guests in the local area (including support for the consented EV Charging scheme). These are all socio-economic benefits which are supported and encouraged within the Framework.
38. There would also be a new footpath and bus stop which could be utilised by local residents, albeit I have already concluded that bus services are limited and as such this benefit would be constrained in those terms.
39. There would be minor benefits attained through the use of renewable energy technology, biodiversity improvements, increased landscaping and temporary support for construction jobs.
40. Nonetheless, these benefits, when taken together, do not outweigh the substantial harm which would be caused by reason of the conflict with the Council's spatial strategy for the location of hotel development, nor the harm caused by the over-reliance of future guests on the private motor vehicle. Indeed, Framework Paragraph 15 emphasises that the planning system should be genuinely plan-led. As such, these considerations do not indicate that a decision should be made other than in accordance with the development plan.

Conclusion

41. The proposed development conflicts with the development plan and there are no material considerations of sufficient weight to warrant a decision other than in accordance with it. The appeal is therefore dismissed.

Luke Simpson BSc MSc MRTPI

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Piers Riley-Smith	Counsel (Kings Chambers)
Guy Wakefield	Partner, Ridge and Partners LLP
Jamie Mattock	Associated Direct, Rappor
Adrian Rowley	Partner, Alder King
Kieron Roberts	Director, Riach Architects
Douglas Allenby	Partner, Landscape Matters

FOR THE LOCAL PLANNING AUTHORITY

Martin Perks	Principal Planning Officer
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INRERESTED PARTIES:

Hilary Ponti	Local Resident
Simon Gorton	Wyck Rissington Parish Council
Peter Watson	Wyck Rissington Parish Council
Len Wilkins	Boughton-on-the-Water Parish Council
Amanda Davis	Local Resident