



Appeal Decision

Site visit made on 11 June 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/D3125/W/24/3339317

Land on west side of Colt House, Aston Road, Bampton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Blue Cedar Homes Limited against the decision of West Oxfordshire District Council.
 - The application Ref is 23/03070/FUL.
 - The development proposed is the erection of 5 one storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of five one storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure at Land west of Colt House, Aston Road, Bampton in accordance with the terms of the application, Ref 23/03070/FUL, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs has been made by Blue Cedar Homes against West Oxfordshire District Council. This application is subject of a separate decision.

Preliminary Matters

3. Although the decision notice references the West Oxfordshire Local Plan 2011, the evidence indicates that the cited policies form part of the West Oxfordshire Local Plan 2031¹ (the Local Plan).

Main Issues

4. The main issues are the effect of the development on;
 - the character and appearance of the area,
 - the significance of the Bampton Conservation Area,
 - whether the site is a suitable location for the proposed development with particular regard to the local development strategy; and,
 - if conflict with the development plan would arise, whether such conflict would be outweighed by material considerations.

Reasons

¹ West Oxfordshire District Council - West Oxfordshire Local Plan 2031 - Adopted September 2018

Character and appearance

5. The appeal site is adjacent to Aston Road and forms part of a larger field enclosure. Well-established and thick hedgerows on the boundaries of the field that the appeal site forms part of, make a positive contribution to the quality and distinctiveness of the area. They also prevent all but occasional and glimpsed views into the site from the land outside of the field.
6. When viewed from Aston Road, the wider area that the site forms part of has a varied character and appearance. This is, in part, due to the presence of a small collection of neighbouring dwellings to the east of the appeal site, together with a greater number of dwellings on the opposite side of Aston Road, which extend out from the core of the settlement of Bampton. The various ages, designs, and layouts of dwellings close to the appeal site, create variety in the appearance of built form in the area.
7. The proposed dwellings and associated gardens would not project further back from Aston Road than the dwelling and gardens at the neighbouring Colt House. Although the dwellings would be arranged around a courtyard area, the spacing between the dwellings and the plot sizes would also not be dissimilar to others nearby. As such, and because the dwellings would be close to other variously arranged dwellings on both sides of Aston Road, the development would not appear isolated, nor would it jar with the established mixed pattern and amount of development in the area.
8. The West Oxfordshire Landscape Assessment dated 1998² indicates that the Bampton Vale character area (which the appeal site forms part of) includes low-lying yet gently rolling land and a patchwork of large fields, hedgerows, and trees. The implementation of the appeal scheme would result in the partial development of a field that is typical of this profile. Nevertheless, the modest number of proposed dwellings would be close and well-related to nearby residential accommodation. Also, given the proposed retention of most of the hedges along the site boundaries, and the presence of other fields to the south and west of the site, the development would not be incongruous in the local landscape.
9. The character and appearance of the appeal site itself would undoubtedly change following the construction of the 5 dwellings and associated infrastructure. Nevertheless, the attractive single-storey development would be well-screened by both existing and proposed hedgerows, and additional trees and hedgerows would be planted. As such, the site would continue to make a positive contribution to the quality and distinctiveness of the area following the implementation of the development.
10. For the reasons given, the proposed development would not cause harm to the character and appearance of the area. Consequently, in respect of this main issue, it would comply with policies, OS4 and EH2 of the Local Plan. Amongst other things, these policies require development to be of a high-quality design; and to conserve and enhance the quality, character, and distinctiveness of the district's natural environment, including its landscape. For the same reasons, it would not conflict with paragraph 135 of the National Planning Policy Framework. Moreover, conflict with the National Design Guide and the West Oxfordshire Design Guide has not been demonstrated.

² West Oxfordshire District Council – West Oxfordshire Landscape Assessment - 1998

Conservation area (CA)

11. Intervening agricultural land, trees, and hedgerows, separate the appeal site from the Bampton CA.
12. The evidence indicates that Bampton was occupied during the later prehistoric and Roman eras, and that it later became a medieval market town. The Bampton CA covers a large part of the settlement of Bampton and includes the whole of the historic core. The significance of the CA stems, in part, from; the historic development of the settlement; the unfolding pattern of historic building styles within it; and the pattern and distribution of roads within and leading to and from it (which include Aston Road). Its significance also stems from the use of a generally consistent palette of materials for building works, the historic interrelationship between the settlement and the surrounding agricultural land, and its partially rural setting.
13. A sizable parcel of agricultural land between the appeal site and the CA would be unaltered by the appeal scheme. Furthermore, most of the existing hedgerows and the trees on the site boundaries would be retained. These, together with the additional native and ornamental trees, would prevent all but glimpsed intervisibility between the development and land within the CA. The retention of the roadside hedgerow would also help to maintain the rural approach to the CA along Aston Road. In addition, by containing the development within a part of a single field enclosure, the historic field patterns in the area would be respected.
14. Consequently, the development would not cause harm to the significance of the Bampton CA. In this respect, it would comply with policies EH9, EH10, and EH13 of the Local Plan. In part, these policies seek to ensure that development proposals conserve and/or enhance the special character and distinctiveness of the historic environment, to conserve or enhance the special interest and setting of CA's, and to respect historic landscape character. In respect of this main issue, it would also comply with the objective of chapter 16 of the Framework, which is to conserve and enhance the historic environment.

Location of development

15. While acknowledging the need for housing development in locations where it can help to sustain the more rural parts of the district, an underlying aim of Local Plan policy OS2 is to direct most growth to those areas and settlements that are most accessible by means other than private car, and which contain the widest range of services and facilities. Although policy OS2 also indicates that Bampton has a restricted range of services and facilities, it is also stated that this settlement is suitable for a modest level of development to help reinforce its existing role as a rural service centre. However, in hamlets and the open countryside, this policy indicates that development should be limited to that which requires a rural location.
16. Local Plan policy H1 indicates the amount and distribution of housing required within the district. While it allows for further allocations to be made within Neighbourhood Plans, it specifies that such allocations should accord with the general principles set out in policy OS2. Where necessary to meet an identified housing need, Local Plan policy H2 indicates that housing on undeveloped land adjoining the built-up area may be permitted. However, this policy also requires compliance with policy H1 and the general principles in policy OS2.

17. The recent construction of houses to the east of Mount Owen Road has extended the built-up area of Bampton. As a result, land on the opposite side of Aston Road from both the appeal site and the neighbouring collection of dwellings, is now part of the built-up area of the settlement. Nevertheless, Aston Road - which is one of the main routes into and out of Bampton, and the hedges and a pedestrian walkway that are adjacent to it, clearly divide the built-up area to the north of this road from the undeveloped appeal site. For this reason, the appeal site cannot be regarded to be adjoining the built-up boundary of the settlement. Therefore, and albeit the appeal site is very close to the built-up area of Bampton, those parts of the Local Plan policies that relate to development in countryside locations, must be applied in this case.
18. While the evidence indicates that there is a growing need for specialist housing for older people within the district, the need for such accommodation to be provided within the countryside has not been demonstrated. Therefore, and notwithstanding that a range of services and facilities available within Bampton would be reasonably accessible by future occupiers of the development via means other than private car, the development would conflict with the settlement strategy outlined within policies OS2, H1, and H2 of the Local Plan.

Material considerations

19. In 2 recent appeal decisions³, it was found that the Council could not demonstrate a 5-year housing land supply, with 4.38 and 4.34-year supplies being cited. Whether or not this supply has increased to 4.64-years, the main parties agree that the Council is unable to demonstrate a 5-year supply of deliverable housing sites, as required by the Framework. Even if the housing land supply is at the lower end of these figures, the shortfall is not substantial. Nevertheless, in the absence of a 5-year housing land supply, great weight is attributed to the contribution that the development would make towards improving the housing land supply within the district.
20. The accommodation would also contribute towards meeting a specific local need for specialist housing for older people, which would accord with policy H4 of the Local Plan. Even if one fewer such dwelling would be provided than was previously permitted on the site, the delivery of 5 such dwellings would still contribute to meeting an identified housing need, Moderate weight is also attributed to this benefit.
21. Future occupiers would be likely to use and contribute to local services and facilities. There would also be short-term benefits during the construction phase. However, given the low number of dwellings proposed, the associated benefits would be small, and limited weight may be attributed to them.
22. Amongst other things, I have found that the development would not be harmful to the character and appearance of the area, and, that future occupiers would have reasonable access to a range of services and facilities by means other than private car. Notwithstanding this, the proposed development would conflict with the settlement strategy outlined within policies OS2, H1, and H2 of the Local Plan. However, in the absence of a five-year housing land supply, for this decision the policies which are most important for determining the application, are out-of-date. The conflict with these policies therefore attracts limited weight.

³ APP/D3125/W/23/3331279 and APP/D3125/W/23/3332089

23. In this case, the application of policies in the Framework that protect areas or assets of particular importance, as defined in footnote 7 does not provide a clear reason for refusing the development proposed.
24. The proposed development aligns with the Framework where it seeks to significantly boost the supply of homes and recognises the importance of ensuring that the needs of groups with specific housing requirements are addressed. Furthermore, paragraph 70 of the Framework, indicates that small and medium-sized sites can make an important contribution towards meeting the housing requirements of an area, and are often built out quickly. Given the shortfall in housing land supply within the district, I attribute great weight to this.
25. The proposals would also correspond with the parts of the Framework that seek to support the economy, strong vibrant communities, and measures to improve biodiversity. However, given the modest scale of the proposals, limited weight is attributed to each of these matters.
26. In this case, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole. As such the proposal benefits from the presumption in favour of sustainable development as outlined in paragraph 11 the Framework.
27. Therefore, based on the individual merits of the scheme, the material considerations indicate that planning permission should be granted notwithstanding the identified conflict with some policies of the development plan.

Other matters

28. My attention has been drawn to a planning application (ref: 13/1309/P/OP) and subsequent appeal⁴, which was a scheme for 127 dwellings on land off Aston Road, and which incorporated the land subject of this current appeal. However, the land subject of that scheme also included fields to the west and south of the current appeal site and adjoined the CA. In that previous appeal, the inspector found that harms including those related to flood risk, heritage assets, and landscape and visual character would result. Nevertheless, given the significant differences between the 2 appeal schemes, this earlier decision does not lead me away from my findings in respect of this appeal.
29. Subject to the implementation of a suitable surface water drainage strategy, the development would not increase flood risk in the area. Furthermore, no cogent evidence is before me from which to conclude that there is insufficient capacity in the local mains foul water sewer network to serve the development.
30. No objection has been raised to the development by the Highway Authority. Furthermore, based on my own observations on-site, I am satisfied that subject to the imposition of conditions related to parking, surfacing of the private drive, and junction design, there would be no harm to highway safety.

⁴ APP/D3125/A/14/2217185

Conditions

31. Some of the Council's conditions have been consolidated, and the wording of conditions has been amended where appropriate. This is for clarity and to meet the six tests within paragraph 56 of the Framework.
32. The statutory condition specifying the time period for the implementation of the permission is imposed. For certainty, a plans condition is also added, identifying the plans to which the permission relates.
33. The scheme has been progressed on the basis that the dwellings would be occupied by older persons. I have found that the delivery of 5 units of such accommodation is a material consideration that weighs in favour of the appeal. To ensure this benefit would occur, an age-related occupancy condition is needed.
34. A condition requiring the council's agreement to a surface water drainage strategy is necessary to prevent the development leading to increased flood risk in the area. Given that the drainage scheme may affect how the scheme is constructed, this condition is required to be a pre-commencement condition.
35. To protect the character and appearance of the area, the significance of the Conservation Area, and highway safety, materials, landscaping, parking, and junction design conditions are needed. There is no need for samples of materials to be provided. This is because details of proposed facing materials would encompass matters such as mortar colour as well as stone type, sizes and laying patterns.
36. Conditions requiring the approved materials to be retained in the future, and the removal of permitted development rights are unnecessary and would be unreasonably restrictive for future occupiers.
37. Conditions relating to ecology, landscaping, and water efficiency are imposed to prevent unacceptable harm being caused to biodiversity and the environment. Because the trees and hedgerows on the site boundaries could be affected by initial works, the landscaping condition must be a pre-commencement condition. Given that the mitigation measures referred to in the ecology condition include lighting, there is no need for a separate condition on this matter.
38. I am unconvinced that there would be space on the individual driveways for cars to easily or conveniently enter and leave each property in forward gear. However, each driveway would be accessed from either a shared drive or courtyard within which there would be space for vehicles to turn clear of the highway. The need for a condition regarding the turning of vehicles within individual curtilages of the properties has not therefore been demonstrated, nor would it be reasonable.
39. Given the proximity of nearby archaeological features, a pre-commencement condition is imposed to establish the presence/absence and heritage significance of any archaeological remains within the appeal site, and, to ensure that any features of historic significance are recorded and, if appropriate, protected during any demolition, site excavation, and construction works.

40. Conditions are required to protect human health and the environment from any contaminants within the site during the ground clearance, excavation, and building works, and, post-occupation of the development.
41. There is no need to impose conditions regarding construction working hours or requiring the provision of electric vehicle charging points. This is because there are separate powers to prevent harm resulting from noise and activity related to construction works, and building regulations now require electric vehicle charging points to be provided for all new dwellings with associated parking spaces. Nor has compelling evidence been presented to justify the need for either a noise or foul waste disposal conditions. Air source heat pumps and solar panels are not indicated on the submitted plans. While such features have the potential to reduce the amount of mains energy that would otherwise be required, I have no basis to conclude that they are necessary to make the development acceptable.

Conclusion

42. For the reasons given, this appeal should be allowed.

V Simpson

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. 230603 L 001, 210804 P1 002 rev B, 230603 P2 002 rev B, 230603 P3 002 rev B, 230603 P4 002 rev B, 230603 P5 002 rev B, 230603 L 003 rev A, 230603 L 004, 230603 P1 001, 230603 P2 001, 230603 P3 001, 230603 P4 001, 230603 P5 001, and JWL_098.01D.
- 3) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include;
 - existing and proposed finished levels and contours;
 - hard surfacing materials;
 - measures to protect the trees and hedgerows that are to be retained on the site boundaries during any site clearance, excavation, and construction works;
 - planting plans which shall specify the size, species, and density of all proposed trees, hedgerows, grass areas, and other plants, as well as details of how they will be planted;
 - a five-year management/maintenance programme in respect of the soft landscape works; and
 - an implementation programme

The landscaping works shall be carried out in accordance with the approved details.

If any trees, plants, hedgerows, or areas of grassland indicated on the approved Landscape Layout Plan (ref: JWL_098.01D), are removed, uprooted, destroyed, die, or become seriously damaged or defective, within five years of the occupation of the fifth dwelling, these shall be replaced by others of the same size and species within the first planting season following the removal, uprooting, destruction or death of the original, unless the local planning authority gives its written consent to any variation.

- 4) No development including demolition shall take place until;
 - i) an archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and;
 - ii) safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.
- 5) No development shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The submitted scheme shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide a management and maintenance plan for the lifetime of the development.

The development shall be carried out in accordance with the approved scheme. Thereafter the surface water drainage system shall be managed and maintained in accordance with the approved management and maintenance plan.

- 6) No development shall commence until;
 - i) a methodology for site investigation of the nature and extent of contamination of the site has been submitted to and agreed in writing by the local planning authority;
 - ii) the site investigation has been undertaken in accordance with the approved methodology; and
 - iii) a report of the findings of the site investigation has been submitted to and approved in writing by the Local Planning Authority.

If any contamination is found, no development shall then take place until:

- iv) a report specifying the measures to be taken, including timescales, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;

- v) the site has been remediated in accordance with the approved measures; and
 - vi) a verification report has been submitted to and approved in writing by the local planning authority.
- 7) If during the course of the development, any contamination is found which has not previously been identified, work shall be suspended until:
 - i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and;
 - ii) a verification report for all of the remediation works has been submitted to and approved in writing by the local planning authority.
- 8) No development above ground level shall take place until details of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall subsequently be carried out in accordance with the approved details.
- 9) Prior to the first occupation of the development;
 - i) details of the junction between the proposed private drive and the highway for both vehicular and pedestrian access, shall be submitted to and approved in writing by the local planning authority, and
 - ii) the junction shall be completed in accordance with the approved details.
- 10) Before the occupation of each of the dwellings hereby permitted, the external vehicle parking spaces within the curtilage of the associated dwelling shall have been completed. Thereafter, these parking spaces shall be retained for the parking of vehicles only.
- 11) The dwellings hereby permitted shall not be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with and evidence of compliance has been submitted to and approved by the local planning authority. Thereafter, the measures to ensure this level of water consumption is not exceeded should be retained for the life of the development.
- 12) The development shall be undertaken in accordance with the mitigation and enhancement measures identified within section 7 of the Mulford Environmental Consulting Ecological Appraisal Final Report dated 21 November 2022, as amended by the Mulford Environmental Consulting ecological appraisal addendum dated 21 July 2023.
- 13) Each dwelling hereby permitted shall be occupied only by:
 - i) persons of 55 years or older;
 - ii) persons living as part of a single household with such a person or persons; or
 - iii) persons who were living as part of a single household with such a person or persons who have since died.

End of conditions