



Appeal Decision

Site visit made on 4 June 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2024

Appeal Ref: APP/C3105/W/24/3338205

Offside, The Green, Barford St Michael, Banbury, Oxon, OX15 0RN

- 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 A Murray against the decision of Cherwell District Council.
 - The application Ref is 23/02470/F.
 - The development proposed is the erection of a 2-bedroom bungalow on vacant plot.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 2-bedroom bungalow on vacant plot at Offside, The Green, Banbury, OX15 0RN in accordance with the terms of the application, Ref 23/02470/F, and the plans submitted with it, subject to the conditions in the attached Schedule.

Main Issues

2. The main issues are
 - Whether the principle of the development accords with the strategy in the development plan;
 - The effect on the character and appearance of the area;
 - Whether the living conditions of the future occupiers would be reasonable; and
 - The effect on highway safety through a lack of on-site parking.

Reasons

Background

3. The appeal site comprises a square shaped area of land which lies in a backland position to the rear of frontage properties in the village of Barford St Michael. The land is generally open although there is a homing pigeon wooden 'loft' (described by the appellant as huttage) in the north-east corner of the site and a stone barn used for horticultural purposes in the western area. The site has access to The Green via a driveway alongside the property 'Offside'. The site lies in the Barford St Michael Conservation Area. It is proposed to erect a single storey building with two main elements on an 'L' shaped axis. The application forms indicate that the property would have elevations of natural stone and render with a roof of plain concrete tiles.

Accord with development strategy

4. Policy Villages 1 of the Cherwell Local Plan adopted in 2015 (CLP) includes Barford St Michael as a category C village – a category covering the least sustainable locations. New housing development in such a village is limited to ‘infilling and conversion’ within the recognised built-up area. Infilling is defined in the CLP as utilising ‘a small gap in an otherwise continually built-up frontage’ although the policy goes on to indicate that not all spaces in village streets will be acceptable as harm could be caused such as to local views out to the landscape. In this case the Council considers that the proposal does not meet the terms of infilling as the site lies in a rearward position and not in a continuously built up frontage.
5. It is clear that while the appeal site lies within the village boundary the site does not comprise infilling, as so defined, because of the backland nature of the land. However, it appeared to me at the site visit that there were few opportunities for infilling within established frontages because of the tight knit form of the older properties, particularly those around The Green, and the more modern development of small housing estates like the houses of Robins Close which wrap around the southern and western flanks of the appeal site.
6. The Council also submits that Barford St. Michael is not a sustainable location as the village has few facilities and public transport links. Nevertheless, this factor does not out rule out the principle of some limited development as the potential for infilling has been accepted in Policy Village 1.
7. Overall on this issue I find that the proposal does not accord with the development strategy set out in the CLP as it does not constitute ‘infilling’ as defined in the plan.

Character and appearance

8. The Council takes issue with the design of the dwelling proposed and in particular the two gabled element, its orientation and to the small flat roof and rendered section that links the two ‘wings’. However I noted at the visit that the proposed siting of the bungalow well back into the site means that it would not be prominent in the street scene as only a short glimpse of the end gable would be seen up the access drive alongside “Offside”. Within the site itself the form and scale of the building would not be dissimilar to that of the existing stone and timber barn. Nor is it unusual for an outbuilding to be sited at an angle rather than always be parallel with properties on the street frontage.
9. In terms of the design of the building itself it has a simple form of two small stone buildings linked by a visually subordinate structure and the flat roof and rendered element, or the variation in fenestration, does not detract from the overall quality of the building.
10. I am satisfied that the siting, design and form of the proposed single storey building is appropriate for the area and would not harm the setting of the frontage properties facing The Green nor the relationship with the modern brick and tile houses around Robins Close.
11. I also note that the Council’s Conservation Officer does not object to the application and has not found any harm to the Conservation Area or to the setting of the listed building The Homestead. I have paid special regard to the desirability of preserving both of these aspects and I concur. There would be

no discernible effect on the setting of this listed building and the proposal would have a neutral effect on the character and the appearance of the Conservation Area and these aspects would be preserved. The requirements of section 66(1) and 72(1) of the Act¹ would therefore be met.

12. Overall on this issue I find that the proposal would not conflict with Policy ESD15 of the CLP or saved Policies C28 and C30 of the CLP 1996 as the character of the area would be complemented and respected and that the development is compatible with existing dwellings in the vicinity of the site.

Living conditions

13. The Council submits that because of the siting of the bungalow in the rear part of the site there would be insufficient outlook to bedrooms 1 and 2 as the windows would be 3m to 5.3m away from the 1.8m high rear boundary fence. However I note that the closest window would be to bedroom No.1 which would also have a window of a similar size looking in the opposite direction into the centre of the site with an open array of space. The property's main domestic accommodation would look to the north-east and north-west away from the boundary fencing.
14. I have considered the Council's Residential Design Guide SPD but see no policy or guidance which suggests that 5m outlook from a bedroom window would be below any recognised standard. Considering the dwelling as a whole I am satisfied that it would have reasonable light and outlook and that the living conditions of future occupiers would not be harmed. On this basis the proposal reasonably accords with the provisions of CLP Policy ESD15 concerning the amenity of both existing and future development and saved policies CV30 of the CLP 1996 about standards of amenity.

On-site parking

15. The submitted site block plan shows a paved hardstanding for a vehicle adjacent to an electric charging point on the bungalow but no other parking provision on site. Accordingly the Council, on the advice of the highway authority, says that a lack of designated parking for the proposal and for Offside may lead to pressure for vehicles to park on The Green which is inadequate in width and already suffers from parking stress.
16. With the lodging of the appeal the appellant has submitted an additional plan (drawing 433:13-101B) which shows two spaces allocated for both the proposed bungalow and for Offside and a communal parking area for visitors to the bungalow, the huttage and the store barn. On the basis of this plan I am satisfied that off-street parking can be provided for all of the components of the site and such parking provision can be required to be implemented and retained by condition. With such a condition there is no conflict with CLP Policy ESD15.

Other matters

17. At application stage some local people expressed concern about additional traffic arising from the new property onto the lanes of the village but it has not been demonstrated that such impact on the highway network would be 'severe'

¹ The Planning (Listed Buildings and Conservation Areas) Act 1990

which is the test to be applied in the National Planning Policy Framework (the Framework)

18. Other immediate neighbours object to the possible loss of views over the appeal site and loss of privacy but there is no general right to a particular view over other private land and I am satisfied that there would be a reasonable physical relationship between the proposed bungalow and the adjacent houses in Robins Close and there would be no material overlooking or loss of privacy.

Planning Balance

19. On the main issues I have found that while the principle of limited infilling in the village is acceptable the proposal would not meet the terms of Policy Villages 1 as the site does not comprise a gap in a continually built up frontage. However, I have also found that the proposal would complement and respect the character and appearance of the area and would have a neutral effect on the conservation area. It would also provide the future occupiers with reasonable living conditions and it has now been shown that the overall site can accommodate sufficient parking provision. The proposal therefore meets the other relevant local plan policies.
20. The conflict with Policy Villages 1 needs to be balanced with other considerations. In particular the Framework sets out that the Government seeks to significantly boost the supply of homes. Within this Section 11 indicates that planning decisions should promote an effective use of land in meeting the need for homes while safeguarding the environment and ensuring safe and healthy living conditions.
21. The appeal site contains sufficient land for the development proposed which would not result in any environmental or social harm. Its development would make effective use of land which lies in the heart of the village. In the circumstances of this case this outweighs the objection over the proposal not being infilling in a built-up frontage. The appeal should therefore be allowed.

Conditions

22. The Council recommends that 12 conditions be imposed which I will consider under the same numbering. Some of the conditions proposed are 'pre-commencement' ones and the appellant has had the opportunity to comment on them. In addition to the condition on the commencement of development (No.1) No.2 is necessary for clarity and to define the plans that are approved. In order to ensure that the development fits in with the area it is reasonable to impose No.3 on sample external materials and be sure about finished floor levels because of the relationship with other development (No.4). In order to secure proper landscaping for the site it is necessary to impose conditions No's 5 and 6 together with No.7 to ensure additional facilities for biodiversity.
23. Condition No. 8 is reasonable in case there is ground contamination resulting from any previous use which may harm living conditions. A condition on the provision of off-road parking is also reasonable but I will amend the one recommended (No.9) to relate to the more recent plan showing such parking and this has to be implemented prior to occupation of the new bungalow. Moreover No.10 is reasonable to secure covered cycle storage in the interests of sustainable travel.

24. Finally I agree that there is special justification for imposing of conditions No's 11 and 12 to remove 'permitted development' rights because of the relatively close proximity of the proposed bungalow to the rear boundaries of the site and maintain the quality of the development and to ensure that neighbouring properties are not materially overlooked. I will therefore impose these conditions.

Conclusion

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

David Murray

INSPECTOR

Schedule of Conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the information contained within the application form and approved plans: 100, 101, 110 and 120.
3. No development shall commence unless and until samples of the materials to be used externally in the construction of the walls and roof of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the samples so approved and shall be retained as such thereafter.
4. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed in accordance with the approved levels.
5. No development shall take place above slab level until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps,
- (c) full details of the means of enclosure along all boundaries of the site.

The development shall be carried out in accordance with the approved details and the hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

6. 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 building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five 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, unless the Local Planning Authority gives written consent for any variation.
7. No development shall commence above slab level unless and until a method statement for enhancing biodiversity on site to include wildlife friendly planting, bird and bat provisions, hedgehog highways through any boundary fencing/walls and restricted exterior lighting has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to the first occupation of the development in accordance with the approved details and shall be retained as such thereafter.

8. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.
9. The bungalow hereby approved shall not be occupied until the parking provision shown on plan 43:13 101B for the site, including within the curtilage of Offside, has been set out in accordance with this plan. Thereafter the parking and turning space shall be retained for the parking and manoeuvring of vehicles at all times.
10. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.
11. Notwithstanding the provisions of Classes A, B, C and E of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) 2015 and its subsequent amendments, the approved new dwelling shall not be extended (nor shall any structures be erected within the curtilage of the said dwelling) without the grant of further specific planning permission from the Local Planning Authority.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), no additional windows, doors or any other openings shall be inserted in the dwelling without the grant of further specific planning permission from the Local Planning Authority.