

Appeal Decision

Site visit made on 7 August 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 06 September 2024

Appeal Ref: APP/D3125/W/24/3341293

Churchfields Care Home, Pound Lane, Cassington, Oxfordshire OX29 4BN

- 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 Mr R Sideras against the decision of West Oxfordshire District Council.
 - The application Ref is 23/01182/FUL.
 - The development proposed is the erection of a key worker nurse accommodation block.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a key worker nurse accommodation block at Churchfields Care Home, Pound Lane, Cassington, Oxfordshire OX29 4BN in accordance with the terms of the application, Ref 23/01182/FUL, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:

- whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any other relevant development plan policies;
- the effect of the proposal on the openness of the Green Belt;
- whether the proposed development would provide acceptable living conditions for future occupants, with regard to noise and the quality of living space; and
- whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether or not inappropriate development

3. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state

that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154. Relevant exceptions include paragraph 154(f), which concerns limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites) and paragraph 154(g) which concerns limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
5. Policy OS2 of the West Oxfordshire Local Plan 2031 adopted September 2018 (WOLP) is consistent with the Framework as it sets out that development within the Green Belt should comply with national policies. Moreover, Policy CAS9 of the Cassington Neighbourhood Plan 2021-2041 made on 26 June 2023 (CNP), sets out that unless there are very special circumstances residential development in the Parish will be limited to certain types of development which mirror the exceptions contained in paragraphs 154 (f) and (g) of the Framework.
6. I turn first to consider whether the proposal amounts to limited affordable housing for local community needs. Having considered the definition of affordable housing in the Framework, there is insufficient evidence to persuade me that the proposed key worker accommodation block is affordable housing.
7. I say that because there is no evidence that the landlord would be a registered provider, the proposal would not be for starter homes, discounted market sales housing or another affordable route to home ownership. Moreover, the proposal which would introduce a two-storey building would clearly have a greater impact on the openness of the Green Belt than the existing situation. Consequently, the appellant is unable to rely on any of the exceptions contained in paragraph 154 of the Framework.
8. I therefore conclude that the proposal would amount to the construction of a new building in the Green Belt and would be inappropriate development, which is, by definition, harmful to the Green Belt and consequently I give substantial weight to that harm. It follows that the proposal would conflict with the Green Belt policies contained within the Framework and also with Policy OS2 of the WOLP and Policy CAS9 of the CNP.

Openness

9. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. Spatially, the introduction of a two-storey accommodation block with associated floor space and volume would reduce openness and by occupying space that was largely undeveloped, the proposed development would undoubtedly reduce the openness of the site. Visually, given the proposal would be tucked away to the rear of the existing

care home and would be screened by existing vegetation and boundary treatment, the proposed development would not have a significant presence in public views.

10. I note that the balanced and well-reasoned Officer's report that was considered at the Planning Sub-committee meeting (the Officer's Report), highlights that given the location of the proposed building relative to the position of the existing care home the proposal would not extend the built form further east than the existing situation, which would limit the impact. I agree with that analysis. Accordingly, there would be modest harm to openness.

Living Conditions

11. The Officer's Report sets out that during the pre-application process, the appellant engaged with the Council and made certain alterations including to the internal layout to allow a lower ratio of the bedrooms using one bathroom with the provision of ensuite facilities to some of the bedrooms. As a result, on the ground floor three bedrooms would share a communal bathroom and two bedrooms would have ensuite facilities whereas on the first floor there would be two bedrooms sharing a communal bathroom and two with ensembles. There would also be a large ground floor kitchen/living room and a kitchenette on the first floor.
12. Despite the Council's appeal statement making several references to the proposal being effectively a house in multiple occupation (HMO), it is important to bear in mind that the proposal is very clearly for staff accommodation to house key workers who work at the care home. As a result, the relationship between future occupants and the managers of the care home and with each other, being that of employees and colleagues respectively is very different from that between occupants of an HMO.
13. On that basis, I consider the proposed internal layout would provide appropriate facilities, including bathroom facilities, to serve future residents. Moreover, I observed that the garden area surrounding the proposed accommodation block is attractive and would provide a very pleasant setting for future residents. As a result, I consider the proposed internal layout entirely acceptable which would not have an adverse impact on the living conditions of future residents.
14. In terms of noise, the proposed block is closer to the A40 than the care home. The appellant has submitted a noise assessment (NA) carried out by an appropriately qualified professional. This recommended certain mitigation measures. As recognised in the Council's appeal statement, the District Council's Environmental Regulatory Services (ERS) Team effectively endorsed the conclusions and certainly the recommendations of the NA and as a result they did not object to the proposal on noise grounds. The NA concluded that there was no material reason with regard to noise why planning permission should not be granted. I agree with the findings of the NA and consequently find it entirely reasonable why the ERS did not object to the proposal. Consequently, the proposal would not have an adverse impact as a result of noise.

15. Despite the fact that the highways authority has not objected to the level of parking proposed, and parking provision was not included as a reason for refusal, under the section discussing the quality of living conditions, the Council's appeal statement sets out that the proposed parking provision is "potentially" inadequate. For the avoidance of doubt, bearing in mind that the proposal would house key workers who would work at the care home, the level of parking is sufficient to serve the needs of future occupants and the proposed parking provision would not unacceptably impact the living conditions of future residents.
16. I therefore conclude that the proposal would provide acceptable living conditions for future occupants, with regard to noise and the quality of living space. Consequently, the proposal would accord with the relevant parts of Policy OS4 of the WOLP which seeks to ensure development adopts a high quality design that creates a safe, pleasant and convenient environment that does not harm the living conditions in residential properties. The proposal would also accord with the Framework which seeks to ensure developments create places with a high standard of amenity for existing and future users.

Other Considerations

17. Among other things, Policy H2 of the WOLP sets out in villages such as Cassington, new dwellings will be permitted on undeveloped land adjoining the built-up area where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs.
18. The appellant has submitted a comprehensive Statement of Housing Need. I have taken account of the Council's appeal statement and comments from interested parties, including the Parish Council. Among other things these set out that there is no information about levels of rent; market forces seem to indicate that staff wages are too low and the Council specifically states that care workers should be paid more as this would make it easier to recruit staff and for those new staff to live somewhere more suitable than a bedroom in shared accommodation; that the transport options are greater than indicated by the appellant and that although walking to Kidlington would take a long time, residents could cycle in 25 minutes; the proposal does not meet the affordable housing needs of the village, which is for family homes; the proposal would discriminate against those in a relationship; and the care home would force people to move out if they leave their jobs effectively trapping them.
19. On the other hand, I have also taken account of the Officer's report which as outlined above, is a well-balanced and reasoned appraisal of the proposed development. Having fully assessed and considered the information submitted by the appellant it agreed that the proposed keyworker accommodation would respond to an identified need. In reaching that view it highlighted that the nurses and carers employed at the site do not follow a 9-5 shift pattern which therefore limits the use of public transport or other sustainable modes of transport such as cycling. It went on to highlight that this limitation dictates the location where these workers can live and taking account of the rental and purchase price of properties in the area it is likely to be beyond the means of the workers who would be accommodated at the proposed accommodation block. I agree with that analysis.

20. Consequently, the proposal accords with Policy H2 of the WOLP. I would add that some of the matters raised by the Council and other interested parties have limited weight in the determination of the appeal. For example, it is not appropriate to suggest that the accommodation needs of workers at the care home could be resolved by the appellant paying them more as suggested by the Council. Moreover, I consider that providing accommodation for key workers within the proposed block would accord with Policy H2 of the WOLP for the reasons set out and I am not persuaded that the proposed development would unacceptably discriminate against other workers.
21. I consider that the information provided by the appellant about biodiversity and ecology is sufficient to persuade me that appropriate conditions could be imposed in relation to these matters. I note that the appellant has confirmed that they intend to install a passivent heat recovery system to reduce emissions, install a ground source heat pump and limit upfront embodied carbon. As a result, I am satisfied that the proposal would accord with the Framework which provides support for the transition to a low carbon future in a changing climate and supports renewable and low carbon energy and associated infrastructure.
22. The appeal site is located within the Cassington Conservation Area (CCA). The appellant has submitted a detailed heritage assessment which concludes that the proposal would preserve the significance of this designated heritage asset. I agree and I note that the Council's conservation officer has confirmed that they have no objection with the principal of the proposed building at the appeal site.
23. There are a number of listed buildings relatively nearby including Reynolds Farm and Dovecote, the Church of St Peter and a cluster of structures north of the church. Mindful of the statutory duty set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had special regard to the desirability of preserving their setting. The historic nature of these buildings located within the core of the village positively contribute to their significance. Nevertheless, given the location and extent of the proposed development, I consider that it would preserve the setting of these listed buildings and the contribution they make to their significance. I note the Council's conservation officer has no concerns in this regard either.
24. Overall, although the proposal does not amount to affordable housing as defined in the Framework, it would provide much needed accommodation for key workers at the care home who would find it hard to find suitable accommodation at a reasonable price within reasonable commuting distance of the care home. I afford this other consideration very substantial weight in the determination of the appeal.

Green Belt Balance

25. Overall, the proposal would be inappropriate development in the terms set out by the Framework and would result in modest harm due to the loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.
26. The Officer's Report concluded that as relevant officers established that there was a housing need for key workers employed by the care home, any harm

to the Green Belt would be outweighed by very special circumstances. Again, I agree with that analysis. For the reasons set out above, the harm to the Green Belt would be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have been demonstrated.

Conditions

27. I have had regard to the conditions suggested by the Council and amended and reordered them as necessary in the interests of precision and clarity, as well as to comply with advice in the Framework and Planning Practice Guidance (PPG). It is necessary to impose some pre-commencement conditions and the appellant has confirmed that they agree to such conditions.
28. A condition is needed to secure compliance with the approved plans for the avoidance of doubt and in the interests of proper planning. Given the scale of development and the location of the appeal site it is necessary to impose a condition to require a construction method statement is submitted and implemented. To ensure that the proposal does not adversely impact protected species and provides biodiversity enhancements it is necessary to impose a number of relevant conditions, including to control external lighting.
29. To protect the area from flood risk it is necessary to attach a condition requiring the implementation of a surface water drainage scheme. A condition requiring that details of external materials to be used is necessary in the interest of the appearance of the scheme and the surrounding area. Given the particular circumstances, which has justified permitting this development, it is reasonable to ensure that only staff working at the adjacent care home can occupy the permitted development. Similarly, it is reasonable to restrict each unit to single occupancy to ensure that the level of parking is sufficient. To protect the living conditions of future occupants from adverse noise impacts it is necessary to ensure appropriate glazing is installed.
30. In the interests of the appearance of the scheme and the character and appearance of the area it is necessary to impose conditions to ensure appropriate landscaping is implemented. In the interests of highway safety and to promote sustainable transport options it is necessary to impose a condition in relation to vehicle and cycle parking.
31. In addition to the suggested conditions contained within the Officer's Report which are restated in the Council's appeal statement, the Council also briefly refer to some other conditions. It is unclear whether they are suggesting these should be imposed as they highlight that they are unconvinced that they meet the test of reasonableness. For the avoidance of doubt, if they are suggesting they should be attached I agree that it would be unreasonable to impose them. Moreover, given that many relate to matters covered by other regulations they are not necessary in any event.

Conclusion

32. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it.

S Rawle

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 2202 01C and 2202 02C.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) Prior to commencement of the development, details of a minimum of three bat boxes shall be submitted to and approved by the local planning authority. The submitted details shall include the location of the bat boxes, their heights and aspects and shall be installed in accordance with the approved details prior to the occupation of the development and permanently retained thereafter.
- 5) The development shall be completed in accordance with the recommendations set out in Table 17 of the Ecological Appraisal prepared by Cherryfield Ecology dated 8th September 2023. All the recommendations shall be implemented in full, according to the timescales laid out in the recommendations, unless otherwise agreed in writing by the local planning authority, and thereafter permanently retained.
- 6) Prior to the commencement of development, details of biodiversity enhancements shall be submitted to and approved in writing by the

local planning authority. Details shall include; (i) integrated bat roosting opportunities; (ii) integrated nesting opportunities for birds; (iii) externally mounted small bird boxes, affixed to existing mature trees on site; (iv) insect boxes located in a sheltered location within the site; and (v) permeable opportunities for hedgehogs. The details will also include technical drawings showing the types of features, their locations within the site and their positions. The approved details shall be implemented within 3 months of the completion of the development hereby approved and thereafter permanently retained.

- 7) Prior to the commencement of development, including any vegetation/site clearance) a Precautionary Working Method Statement (PWMS) for nesting birds will be submitted to and approved in writing by the local planning authority. The approved PWMS shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the local planning authority.
- 8) The development hereby permitted shall take place in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan "Churchfields Care Home: Impact plan for great crested newt District Licensing (Version 1)", dated 28th November 2023.
- 9) No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112, or a 'Further Licence'), confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the local planning authority and the authority has provided authorisation for the development to proceed under the district newt licence.
- 10) Prior to the commencement of development details of a full surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the size, position and construction of the drainage scheme and results of soakage tests carried out at the site to demonstrate the infiltration rate. Three tests should be carried out for each soakage pit as per BRE 365 with the lowest infiltration rate (expressed in m/s) used for design. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved. Development shall not take place until an exceedance flow routing plan for flows above the 1 in 100 year + 40% CC event has been submitted to and approved in writing by the local planning authority.
- 11) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 12) The development hereby permitted shall only be occupied by staff working at the adjacent care home, currently named Churchfields Care Home and each unit will not be occupied by more than one person.

- 13) All glazing installed at the development hereby permitted shall be in accordance with the recommendations included in the acoustic report prepared by F1:Acoustics dated 12 April 2023 and shall be retained in that form thereafter.
- 14) Prior to the installation of any external lighting for the development hereby approved, a lighting design strategy for biodiversity shall be submitted to and approved in writing by the local planning authority. The strategy will identify the areas/features on site that are particularly sensitive for nocturnal wildlife; show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent nocturnal wildlife species using their commuter route. All external lighting shall be installed only in accordance with the specifications and locations set out in the approved strategy.
- 15) Within three months of the date of this decision, a comprehensive landscape scheme shall be submitted to the local planning authority for their written approval. Details will include biodiversity enhancements (such as species rich planting of native trees and native hedgerow and wildflower planting) and a 5-year maintenance plan. It must show details of all planting areas, tree and plant species, numbers and planting sizes. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development. The approved landscaping scheme shall be completed by the end of the planting season immediately following the completion of the development or the site being brought into use, whichever is sooner.
- 16) Any trees or plants shown on the approved landscaping scheme to be planted or retained that die, are removed, are damaged or become diseased, or grassed areas that become eroded or damaged, within 5 years of the completion of the approved landscaping scheme, shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species as those lost, unless the local planning authority approves alternatives in writing.
- 17) The car parking areas (including where appropriate the marking out of parking spaces) shown on the approved plans shall be constructed before occupation of the development and thereafter retained and used for no other purpose.
- 18) Prior to the first occupation of the development hereby approved details of cycle parking shall be submitted to and approved in writing by the local planning authority. The accommodation shall not be occupied until the cycle parking area has been provided in accordance with the approved details. The approved cycle parking area shall thereafter be permanently retained and kept available for cycle parking.