



Appeal Decision

Site visit made on 13 August 2024

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th September 2024

Appeal Ref: APP/D3125/W/23/3331621

Land West Of Greenacres, Churchill Road, Kingham, Oxfordshire OX7 6TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs A Bratt against the decision of West Oxfordshire District Council.
 - The application Ref is 23/00721/S73.
 - The application sought planning permission for 'Construction of dwelling together with associated outbuildings and landscaping. Close existing and formation of new vehicular access in revised position' without complying with conditions attached to planning permission Ref 22/02717/S73, dated 18 November 2022.
 - The conditions in dispute are Nos 2 and 3 which state that:
 - 2 That the development be carried out in accordance with the approved plans listed below.
 - 3 The external walls shall be constructed of natural local stone in accordance with a sample panel which shall be erected on site and approved in writing by the Local Planning Authority before any external walls are commenced and thereafter be retained until the development is completed.
 - The reasons given for the conditions are:
 - 2 For the avoidance of doubt as to what is permitted.
 - 3 To safeguard the character and appearance of the area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In November 2023, Areas of Outstanding Natural Beauty ('AONBs') were renamed 'National Landscapes', and the Cotswolds AONB became known as the Cotswolds National Landscape. The legal and policy status of AONBs is unchanged, but I have therefore referred to the Cotswolds National Landscape ('NL') in my decision.
3. The Council granted planning permission¹ ('the Original Permission') for development described as 'construction of dwelling together with associated outbuildings and landscaping. Close existing and formation of new vehicular access in revised position', subject to a number of conditions.
4. Subsequently, the Council granted a new planning permission² ('the Parent Permission') under section 73 of the Town and Country Planning Act 1990 ('the

¹ Application ref 21/02570/FUL

² Application ref 22/02717/S73

Act') for the same description of development but substituting amended plans for those that were approved under condition 2 of the Original Permission.

5. The application subject of the current appeal is seeking a further new permission under section 73 of the Act. It proposes substitution of amended plans for those that were approved under condition 2 of the Parent Permission in order to make changes to the design of the development and reposition it further into the site. It also proposes alteration of the materials specified at condition 3 of the Parent Permission to enable a change to the pool building.
6. The Council did not submit an appeal statement, but it did submit a statement at 'final comments' stage in response to representations made on the appeal by interested parties. I have noted the appellant's comments that this statement presents new evidence and that it raises concerns around matters beyond the reason for refusal.
7. However, much of the statement comprises quotes of interested party representations with relatively brief commentary, rather than substantive new technical evidence. It highlights some concerns by interested parties which were not part of the Council's reason for refusal, but it does not in my reading seek to add to or amend the refusal reason, and the points raised by interested parties are in any case before me to consider. Moreover, the appellant has been able to provide a response to the Council's statement (as well as the interested party comments). I am mindful that the Procedural Guide: Planning Appeals - England indicates that no new evidence is allowed at 'final comments' stage. Given the above however, I consider that no unfair prejudice would be caused by my having regard to the Council's final comments. I have therefore taken the statement, as well as the appellant's response to it, into account.

Main Issues

8. The main issues are:

- i) the effect of the proposal on the character and appearance of the area having regard to the landscape and scenic beauty of the Cotswolds National Landscape; and
- ii) the effect of the proposal on the setting and significance of the Kingham Conservation Area.

Reasons

Character and Appearance

9. The appeal site is located on the outskirts of Kingham within the Cotswolds NL. The appellant's Landscape Appeal Statement Representation ('LASR') lists special qualities of the NL as set out in the Management Plan 2023-2025. These include the unifying character of the limestone geology; river valleys; flower-rich grasslands; and distinctive settlements developed in the Cotswold vernacular with high architectural quality and integrity.
10. At the more local level, the site is part of the Upper Evenlode Valley local landscape character area ('LCA') as defined by the West Oxfordshire Landscape Assessment 1998 ('the WOLA'). This is described as a distinctive area of rolling Lower Lias clayland which forms a broad, shallow basin around the upper reaches of the River Evenlode. Despite a strong landscape structure, the area has a generally open and expansive character and the WOLA notes that

settlements here typically developed as a cluster of buildings around a central space which developed outwards along roadsides. Overall, the LCA has a highly attractive and unspoilt rural character.

11. Kingham itself includes buildings in an irregular but typically fairly tight-knit layout around a broadly oval-shaped arrangement of main streets, albeit with occasional gaps including the village green and graveyard to the Church of St Andrew. Plots on the village periphery are often larger providing for a somewhat looser grain. However, while building lines are not uniform and some dwellings sit behind gardens or in courtyards, most are positioned relatively close to the street frontages and dwellings that are set back are usually set amongst other buildings. This serves to reduce the outward spread of built form into the surrounding countryside and provides for a generally compact form around the road layout. Indeed, the West Oxfordshire Design Guide 2016 ('the WODG') classifies Kingham as a 'nucleated' settlement type which are described as compact, with less dense development on the periphery of the central core.
12. In my view, the settlement pattern and its open setting, together with the prevalent use of stone and the high architectural quality and integrity of the buildings, many of which are historic, add much to the distinctiveness of the village. Noting that distinctive settlements are part of the special qualities of the NL, I find that these attributes also contribute to the landscape and scenic beauty of the area.
13. The appeal site has a frontage to Churchill Road between dwellings known as Greenacres and East Lodge (which was undergoing construction works at the time of my visit). It comprises an elongated parcel which slopes generally downwards away from the road towards a tributary of the River Evenlode. It is mostly rough grassland in use for grazing with boundaries that are predominantly marked by vegetation, although the rear boundary is not defined and there are some sections of fencing and at one point the side of a large outbuilding to the rear of Greenacres. The appellant's proposed site plan indicates another structure at Greenacres some way to the rear of this outbuilding, but this is shown as having a very modest footprint and was not readily discernible from the street or from within the appeal site as a building associated with the residence. Beyond the adjacent sites, the surrounding area generally comprises open fields, some of which contain trees, with vegetated boundaries which form part of the open countryside around Kingham.
14. Given the frontage to Churchill Road between neighbouring dwellings, I agree with the LASR that the site has a functional and visual association with the village of Kingham and that this is not a remote landscape. Even so, the site exhibits some key characteristics of the Upper Evenlode Valley LCA as a largely open valley-side field parcel with tree and hedgerow boundaries, and it has a pleasant rural quality in keeping with the surrounding open countryside. This impression strengthens with distance from Churchill Road as the surrounding landscape beyond the neighbouring dwellings and their closest outbuildings is also perceived as generally open and undeveloped. As a result, I consider the site to form part of the rural landscape setting to the village. The site and its environs further reflect and contribute to many of the special qualities of the Cotswolds NL, albeit that these contributions are localised.

15. The Council refers to the amendments that are now proposed to the design of the dwelling on the site as minor changes with very limited impact, and while the outbuilding to the front of the dwelling would be of increased scale, the Council comments that it would retain a locally characteristic form and materials. From the evidence before me and my observations at my visit I agree and I consider the architecture and materials would suitably reflect the local vernacular. Furthermore, I saw variety in the scale of buildings in the vicinity of the site. While the Council and interested parties have referred to the substantial size of the dwelling and suggested that it would be larger than most nearby, I have no firm reason to find that the scale of development proposed would in itself be uncharacteristic or inappropriate to its context.
16. The proposal would result in a loss of grassland and some alterations to the site topography to accommodate the development, but this would also be the case under the Parent Permission. Most hedgerows and trees at the site would also be retained and supplemented through new planting to provide for an overall increase, and the proposal further includes wildflower meadow planting.
17. Overall, I accept that many key features and characteristics of the landscape around the site would not be adversely affected, particularly relative to the Parent Permission, and the proposal would either accord with or would not affect many of the special qualities of the NL. I also note that the WOLA suggests that smaller scale clay wold landscapes on the immediate fringes of the larger settlements, which include Kingham, are noted as potentially more tolerant of development if it conforms to existing field pattern, is sensitively designed and does not significantly alter settlement form.
18. However, while the Parent Permission would see the dwelling set slightly behind the neighbours to either side, the current proposal would reposition the development to be set back much further into the site. The forward-sited outbuilding would be adjacent to the large outbuilding to the rear of Greenacres, but the dwelling would then sit some way behind this, and significantly behind the rear outbuilding to East Lodge.
19. I acknowledge that the layout and proximity of buildings in Kingham to streets is not uniform and I see no clear reason that it would be necessary for the dwelling to directly match the set back of its neighbours. Even so, the dwelling would be much further from the street frontage than is usual of other dwellings in the village and considerably further than both neighbouring dwellings. Although the locality of the site is somewhat loose-knit and less dense than the central part of the village and the low density of the development would not in itself be uncharacteristic, I consider that the contrast in set back against nearby dwellings could no longer reasonably be described as 'slight'. In my view, it would be striking and means that the dwelling would appear set apart from its neighbours.
20. Moreover, the appellant suggests that the wide landscape buffer between the dwelling and Churchill Road would be akin to a roadside paddock with areas of naturalistic species, wildflowers and groups of trees. However, a dwelling located beyond a paddock would be an atypical arrangement in Kingham and to my mind would emphasise the distance between the dwelling and street frontage and the impression of segregation.
21. Given these factors, I consider that the dwelling would not be perceived as loose knit infill development which the WODG highlights is characteristic of

Kingham. It would instead appear to sit beyond the confines of the existing village envelope, forming an awkward and isolated finger of development that would cause a marked extension of the settlement edge. While there would only be physical change on the appeal site itself, I find as a result that there would be a harmful distortion of the compact and nucleated form of the village which is part of the distinctive character of the area as well as encroachment into the characteristic rural landscape and countryside setting to the village. Accordingly, I cannot agree with the appellant that the development would echo the current form of the village or reflect the local context and I find that there would be some harm to the qualities of the surrounding area and this part of the landscape.

22. In terms of visual effects, deciduous vegetation was in leaf at the time of my visit providing for significant screening, and I note that this was also the situation when the visit informing the appellant's LASR was carried out. Nevertheless, the LASR identifies potential views including from Churchill Road, most clearly near to the site access, as well as from Kingham Village Green. The site would also be appreciable from neighbouring properties although I agree with the LASR that distance and screening by vegetation would be likely to significantly restrict public visibility from the wider area.
23. The position of the dwelling further into the sloping site would mean that it would have a lower height relative to Churchill Road than the Parent Permission scheme and the appellant suggests that it would be a less visible presence on the approach to Kingham than the previously approved schemes. Be that as it may, there would be a driveway access running into the site, albeit curving, and the dwelling would be a relatively large structure which would be unlikely to be fully screened by planting. Accordingly, the dwelling's presence would still be likely to be appreciable on the site from Churchill Road. Indeed, I note that it is shown as visible in the appellant's street scene illustration.
24. Based on my observations, I agree with the appellant that opportunities for other public views of the development from the wider area would be likely to be limited, and while there would be private views from neighbouring properties, the visual effect of the proposal would be localised. I also note the appellant's evidence that opportunities to experience views of the scheme would not be materially different to the approved scheme, which if anything would be greater.
25. Nevertheless, the effects of the Parent Permission on character and appearance around the entrance to the village were found to be acceptable and I have no firm reason to find that the visibility of that development would cause any undue harm. The current proposal may provide for increased spacing between the dwelling and the boundaries to either side, but there is no compelling evidence before me that the spacing afforded under the Parent Permission would be inadequate to offer a suitable setting. Similarly, the proposal includes a simplified form to the forward-sited outbuilding but I have no clear basis to find that the cranked design of the approved scheme would have been obtrusive or harmful.
26. In contrast, the siting of the dwelling now proposed so far behind others nearby would be distinctly uncharacteristic. It would be appreciated as an incongruous and unwelcome incursion into the countryside that would be at odds with the existing pattern of development and cause detriment to the rural setting and

the distinctiveness of Kingham. Notwithstanding that the appeal development may be less visible from Churchill Road, its visual impact where it would be seen would consequently be adverse such that it would be a more conspicuous element in the landscape than the Parent Permission scheme. Similarly, the proposal may allow greater capacity for views of wider countryside towards Churchill beyond the site, but the development would present a discordant and unsympathetic element in the foreground of these views.

27. The LASR highlights views of built form as characteristic of the locality, and this is suggested to be a factor that would help to mitigate against the adverse effects of the proposal. Given however that the development would appear disconnected and poorly related to nearby dwellings rather than sitting amongst neighbours as part of the established village, I consider the LASR to underestimate the effects of the proposal.
28. I acknowledge that effects would be localised and of relatively low magnitude having regard to the small scale of the site and of the development within the wider landscape. Visual effects from public viewpoints would additionally be generally transient. Even so, the proposal is in a sensitive receiving landscape given the NL designation and Section 85 of the Countryside and Rights of Way Act 2000 (as amended) outlines a duty to seek to further the purpose of conserving and enhancing the natural beauty of the NL.
29. Having regard to the above, I find that the proposal would detract from elements which contribute to the special qualities and the natural beauty of the NL, and the area's sense of place. In my judgement, this would more than offset the beneficial effects of new planting and there would be clear harm overall to the character and appearance of the area and detriment to the landscape and scenic beauty of the Cotswolds NL that would not occur under the Parent Permission.
30. In reaching this view, I have noted the appellant's evidence referring to variation in the layout of development in Kingham and drawing my attention to examples of other buildings which are set back from streets at the end of long drives. However, a manège to the south of Church Street is of clearly different nature to a residential dwelling and I consider it would not be read as being within the village. Similarly, Kingham Hill House, Slade House, and dwellings off Station Road, Daylesford Road and at Churchill are set sufficiently apart, in some cases significantly so, from Kingham that they would not in my view be directly understood as forming part of the built up area of the village.
31. Of dwellings in Kingham, the furthest quoted set back from the street is at Far End House and Far End Cottage which the appellant indicates are around 90m back from West End. This is an outlier, at much greater distance than the next nearest example and views of the development from West End are restricted by intervening development which limits the appreciation of its presence. In addition, I do not know the full circumstances which led to this development, and I note that an interested party indicates that Far End House replaced an early twentieth century dwelling. It is therefore unclear that the circumstances are comparable to the appeal scheme where development is proposed on a currently open pastoral site which is visible from Churchill Road. Far End is additionally at the far opposite side of the village to the appeal site and so is not part of this same edge of the settlement.

32. Other dwellings are closer to streets than the development before me, and much closer than the dwelling rather than the forward-sited outbuilding element of the development. Moreover, I saw that those dwellings sit in amongst other buildings within the village. While some occupy larger plots than other nearby properties, they are therefore appreciated as falling within the village envelope and do not project out into surrounding open countryside as isolated features beyond neighbouring development.
33. The examples referenced are not therefore directly comparable to the appeal scheme. They do not alter my view that the proposal would be an unsympathetic and discordant addition to the village and nor do I find them to offer a compelling justification for erosion of the compact nucleated village form at this edge of the settlement.
34. For the reasons above, I conclude that the proposal would cause harm to the character and appearance of the area and detriment to the landscape and scenic beauty of the Cotswolds NL resulting in conflict with Policies OS2, OS4 and EH1 of the West Oxfordshire Local Plan 2031, adopted 2018 ('the WOLP'). Amongst other things, these policies give great weight to conserving landscape and scenic beauty in the NL and include requirements, broadly, that development forms a logical complement to the existing pattern of development and character of the area, contributes to local distinctiveness and protects the local landscape and setting of settlements. The proposal would also be contrary to guidance in the WODG that development should ensure that local character is respected or strengthened, and the National Planning Policy Framework ('the Framework') insofar as it seeks development that is sympathetic to local character and states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, now NLs.

Conservation Area

35. The Kingham Conservation Area ('the CA') is focused around the historic cores of the village centring on Church Street, West End and The Green and includes some adjoining fields. Many of the CA's buildings are historic, and while architectural detailing varies, there is widespread use of honey-coloured Cotswold stone. The arrangement of buildings within plots and around streets is somewhat ad hoc reflecting their differing status and the evolution of the village over time and there is lower density development to the northeast of The Green where plots are larger. However, I have already noted above that the impression remains of a generally compact, nucleated village which the WODG notes results from infilling of the original polyfocal form.
36. In my view, the quality of the historic buildings, the common use of Cotswold stone and the form and pattern of the village are all elements that contribute positively to the character, appearance and historic interest of the CA and thus its significance.
37. Much of the landscape surrounding the CA is open countryside, comprising mostly agricultural fields. Views between the CA and its surroundings are often obscured by buildings or vegetation. However, there are some outward views from within the CA where there are gaps in frontages, and the relationship is clearly appreciable on approaching or leaving the village. Given that the setting provides for appreciation and understanding of the historic context for the village as a rural settlement, I find that it makes some contribution to the

significance of the CA. There are also some points where the Grade II* listed Church of All Saints at Churchill is visible in the distance.

38. A very small corner of the appeal site adjacent to Churchill Road and East Lodge falls within the boundary of the CA. The rest of the site is not part of the CA, but is within its setting. As the appellant's Heritage Matters Appeal Statement ('HMAS') notes, the site is only a very small portion of the overall setting. There is also limited intervisibility between the appeal site and CA; public views are largely restricted to passing views from Churchill Road on the approach to the CA or views from the village green across the site towards Churchill. Nevertheless, insofar as it is a generally open parcel forming part of the rural countryside landscape around the village and allows views across to the Church of All Saints at Churchill, I find that the appeal site makes a positive, albeit very limited, contribution to the significance of the CA, essentially as part of its setting.
39. Where buildings or land are in a conservation area, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Given the very small area of the appeal site within the CA and that no built development is proposed to this part of the site, I find that there would be no tangible harm to the character or the appearance of the land within the CA.
40. In terms of setting, the proposal would introduce new buildings and alter the appeal site from a field to a residential plot, but that would also be the case under the Original and Parent Permissions. I also acknowledge that the appeal development's greater set back from Churchill Road and falling land levels would help to reduce the visible extent of buildings on the site from the street in comparison to those schemes, and would retain some open views including towards Churchill and the Church of All Saints.
41. For the reasons set out above however, the proposal would not relate well to the existing pattern of development locally. The dwelling would sit considerably behind its neighbours, spreading residential buildings significantly into this part of the surrounding countryside in an awkward and unsympathetic finger of development. The resulting sprawl would distort the historic form of Kingham as a compact, nucleated village and noticeably diminish the characteristic rural landscape and setting to this edge of the settlement.
42. Notwithstanding that the architectural design and materials of the development would in themselves be sympathetic to other buildings nearby, I therefore find that the proposal would erode the distinctive form of the village and the ability to experience and appreciate it as a compact, nucleated settlement within a rural setting. Since these are aspects which inform the significance of the CA, I cannot therefore agree with the HMAS that the contribution made by the appeal site to the significance of the CA as part of its setting would be preserved.
43. Effects would be localised given the scale of the proposal and its limited visibility as noted above. Given also the limited contribution that the appeal site makes to the significance of the CA as part of its setting, I consider that the overall harm to the significance of the CA would be very limited, and certainly less than substantial in the terms of the Framework, but it would be harm nevertheless.

44. There is no statutory protection for the setting of Conservation Areas, but the Framework outlines that great weight should be given to the conservation of designated heritage assets. It indicates that the harm should be weighed against the public benefits of the proposal, noting that any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification.
45. Against the harm, the appellant suggests that the greater set back of the dwelling would afford greater privacy to neighbouring properties and reduce light spill and noise in comparison to the Parent Permission scheme. However, since the Parent Permission development was not found to be harmful in these regards, I am not persuaded that these matters would attract weight as public benefits of the appeal development.
46. The proposal would provide a new dwelling on the site. The Council indicates that it is unable to demonstrate a 5 year supply of housing and in this context, the contribution that the proposal would make to local housing supply is an important consideration. There would be some economic and social benefits associated with construction and occupation of the development, including construction expenditure and employment and support for local services in Kingham. There would also be opportunities for new planting and biodiversity enhancement as part of landscaping measures. However, the Parent Permission would offer similar benefits without the harm to the CA that I have identified above, and no compelling evidence to indicate that these benefits could not be delivered in the absence of the appeal proposal is before me.
47. In this context, I find that the public benefits of the proposal are insufficient to outweigh the harm that would be caused to the CA which is very limited but which attracts great weight.
48. I therefore conclude that the proposal would cause unacceptable harm to the setting and significance of the Kingham CA, and it would conflict with Policies OS2, OS4, EH9 and EH10 of the WOLP insofar as they include requirements broadly for development to conserve and enhance the historic environment, including the special interest, character, appearance and setting of conservation areas.

Planning Balance and Conclusion

49. I have found that the proposal would cause harm to the significance of the Kingham CA that would not be outweighed by public benefits. There would also be harm to the character and appearance of the area and detriment to the landscape and scenic beauty of the Cotswolds NL that would not occur under the Parent Permission. I find that the benefits of the scheme would similarly be insufficient to outweigh the harm to the NL which attracts great weight in accordance with the Framework. Occupiers of adjacent properties may not have objected to the proposal, but that is not a factor that alters my consideration of the planning merits of the appeal.
50. The Council is unable to demonstrate a 5 year supply of housing. However, policies within the Framework that protect designated heritage assets and the NL provide a clear reason for refusing the development proposed. Footnote 7 of the Framework therefore makes it clear that the presumption in favour of sustainable development at paragraph 11 d) would not apply.

51. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached.

52. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR