



Appeal Decision

Site visit made on 12 November 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/D3125/W/24/3344536

48 Black Bourton Road, Carterton, Oxfordshire, OX18 3HE

- 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 Jack James Homes Ltd against the decision of West Oxfordshire District Council.
 - The application Ref is 23/02971/FUL.
 - The development proposed is the erection of 9 proposed dwellings and associated external works at no.48 Black Bourton Road, Carterton, OX18 3HE
 - To include the demolition of 1no. existing dwelling and its rear outbuildings to facilitate construction.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 9 proposed dwellings and associated external works at no.48 Black Bourton Road, Carterton, OX18 3HE, to include the demolition of 1 existing dwelling and its rear outbuildings to facilitate construction, at 48 Black Bourton Road, Carterton, OX18 3HE, in accordance with the terms of the application, Ref 23/02971/FUL, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs has been made by the appellant against the Council. This is the subject of a separate decision.

Main Issues

3. The Council now accepts that the appellant has produced sufficient evidence to overcome the second reason for refusal concerning the effect on ecology and biodiversity.
4. The main issues are therefore:
 - The effect on the character and appearance of the area; and
 - Whether the development would provide reasonable living conditions for the future occupiers.

Reasons

Background

5. The appeal site is situated in a suburban part of Carterton and lies on the corner of Black Bourton Road and Milestone Road. The site contains a small bungalow which is in a poor state of repair. The surrounding area comprises a

mixture of residential development although there is a commercial garage/taxi firm immediately to the north of the site. The proposal is for a mixture of semi-detached and detached houses and two bungalows grouped around the site frontages and two 'chalet' bungalows in a position to the rear served of a short driveway. I note that, separately, the Council has granted permission¹ for the two properties shown on plots 8 and 9 with the only difference to the appeal scheme being the dormer windows would have a pitched roof rather than a flat one.

Policy context and housing land supply

6. The development plan includes the West Oxfordshire Local Plan (LP) adopted in 2018. The Officer Report for the planning application states that the Council has undertaken a formal review of the Local Plan and has determined that Policies H1 and H2, on the amount and delivery of housing and the delivery of new homes, are out of date and need to be reviewed. Until such time as a new housing requirement is determined through a new Local Plan, the Council says that it will calculate its five-year housing land supply position on the basis of local housing need using the standard method. The Council advises that on this basis there is a five-year requirement for 3,060 homes and the Council says it can demonstrate a 5.4 years supply as stated in the position statement dated December 2023.
7. This assessment is now disputed by the appellant's agent who relies on the inspector's findings on an appeal² in Minster Lovell as issued in February 2024. In this the inspector discounted the number of units capable of being delivered which led to a potential supply of 2,498 homes equivalent to a 4.38 year supply.
8. The Council makes reference to more recent appeal decisions³ issued in May and July 2024 where the inspectors' concluded, respectively, that the Council could demonstrate a 4.34 and 4.29 years supply.
9. Therefore, I have to conclude that paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged in this case.

Effect on character and appearance

10. The LP identifies Carterton as a main service centre. LP Policy OS2 sets out general principles for new development while Policy OS3 indicates that there should be prudent use of natural resources and development should make an efficient use of land and buildings. Policy OS4 seeks to ensure a high-quality design in all new development while Policy EH2 deals with conserving and enhancing the natural environment.
11. In assessing this issue I have taken account of the general advice in the West Oxfordshire Design Guide (2016) and have borne in mind good practice set out in the National Design Guide (2018).
12. The mainly residential area along Black Bourton Road is characterised with a mixture of types of properties with a general trend of two storey properties on the western side of the road but single storey properties set back from the

¹ 24/00929/FUL

² APP/D3125/W/23/3331279

³ APP/D3125/W/23/3332089 and APP/D3125/W/23/3328652

frontage on the eastern side. Along Milestone Road the nearest properties to the site are bungalows but most other properties in the vicinity of the appeal site are two storey. In this general setting I am satisfied that the proposed layout of houses and bungalows is appropriate. I acknowledge that the new building line established along Black Bourton Road will be forward of the existing bungalow but it would be well related to the corner house of No. 54 and the other adjacent garage/taxi premises at No. 44.

13. The Council takes issue with the open frontage with a collection of driveways and parking spaces with little scope for landscaping along this frontage. However the frontage was open at the time of my visit and the visual effect of the frontage parking will not be too imposing in the street scene. The layout plan shows a hedge around the south-east corner of the site and there is no reason why part of the present hedge could not be protected during construction work and retained thereafter.
14. In terms of the Milestone Road frontage the siting of units 6 and 7 would be sited in front of the building line formed by No.4 but the existing hedge already established a visual pinch point before the Black Bourton Road junction and there are other properties along Milestone Road with a similar closeness to the highway.
15. The Council takes issue with the design of the chalet bungalow proposed at plots 8 and 9 and their flat roof small box dormers. However, these would not be prominent in the public realm of the street and I find that there is such a mixture of house types in the area that this design would not be at odds with an established local character.
16. Although there are minor points raised over the details of the scheme, these are not of such concern that they detract from the overall quality of the development proposed. The Council objects to the range of roof slate colours proposed but the final details of these materials can be conditioned for agreement with the Council.
17. Overall, bearing in mind the need to secure an efficient use of land as per Policy OS3, I find that the layout, form, scale and design put forward would integrate well with the existing character of this suburban area. The proposal amounts to good design appropriate to the area and there is no conflict with the general requirements of LP Policies OS4 and EH2.

Effect on living conditions

18. This issue relates to the effect of the development on the future occupiers of the dwellings proposed. The Council refers to the application of the Technical Housing Standards produced by the government where some of the units are said not to meet the space standards. However, it now accepts that these standards have not been referred to or incorporated into any LP Policy and therefore I cannot place weight on the standards in this case.
19. In terms of the relationship between plots 5 and 6, I note that the accommodation in the proposed bungalow on plot 6 has a kitchen/diner with patio doors facing west but with an adjoining living room area with windows facing south and east. The overall space would therefore have a variety of openings for natural light. The aspect from the patio window in the kitchen would be slightly constrained by a probable fence alongside the side pathway

to plot 5. Nevertheless the south-west corner of the house on plot 5 would be not far off a visibility 45° splay applied to this window. Taking account of the wider aspect from the window down the garden, this outlook would not be oppressive for future residents.

20. Overall I find that the detailed aspects of the layout are such that the development would provide a high standard of amenity for the future occupiers and would not be harmful to their living conditions. The proposal does not conflict with the general provisions of LP Policies OS2 and OS4.

Planning balance

21. On the main issues I have found that the proposed redevelopment scheme put forward would integrate well with the existing character of this suburban area and the layout, form scale and design are appropriate for the area bearing in mind the national and local policy aim of the Framework of securing an efficient use of land. The details of the layout would also result in a high standard of amenity for future residents. The relevant policies in the development plan are met by the proposal.
22. This has to be balanced with other considerations but none outweigh this overall finding and therefore planning permission should be granted.

Conditions

23. The Council recommends that 20 conditions be imposed which I will consider under the same numbering (including the conditions put forward by the Senior Biodiversity Officer).
24. Conditions No's 1 and 2 are reasonable and necessary to regulate the commencement of development and to set out the plans that are approved. In order to ensure that the development fits in with the character of the area and has appropriate landscaping conditions 3 and 5 necessary although condition no. 5 is superseded by one recommended by the Biodiversity Officer.
25. In terms of Condition 4 regarding the withdrawal of 'permitted development rights', I agree that there is special justification for the restriction of rights under Classes A and E to prevent further extensions and outbuildings because of the overall 'tightness' of the layout and limited amenity space. However, there is inadequate justification put forward for the restriction of solar panels on roofs which may be seen from the public realm given the wider benefits of sustainable energy production. I will therefore modify the condition recommended.
26. In order to secure the proper drainage of surface water from the site to help prevent flooding condition No 6 is necessary and conditions No's 7, 8, 9 and 11 are needed to help maintain the safety of road users and pedestrians. Condition No 8 is reasonable as without it the new dwelling on plot 6 would only have one off-road parking space and on-road parking near the junction should be avoided. However in respect of condition 10 it has not been shown why a footpath along this grass verge is necessary as it would not link into any other footpath on the northern side of Milestone Road. There is a footway on the southern side and a crossing point near the junction which is reflected in the layout plans. I will therefore not impose condition No. 10.

27. In respect of condition No. 12 re broadband connectivity, there is local and national policy support for this requirement and so the condition is necessary and I will impose it. However no meaningful evidence has been submitted to show that the dwellings would be subject to excessive noise (including from the airbase) and so a scheme for noise mitigation is not necessary. Neither has the site of the existing residential bungalow been shown to have possible ground contamination and therefore conditions No's 14 and 15 are not necessary.
28. Condition 16 regarding a Construction Management Plan is necessary to regulate the impact of development during the construction phase given other residential properties around the site and I will impose this one. In relation to the conditions (a) (b) and (c) suggested by the Senior Biodiversity Officer, these are necessary to ensure that the recommendations of the Preliminary Ecological Appraisal are implemented in the interests of conserving and promoting biodiversity.

Conclusion

29. For the reasons given above I conclude that the appeal should succeed.

David Murray

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall begin not later than [three] years from the date of this decision.
2. That the development be carried out in accordance with the approved plans, as specified by the following approved drawing numbers:
 - Drg '2349-001 – Location Plan'
 - Drg '2349-002 – Site Plan-Existing-Ground Floor Plan'
 - Drg '2349-003 – Site Plan-Proposed-Ground Floor Plan'
 - Drg '2349-004 – Site Plan-Proposed-Roof Level Plan'
 - Drg '2349-005 – House Type A - Floor Plans'
 - Drg '2349-006 – House Type A - Elevations'
 - Drg '2349-007 – House Type B - Floor Plans'
 - Drg '2349-008 – House Type B - Elevations'
 - Drg '2349-009 – House Type E - Floor Plans'
 - Drg '2349-010 – House Type E - Elevations'
 - Drg '2349-011 – House Type F - Floor Plans'
 - Drg '2349-012 – House Type F - Elevations'
 - Drg '2349-013 – House Type H - Floor Plans'
 - Drg '2349-014 – House Type H - Elevations'
 - Drg '2349-015 – Street Elevations'
3. Before above ground building work commences, a schedule of materials (including samples) to be used in the elevations of each of the dwellings hereby approved shall be submitted to and approved in writing by the LPA. The development shall be constructed in the approved materials.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, AA, B and E of Part 1 of Schedule 2 to the Order shall be undertaken.
5. No part of the development hereby approved shall be commenced until, a full surface water drainage scheme, which shall include details of the size, position and construction of the drainage scheme and a management plan detailing future maintenance has been submitted to and approved in writing by the LPA. The development shall be carried out in accordance with the approved details prior to the first occupation of any of the dwellings hereby approved and shall be maintained in accordance with the management plan thereafter.
6. The car parking areas (including where appropriate the marking out of parking spaces) shown on the approved plans relating to each of the dwellings hereby approved shall be constructed before occupation of the dwelling that those parking areas would serve and they shall thereafter be retained and used for no other purpose.

7. The garage(s) hereby approved shall be used for the parking of vehicles ancillary to the residential occupation of the dwelling(s) and for no other purposes.
8. No dwellings shall be occupied until the vehicular accesses onto the public highway to serve that dwelling and for dwellings 8 and 9 the turning/ manoeuvring areas to serve those dwellings have been constructed, laid out, surfaced, lit and drained in accordance with details that have been first submitted to and approved in writing by the LPA. The accesses and turning/ manoeuvring areas shall be kept free for that use at all time.
9. No dwelling hereby approved shall be occupied until the existing street lighting columns and other street furniture in front of the site have been relocated in accordance with a scheme that has been submitted and approved by the LPA.
10. No dwelling hereby permitted shall be occupied until a scheme has been submitted to and approved in writing by the LPA that demonstrates that each dwelling can connect to and receive a superfast broadband service (>24mps).
11. A Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any work on site. The CEMP shall: identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust, light spill/glare; provide details of the hours of operation; and of waste management arrangements. The plan shall cover all aspects of the works, including site set up, site preparation, groundwork and construction phases of the development. It shall also include measures to manage heavy/large goods vehicle access to the site and measures to be employed to prevent the egress of mud, water and other detritus onto public and any non-adopted roads.
12. Notwithstanding the submitted details and prior to above grounds works. A scheme for hard and soft landscaping of the site and including the means of enclosure and the materials to be used for hardsurfacing, shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include the creation of flowering lawns using an appropriate seed mixture, the planting of night flowering species and the creation of native species-rich hedgerows (in accordance with sections 7.3 and 7.14 of the Preliminary Ecological Appraisal and Roost Assessment report dated 06/11/2023 prepared by 4 Acre Ecology Ltd) as biodiversity enhancements.

The scheme shall include, but not ,limited to, the following information:

- i. A plan showing existing vegetation to be retained and safeguarded during construction which shall be consistent with the Construction Method Statement (where relevant);
- ii. Detailed planting and sowing specifications including species , size, density spacing cultivation protection (Fencing staking guards) and non-chemical methods of weeds control;

- iii. A 10 year hedgerow management plan which will be made available to future residents of the site;

Development shall be carried out in accordance with the approved scheme and landscaping works shall be completed by the end of the next available planting season immediately following the completion of the development or the site being brought into use whichever is the earliest.

13. If at any time in the first five years following planting any tree, shrub plant or grassed area shall for any reason die, be rooved damaged felled or eroded, it shall be replaced by the end of the next plan ting season. Replacement trees shrubs hedges plants and grassed areas shall be of the same size and species as those lost unless the local planning authority approved alternatives in writing.
14. The development shall be carried out in accordance with the following biodiversity mitigation measures and enhancement features. All the measures and features listed below shall be implemented in full, unless otherwise agreed in writing by the local planning authority, and all the features shall be permanently retained for the purposes of biodiversity conservation.
 - i. All mitigation and enhancement recommendations in section 7 of the Preliminary Ecological Appraisal and Roost Assessment report dated 6/11/23 prepared by 4 Acre Ecology Limited , including lighting hedgerow planting, nesting bird working method statement and hedgehog working method statement (except the provision of house sparrow terrace boxes).
 - ii. The installation of at least two no. integrated/built-in bat box (e.g. tube, brick and access panel such as those shown in Figure 4 of the Preliminary Ecological Appraisal and Roost Assessment report) into the southern elevations of plots 1,3 5 and the western elevation of plot 9 in accordance with the council's Biodiversity Specification No4 [i.e. at leastv4 no. bat boxes in total within the site as a whole; and
 - iii. The installation of at least 3 No. swift bricks integrated/built into each of the northern elevation gable end walls of plots 1,2 and 4 and the eastern elevation of plot 9 at 1 metre intervals apart and in accordance with the Council's Biodiversity Specification No.3 [i.e. at least 12 no. swift bricks in total within the site as a whole].

End