



Appeal Decision

Site visit made on 13 November 2024

by Stephen Normington BSc, DipTP, MRICS, MRTPI, FIHE, FIQ

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/D3125/W/24/3338933

Wychwood Garage, Fairspear Road, Leafield, Witney, OX29 9NU

- 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 Castlethorpe Homes Ltd against the decision of West Oxfordshire District Council.
 - The application Ref 23/02245/FUL, dated 5 September 2023, was refused by notice dated 21 November 2023.
 - The development proposed is the demolition of the existing garage, bungalow, associated buildings and hardstanding. Construction of seven dwellings with associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing garage, bungalow, associated buildings and hardstanding. Construction of seven dwellings with associated works at Wychwood Garage, Fairspear Road, Leafield, Witney, OX29 9NU in accordance with the terms of the application, Ref 23/02245/FUL, subject to the attached schedule of conditions.

Procedural Matters

2. The Council changed the description of the proposed development to that shown in the banner heading above. This is a generally accurate description of the development proposed which I have therefore used in this Decision.
3. Prior to my determination of this appeal, the Council granted planning permission on 24 September 2024 for the "Demolition of the existing garage, bungalow, associated buildings and hardstanding. Construction of five dwellings with associated works" on land comprising part of the appeal site (Ref. 24/00632/FUL) (the extant permission).
4. The approved development would utilise the same access off Fairspear Road as proposed in the appeal scheme. The approved five dwellings would be of similar design and position to proposed plots 1 to 5 in the appeal scheme. The fundamental difference with the appeal scheme is that the extant permission does not provide for development on land that would be occupied by proposed plots 7 and 8.
5. The appeal was accompanied by a Unilateral Undertaking (UU) pursuant to the provisions of Section 106 of the Town and Country Planning Act 1990, signed and dated 13 June 2024, relating to the appeal development which would take effect should planning permission be granted. The UU provides obligations

relating to financial contributions towards the provision of affordable housing in the district. I return to this matter later.

6. The Council's third reason for the refusal of planning permission relates to a lack of information being provided to demonstrate whether any harm would be caused to protected species. The appeal submission includes an Ecological Assessment (Version 05 – dated October 2023) which was further updated (Version 7.0 – dated April 2024) during the consideration of the application for the recently granted permission (Ref. 24/00632/FUL). The Council has confirmed that the additional information contained within Version 7.0 of the Ecological Assessment addresses this reason for the refusal of planning permission. As such, the Council no longer seeks to defend the third reason for the refusal of planning permission in this appeal. There is therefore no need for me to consider this matter further.
7. The Council has confirmed that it cannot demonstrate a five-year supply of housing land. As a consequence, paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged. I consider this matter further in the Planning Balance.

Main Issues

8. The main issues are:

- The effect of the proposed development on the character and appearance of the area having particular regard to the effect on the Cotswolds National Landscape.
- The effect of the proposed development on the special interest of heritage assets with particular regard to the location of the appeal site within the Leaffield Conservation Area.
- The effect of the proposed development on flood risk and drainage.

Reasons

Character and appearance

9. The appeal site comprises a 'L' shaped plot occupied by a former vehicle repair garage fronting Fairspear Road with a vacant bungalow to the rear with associated garden area and outbuildings. The site lies within the Leaffield Conservation Area and the Cotswolds National Landscape. The site has a strong landscape feature by way of a thick hedge running along the northeastern boundary which separates the site from the open fields beyond. In visual terms, the site has most affinity with the village of Leaffield rather than the agricultural landscape beyond.
10. This part of Fairspear Road is characterised by a predominantly linear form of development of two storey semi-detached and detached dwellings fronting both sides of the road. However, there are several examples of 'backland' development comprising the existing bungalow and outbuildings, the neighbouring property (Rosewood), Chimney End and a relatively modern small estate at Chapel Close.
11. The proposed development would involve the demolition of the existing garage and bungalow, removal of the extensive hard standing and the construction of seven two-storey dwellings, constructed in Cotswolds facing stone, comprising

three terraced and four detached properties with associated access, parking and landscaping. Plots 1 to 5 would be roughly sited over the footprints of the existing garage and bungalow. Plots 6 and 7 would be constructed in the existing garden area.

12. Close range views of the appeal site are relatively limited to those of the frontage from Fairspear Road. The rear and former garden area are only readily viewable from the rear of properties to the northwest. Longer distance views are relatively limited. Some views are possible from the closest public footpath to the northeast but these are set against the backdrop of the rest of the village. Due to intervening topography and the existing boundary hedge, the proposed development would be relatively imperceptible in such longer-range views. As such, the degree of change in long distance views would be minor and not harmful to the Cotswolds National Landscape or its setting.
13. There is clear potential to enhance planting and landscaping around the boundaries and within the site which over time would further reduce visibility and soften the visual impact of the housing. The proposed development would inevitably involve visual change at site level, primarily as a consequence of the introduction of built development into the former garden area. Whilst there would be some harm to the landscape as a result of this change, it would be very localised. In itself, the site does not currently play a significant role in the wider landscape and it makes a limited contribution to the setting of the village. It does not make an important contribution to the character and appearance of the area. Developing the site would further extend the built-up area, but Leafield would remain a distinct village set in a rural, largely agricultural landscape.
14. I have also taken into account the views of the Cotswolds National Landscape Board (the Board) who advise that the proposal would not give rise to a significant intrusion into the landscape and whilst the Leafield settlement character is strongly linear, there are precedents for development of this nature to be found elsewhere in the village. The Board further comment that the site is partly previously developed land and does not exhibit the characteristic features of the local landscape character types described in both the West Oxfordshire Landscape Assessment and the Cotswolds AONB Landscape Character Assessment.
15. The proposed development would result in, at most, negligible visual effects from viewpoints other than from Fairspear Road where it would be seen in the context of the neighbouring residential development. I concur with the views of the Board that, subject to appropriate landscaping and lighting considerations, the proposal would comply with Policy EH1 and the relevant sections of Policy OS2 of the West Oxfordshire Local Plan 2031 (WOLP).
16. I have also taken into account the provisions of paragraphs 182 and 183 of the Framework. Given my findings regarding the effect of the proposed development on the Cotswolds National Landscape, I find no material conflict with the provisions of paragraph 182 which advises that "The scale and extent of development within these designated areas should be limited". Furthermore, given the limited scale of the development proposed, I do not consider that this can reasonably constitute "Major Development" with the context of paragraph 183.

17. For the above reasons, the proposed development would not materially harm the character and appearance of the area or the Cotswolds National Landscape. Therefore, there would be no conflict with the relevant provisions of Policies OS2, OS4 and EH1 of the WOLP.

Heritage assets

18. The submitted Heritage Statement identifies that the significance of the Leaffield Conservation Area is mainly conveyed through the historic core of the village around the Green and which includes St Michael's Church, the cross, and other historical buildings. The appeal site lies outside this area.
19. The Fairspear Road part of the village was largely undeveloped until approximately the 1930s. I observed at my site visit that this part of Fairspear Road has the appearance of a more sub-urban character than is represented in other parts of the Conservation Area being characterised by predominantly two-storey semi-detached and detached properties positioned parallel to the road. The West Oxfordshire Design Guide (Section 5) sets out that "Leaffield has a pronounced linear form resulting from the consolidation of a number of previously dispersed 'ends', including Lower End, Church Farm, and Chimney End".
20. Although, predominantly linear in form, this part of the Conservation Area contains several examples of a 'backland' form of development as set out above. Furthermore, the existing garage, although not overly prominent, is slightly detrimental to the street scene and character of this part of the village.
21. As described above, views of the site are short-range only, due to existing topography, built environment and vegetation. Views of the frontage of the site are from a narrow window from Fairspear Road and the existing bungalow is only readily visible from the site frontage. The rear of the site, which currently forms a garden area, is not readily visible from the road, being fairly well screened by existing buildings and vegetation and is predominantly only visible from the rear of housing on the northeast side of the road.
22. Views from Fairspear Road constitute the main views of the appeal site in this part of the Conservation Area. The proposal would be an improvement on the existing buildings, and therefore have the potential to enhance the character and appearance of this part of the Conservation Area. Other than views from the rear of properties on the northern side of Fairspear Road, the proposed dwellings (plots 6 and 7) in the existing garden in the northwest part of the site would be largely hidden from view from all angles by existing housing and vegetation.
23. Whilst the proposed dwellings in the northwest of the site would only be partially visible from within the Conservation Area, they do represent a departure from the linear form of development along the Fairspear Road and would introduce a 'second layer' of built development to the rear of the road. However, taking into account my observations at the site visit, I concur with the Heritage Statement that the deviation from the linear formation is not unusual within the village as a whole and that the existing well-established and historic site boundary will be maintained within the development.
24. As a consequence of the above, the change to the setting of the Conservation Area, which would primarily occur from dwellings constructed within the former

garden, would not represent an appreciable alteration to heritage views from within the Conservation Area, which are focussed on the street scene, nor to the linear planform of the village.

25. In considering the impact of the proposals on the significance of the Conservation Area, it is clear that the scheme would provide an opportunity to replace existing structures along Fairspear Road that have no architectural or historic merit with dwellings that are more synonymous with the form and character of development along the road. As such the frontage plots would be read as a harmonising and proportionate addition to the street scene and have a minor beneficial impact on the character of this part of the Conservation Area.
26. Although the scheme would extend built development at the rear of the site, this would not represent an appreciable alteration to any heritage views from within the Conservation Area. Nonetheless, it would result in a 'second layer' of built development to the rear of the road and result in less than substantial harm to the significance of the designated heritage asset.
27. Taking into account the above, I consider that this would be 'at the lower end of less than substantial harm'. However, I have had full regard to the desirability of preserving the setting of heritage assets and the need to give due weight to any harm in that respect. In particular, I have taken into account the provisions of paragraphs 205, 206 and 208 of the Framework, which are reflected in Policies OS4, EH9 and EH10 of the WOLP. Whilst great weight is to be given to the conservation of heritage assets, less than substantial harm is to be weighed against any public benefits of the proposal. I conclude on this matter and the benefits of the proposal later in the Planning Balance.

Flood risk and drainage

28. The appeal site is located entirely within Flood Zone 1, which is classified as low probability of flooding. The submitted Flood Risk Assessment and Drainage Statement (FRADS) identifies that the site has a low risk of fluvial, groundwater and sewerage flood risk. Further information to supplement the FRADS was submitted as part of the appeal including drainage layout details. However, the Council maintains that the Appellant has not demonstrated a viable way to dispose of surface water and that there is no evidence that Thames Water has approved a discharge into their network.
29. The FRADS indicates that infiltration will not be an entirely feasible option for managing stormwater runoff. Therefore, the proposed alternative approach involves connecting the proposed dwellings to the existing Thames Water surface water system using an attenuated connection. To address the issue of managing roof and driveway runoff from all the proposed dwellings, a tanked permeable driveway is proposed which would serve as a storage facility for the collected runoff.
30. In order to control the flow of water from the tanked storage, a flow control chamber is proposed to limit the discharge flow to a maximum rate of 2l/s. By regulating the flow, the FRADS identifies that this ensures that the downstream drainage system can handle the water volume without becoming overloaded. The FRADS sets out that implementation of these measures would minimise potential impacts on the local drainage infrastructure and the receiving Thames

Water foul/combined sewer system, thereby ensuring the sustainable and efficient management of stormwater on the site.

31. I have taken into account that the Planning Officer's Report in respect of the extant permission identifies that there is adequate capacity for the approved five dwellings to discharge to Thames Water's foul/combined sewer. In addition, the Appellant maintains that surface water can be discharged into the existing Thames Water network but some further modelling works will be necessary to determine the restricted discharge rate. In this regard, I note the Council's suggested planning conditions (Nos. 3 and 8) which, amongst other things, provide for such modelling and the provision of surface water drainage details.
32. Whilst there remains a degree of dispute between the parties regarding discharge to the Thames Water network, it is clear that the Appellant has provided details of the overall drainage strategy and has had a degree of discussion with Thames Water regarding surface water discharge. Moreover, I am satisfied that the conditions suggested would provide sufficient safeguards to ensure that surface water can be drained at an appropriate rate to the Thames Water network.
33. Although I recognised that further dialogue with Thames Water may be necessary, I have no compelling evidence to suggest that surface water arising from the proposed development is incapable of being managed. Subject to the imposition of the suggested conditions, I am satisfied that the proposed development would not have an adverse effect on flood risk and drainage. Consequently, there would be no conflict with Policy EH7 of the WOLP.

Other Matters

34. I have taken into account the concerns raised by local residents relating to the potential overdevelopment of the site, loss of employment land, impact on the living conditions of nearby residents and the impact on trees/hedges during construction. Although the above matters have been carefully noted, they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council has not objected to the appeal scheme for these other reasons.
35. The parties in this appeal have referred to several appeal decisions which have been provided to support their respective case. However, it is rarely the case that appeal decisions on other sites will bring to light parallel situations and material considerations which are so similar as to provide justification for a decision one way or another. My decision is based squarely on the evidence before me. For that reason, I do not consider that appeal decisions brought to my attention have a determinative influence on my consideration of the appeal case.

Planning Obligation

36. The Council has not formerly confirmed that the submitted UU resolves its concerns relating to the delivery of affordable housing. However, the financial contribution towards off-site provision for affordable housing, £71,000, contained therein is the same amount as that identified as being necessary in the Council's Statement of Case.

37. I am satisfied that the provisions set out in the UU are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale to the development. Therefore, the obligations meet the tests as set out within paragraph 57 of the Framework and CIL Regulation 122. I am also satisfied with the form, drafting and content of the UU.
38. In my view, the completed and executed UU would resolve the Council's concerns relating to the provision of affordable housing within the district and would overcome the fourth reason for the refusal of planning permission. Having regard to the above, I therefore have attached weight to the provisions contained within the UU in this decision.

Planning Balance

39. The proposed development would not materially harm the Cotswolds National Landscape or its setting. In addition, subject to the imposition of the suggested planning conditions, there would not be an adverse effect on flood risk and drainage.
40. The Council cannot demonstrate a 5 year supply of land for housing and as such the provisions of paragraph 11(d) of the Framework are engaged. The proposal would make a modest, but important, contribution to the supply of housing in the district and provide an appropriate financial contribution towards the provision of affordable housing. I attach significant weight to these benefits. Other socio-economic benefits derived from a development of this nature, such as temporary construction jobs and impacts on local spending and Council tax are of moderate beneficial weight.
41. There would be less than substantial harm to the Leafield Conservation Area heritage asset, albeit this would be 'at the lower end of less than substantial harm'. In accordance with the relevant provisions of the Framework I am required to weigh this less than substantial harm against any public benefits of the proposals.
42. Taking into account the Council's position regarding 5 year housing land supply and the fact that there would be no material harm to the Cotswolds National Landscape or its setting, the significance of the public benefits identified above outweighs the less than substantial harm that would be caused to the heritage asset. The adverse impacts of approving the proposed development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies.

Conditions

43. I have considered the proposed planning conditions, including a number of pre-commencement conditions, that have been provided by the Council. I have considered these against the advice given in paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Planning Practice Guidance (PPG). Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.
44. In addition to the standard time limit, I have imposed a condition (No. 2) relating to the approved plans in the interests of certainty. As set out above,

- conditions are necessary to ensure that adequate provision is made for surface water drainage (Nos. 3 and 8).
45. In order to protect the living conditions of the occupants of existing dwellings in the vicinity of the site, conditions are necessary requiring the submission of a Construction Environmental Management Plan, the provision of sound attenuation within the proposed dwellings and prescribing construction hours (Nos. 4, 10 and 15).
46. A condition is also necessary to ensure that the proposed development does not lead to no/low water pressure to existing properties and that sufficient water capacity is made available to accommodate additional demand anticipated from the new dwellings (No. 5). In order to contribute to the sustainability of the proposed development a condition that seeks to minimise water consumption is necessary (No. 11).
47. In the interests of protecting the character and appearance of the area and the provision of ecological enhancements, conditions are necessary requiring the submission of details of external materials and details and implementation of landscaping (Nos. 6 and 13). A condition is also necessary to ensure that the parking areas are provided before occupation of the development in the interests of highway safety (No. 7).
48. Conditions are also necessary in the interests of the protection and enhancement of ecology, including protected species, requiring the submission of an updated Ecological Assessment and the submission of details of external lighting (Nos. 12 and 14).
49. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. However, I have considered the location of the appeal site within the Conservation Area and the Cotswolds National Landscape. Future modifications to the dwellings could have an impact on the character and the appearance of the surrounding area. As such, a condition is considered to be reasonable to restrict permitted development rights that may otherwise permit such modifications (No. 9).

Conclusion

50. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:
 - Site Location Plan (888-50)
 - Car Port Plot 4 (888-20-A)
 - Drainage Design
 - Hardstanding Comparison Plan (888-05)
 - Elevations - Plots 1-3 (888-11-A)
 - Floor Plans – Plots 1-3 (888-10)
 - Elevations – Plot 4 (888-13)
 - Floor Plans – Plot 4 (888-12)
 - Elevations – Plot 5 (888-15-A)
 - Floor Plans – Plot 5 (888-14)
 - Elevations – Plot 6 (888-17-A)
 - Floor Plans – Plot 6 (888-16)
 - Elevations – Plot 7 (888-19-A)
 - Floor Plans – Plot 7 (888-18)
 - Landscape Proposals (LAS 643-04-A)
 - Site Layout (888-01-B)
 - Site Layout with Materials (888-03)
 - Street Scene (888-02-A)
- 3) Prior to the commencement of development, 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 details shall include a management plan setting out the maintenance of the drainage asset. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved and shall be maintained in accordance with the Management Plan thereafter. Development shall not take place until an exceedance flow routing plan for flows above the 1 in 100 year + 40% Climate Change event has been submitted to and approved in writing by the Local Planning Authority.
- 4) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by the Local Planning Authority. The CEMP shall provide for:
 - i) the submission of a Traffic Management Scheme for the management of construction traffic accessing and egressing the site;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) details of loading and unloading of plant and materials;
 - iv) details of the storage of plant and materials used in constructing the development;

- v) the erection and maintenance of security hoarding, where appropriate;
- vi) measures to ensure the prevention/removal of mud and other deleterious material arising from construction works on the site from being deposited on the public highway and non-adopted highway;
- vii) measures to control the emission of vibration, dust and dirt during construction;
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix) methodology for the removal of any Asbestos Containing Materials (ACMs).

The approved CEMP shall be adhered to in full throughout the construction period for the development.

- 5) No dwelling hereby approved shall be occupied until confirmation has been provided that either:
- all water network upgrades required to accommodate the additional demand to serve the development have been completed; or
 - a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied.

Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

- 6) No dwelling shall be erected above ground level until, a schedule of materials (including samples) to be used in the elevations and roofs of the development are submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved materials and shall be retained as such thereafter.
- 7) 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 parking use and no other purpose.
- 8) No dwelling shall be occupied until the parking area and driveways have been surfaced and arrangements made for all surface water to be disposed of within the site curtilage in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. The parking area and driveways shall be constructed in accordance with the approved details
- 9) 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 (including windows/doors) permitted under Schedule 2, Part 1, Classes A, B, C, D and G shall be carried out other than that expressly authorised by this permission.

- 10) The dwellings hereby approved shall be designed and constructed to incorporate measures to ensure that, as a minimum, they achieve the internal and external ambient noise levels contained in British Standard 8233:2014 Guidance for Sound Insulation and Noise Reduction for Buildings (or subsequent later versions).
- 11) No dwelling hereby approved shall be occupied until a scheme to demonstrate a maximum water consumption of 110 litres use per person per day has been submitted to, and approved in writing by, the Local Planning Authority in respect of each dwelling. Such scheme shall be implemented prior to the occupation of the relevant dwelling and shall thereafter be retained in perpetuity.
- 12) No development shall take place until an updated version of the consultancy report (Ecological Assessment Version 7.0 dated April 2024, prepared by Pro Vision) has been submitted to and approved in writing by the Local Planning Authority. The development shall then be completed in accordance with the recommendations as set out in the approved report. All the recommendations and all ecological enhancement features detailed in the report 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 shall thereafter be permanently retained.
- 13) Prior to occupation of the dwellings hereby approved, a comprehensive landscape scheme shall be submitted to and approved in writing by the Local Planning Authority, including biodiversity enhancements (such as native, species-rich hedgerows, native tree planting, wildflower grassland areas and bird and bat boxes) and a 5-year maintenance plan. The scheme shall 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 entire 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 the sooner. 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.
- 14) Prior to the installation of 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 shall:
 - a) identify the areas/features on site that are particularly sensitive for nocturnal wildlife;
 - b) 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 the nocturnal species using their commuter route.

All external lighting shall be installed only in accordance with the specifications and locations set out in the strategy.

- 15) Delivery, demolition and construction activities shall only occur between 08:00 to 18:00 Monday to Friday and 08:00-13:00 on Saturday with no working on Sunday or Bank Holidays.