



Appeal Decisions

Site visit made on 9 December 2024

by N Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2024

Appeal A Ref: APP/Q3115/W/24/3350748

81 Lower Icknield Way, Chinnor, Oxfordshire OX39 4EA

- 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 B Heenan (BHK Icknield Ltd) against the decision of South Oxfordshire District Council.
 - The application Ref is P24/S0643/FUL.
 - The development proposed is demolition of 1 dwelling house and erection of 9 new dwelling houses.
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Appeal B Ref: APP/Q3115/W/24/3350750

81 Lower Icknield Way, Chinnor, Oxfordshire OX39 4EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Brendan Heenan (BHK Construction Ltd) against the decision of South Oxfordshire District Council.
 - The application Ref is P24/S0968/PIP.
 - The development proposed is for permission in principle development proposed 9 dwellings.
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Decisions

1. Appeal A is allowed and planning permission is granted for demolition of 1 dwelling house and erection of 9 new dwelling houses at 81 Lower Icknield Way, Chinnor, Oxfordshire OX39 4EA in accordance with the terms of the application, Ref P24/S0643/FUL, subject to the conditions in the attached schedule.
2. Appeal B is allowed and permission in principle is granted for 9 dwellings at 81 Lower Icknield Way, Chinnor, Oxfordshire OX39 4EA in accordance with the terms of the application, Ref P24/S0968/PIP.

Preliminary Matters

3. As set out above there are two appeals on this site. They differ insofar as one seeks full planning permission and the other for permission in principle. To avoid duplication, I have dealt with the two schemes together, except where otherwise indicated.
4. Both appeals A and B nominate the site address as 81 Lower Icknield Way however refer to 79-83 and 79-81 Lower Icknield Way (respectively) in the description of development. I have used the description of development provided in the site address field on the application form in the banner headings above. However, I have removed reference to the site address which is not in itself development. I have further referred to the site as 81 Lower

Icknield Way as this remains consistent with the Council's decision notice although I do recognise the site does include a more expansive tract of land to the rear behind numbers 79-83. Finally, I have corrected a typographical error in the description of development in appeal B which referred to 9 dwellings twice.

5. I am satisfied that these various amendments can be made without prejudice to either party as they have arisen due to inconsistencies on the application forms. There is no substantial difference or a fundamental change to either of the applications or appeals.
6. Between the submission of appeals A and B being considered here, the Council has advised that it resolved to grant full planning permission for an identical application to appeal A on 30 October 2024¹. It has stated that it now regards the principle of residential development on this site as acceptable and does not wish to contest either of these appeals. On the basis of the evidence before me, I see no reason to disagree.
7. I have noted that the resolution to grant planning permission on the scheme considered by the Council was subject to a planning obligation. No such planning obligation has been sought by the Council on either appeals A or B here.
8. The extent of the considerations for permission in principle is limited to location, land use and the amount of development to be permitted. It follows in my reasoning that as appeal A is to be allowed, the merits of appeal B which have a lesser scope will also be acceptable.
9. The Government published a revised National Planning Policy Framework on 12 December 2024. As the parties agree that planning permission should be granted, I have not taken the opportunity to seek further comments on this.
10. I have noted the comments of the Parish Council and other third parties in relation to both appeals. However, the concerns raised in these comments, which include the principle of the development, housing needs, water supply and school places, will have already been addressed by the Council.

Conclusion

11. For the reasons given above, and having regard to all other matters raised, I find that the proposals would comply with policies CH H1, CH H6 and CH H7 of the Chinnor Neighbourhood Plan Review II 2023, policies H1 and H16 of the South Oxfordshire Local Plan 2035 and provisions of the National Planning Policy Framework.
12. The proposals comply with the provisions of the development plan and the material considerations do not indicate a decision should be made other than in accordance with it. Therefore, both appeals A and B are allowed.

Conditions

13. For appeal A, the Council has provided a schedule of conditions and I have imposed these with minor edits and modifications as detailed below. I am satisfied that these conditions are reasonable and necessary and that they meet the tests set out in the Planning Practice Guidance (PPG).

¹ Council ref P24/S2626/FUL

14. Condition 1 is a general time limit condition to accord with the provisions of the Act. Condition 2 relates to adherence to the approved plans in the interests of certainty.
15. Conditions 3 and 4 relate to levels and materials in the interests of the character and appearance of the area. Conditions 5, 6, 7 and 23 are imposed to ensure that the development is not, or could be, harmful to the living conditions of neighbours and/or the future occupants.
16. Matters relating to sustainable design and construction are required by conditions 8 and 9. Conditions 11 to 15 (inclusive) are in the interests of highway, pedestrian and cycle safety and convenience. Condition 27 requires electric vehicle charging points.
17. Conditions 16 to 19 relate to landscape to ensure that the development assimilate into its surroundings whilst effects on local fauna and biodiversity are considered in conditions 20, 21 and 22. Biodiversity net gain and offsetting are dealt with in conditions 28 and 29.
18. Matters relating to drainage and flooding are addressed in condition numbers 24 and 25.
19. I have amended conditions 3 and 29 at the request of the appellant to allow for demolition to occur prior to submission of additional detail to the Council. This will allow elements of the development to proceed more swiftly in the interests of delivering new homes on this relatively small site. I have further edited the numbering of those conditions with sub-clauses for ease of reference.
20. A number of conditions are pre-commencement conditions having regard to S100ZA of the Act. The appellant has indicated that they are satisfied with these conditions in their final comments.
21. Appeal B is for permission in principle. As set out within the PPG, it is not possible for conditions to be attached to a grant of permission in principle and therefore none are imposed here.

N Bowden

INSPECTOR

Schedule of Conditions relating to appeal A

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans, V22-118-SLP02 C, V22-118-SLP08 D, V22-118-P09 E, V22-118-P08 P3, V22-118-P05 D, V22-118-P06 C, V22-118-P07 C, V22-118-P02 A, V22-118-P03 A, V22-118-P04 A, V22-118-SP01 C, V22-118-P11 P1, (96)001 H, V22-118-TS01 and TPP LIWC 01 A, except as controlled or modified by conditions of this permission.
- 3) Prior to the commencement of development, with the exception of any demolition, detailed plans showing the existing and proposed ground levels of the site together with the slab and ridge levels of the proposed development, relative to a fixed datum points on adjoining land outside of the application site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
- 4) No development above slab level shall take place until a photographic schedule of all materials to be used in the external construction and finishes of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority.
- 5) The first floor window in the south-east facing side elevations of Plots 1, 5 and 7 and the first floor window in the north-west facing side elevations of Plot 2 and Plot 6 and the first floor window in the north-east facing elevation of Plot 9 hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight (or other means of opening to be first agreed in writing by the Local Planning Authority) prior to the first occupation of the accommodation and it shall be retained as such thereafter.
- 6) The first floor window in the south-east facing side elevations of Plots 1, 5 and 7 and the first floor window in the north-west facing side elevations of Plot 2 and Plot 6 and the first floor window in the north-east facing elevation of Plot 9 hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight (or other means of opening to be first agreed in writing by the Local Planning Authority) prior to the first occupation of the accommodation and it shall be retained as such thereafter.
- 7) Notwithstanding the provisions of the Town and Country (General Permitted Development Order) 2015 (or any Order revoking or re-enacting that Order), no development as specified in Schedule 2, Part 1, Class A - Extensions; Class B - Roof Extensions; Class E – Outbuildings shall be undertaken without obtaining planning permission from the Local Planning Authority.

- 8) Prior to first occupation, all carbon reduction energy efficiency measures shall be implemented in accordance with the Energy Statement hereby approved and a Verification Report shall be submitted to the Local Planning Authority and approved in writing. The Verification Report shall demonstrate (with photographic evidence) that the energy efficiency measures have been implemented. These measures shall be retained and maintained as such thereafter in accordance with the Energy Statement and Verification Report.
- 9) Details of the location and specification of any external heating or energy generation system to be used in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to installation.
- 10) Prior to occupation of the dwellings hereby permitted the proposed means of access onto Lower Icknield Way is to be formed and laid out and constructed strictly in accordance with the local highway authority's specifications and all ancillary works specified shall be undertaken.
- 11) The vision splays shown on the approved plan 8220155/6101 Rev I shall not be obstructed by any object, structure, planting or other material with a height exceeding or growing above 0.6 metres as measured from carriageway level.
- 12) Before any of the dwellings hereby permitted are first occupied, the proposed vehicular accesses, driveways and turning areas that serve those dwellings shall be constructed, laid out, surfaced and drained in accordance with the specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
- 13) No building shall be occupied until the whole of the roads and footpaths shown on the layout plan accompanying the application, and all surface water drainage works have been laid out, constructed and completed in accordance with a specification to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
- 14) Cycle parking facilities shall be provided prior to the occupation of the development hereby approved in accordance with the details shown on drawing Site Cycle Parking Plan V22-118-P09 Rev E. Thereafter, the cycle parking shall be retained as approved.
- 15) A Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved CTMP shall be implemented prior to any works being carried out on site, and shall be maintained throughout the course of the development.
- 16) Prior to the construction of any development above slab level a scheme for the landscaping of the site, including the planting of live trees and shrubs, the treatment of the access road and hard standings, and the provision of boundary treatment shall be submitted to and approved in

writing by the Local Planning Authority. These details shall include schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), including street tree planting with climate resilient species with longer life expectancy and greater canopy coverage, the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme. The scheme shall be implemented prior to the first occupation or use of development and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.

- 17) Prior to the occupation of the development hereby permitted comprehensive details of a maintenance schedule and a long term management plan (for a minimum period of 20 years), for the soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include:
- a) Details of long term design principles and objectives.
 - b) Management responsibilities, maintenance schedules and replacement provisions for existing retained landscape features and any landscape to be implemented as part of the approved landscape scheme including hard surfaces.
 - c) A plan detailing which areas of the site the Landscape Management Plan covers and also who is responsible of the maintenance of the other areas of the site.
 - d) Summary plan detailing different management procedures for the types of landscape on site e.g. Wildflower meadows, native or ornamental hedgerows.

The schedule and plan shall be implemented in accordance with the agreed details.

- 18) That all trees to be planted within hard surface areas shall be planted in the first planting season after the first use of the buildings. The tree/s must be planted into site specific tree pits. The tree pits are to be a crated pit design that incorporates technology that will enable tree/s to successfully grow in hard surface environments. The pits must provide the significant quantities of growing medium required to allow the trees to become established and grow on to maturity, sustaining the trees in a healthy condition and allow for ease of maintenance. Details of the tree species and the tree pits shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on the site. In the event of any of the trees so planted dying or being seriously damaged or destroyed within 5 years of the completion of the

development, a new tree of a species first approved by the Local Planning Authority, shall be planted and properly maintained.

- 19) Prior to the commencement of any site works or operations, including demolition and site clearance relating to the development hereby permitted, an Arboricultural Method Statement and accompanying Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement must include the following:
- a) A specification of any pruning or tree surgery works to any trees to be retained, to prevent accidental damage by construction or demolition activities;
 - b) The specification and location of temporary tree protective fencing and any ground protection required to protect all retained trees in accordance with the current edition of BS 5837 "Trees in relation to design, demolition and construction", and details of the timing and duration of its erection;
 - c) The definition of areas for the storage or stockpiling of materials, temporary onsite parking, site offices and huts, mixing of cement or concrete, and fuel storage;
 - d) The means of demolition of any existing site structures, and of the re-instatement of the area currently occupied thereby;
 - e) The route and method of installation of drainage or any underground services in the vicinity of retained trees; Consideration will be made to avoid siting of utilities and service runs within the Root Protection Area (RPA) of all trees to be retained. Only where it can be demonstrated that there is no alternative location for the laying of utilities, will encroachment into the RPA be considered. Methodology for any installation works within the RPA will be provided and must be in compliance with the current edition of NJUG 'Guidelines for the planning and installation and maintenance of utility apparatus in proximity to trees'.
 - f) The details and method of construction of any other structures such as boundary walls in the RPA of retained trees and how these relate to existing ground levels;
 - g) The details of materials and method of construction of any roadway, driveway, parking, pathway or other surfacing within the RPA, which is to be of a 'No Dig' construction method, in accordance with the principles with in Arboricultural Association Guidance Note 12 "The use of cellular confinement systems near trees" and in accordance with current industry best practice; and is appropriate for the type of roadway required in relation to its usage.
 - h) Provision for the supervision of ANY works within the RPA of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development; and

provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.

Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

- 20) No external lighting shall be installed on site unless and until a sensitive lighting strategy for bats is submitted to and approved in writing by the Local Planning Authority. The strategy shall:
- a) identify those areas/features on site that are likely to be both particularly sensitive for bats and vulnerable to disturbance from artificial lighting, including: known or potential breeding sites, resting places, foraging areas or important routes used to access key areas of their territory.
 - b) show how and where external lighting will be installed (through provision of appropriate lighting plans, isolux contour maps and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites or resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy. Under no circumstances should any other external lighting be installed without the prior consent from the local planning authority.
- 21) Prior to the commencement of the development above new slab level, details (including specification, position, height, orientation) of a scheme of biodiversity enhancements to be provided, shall be submitted to and approved in writing by the local planning authority. The scheme shall be designed in conjunction with a suitably qualified ecologist and bird/bat boxes on buildings shall be integrated into the fabric of the development. A minimum number of biodiversity enhancement features shall be provided onsite as follows: nine integrated bird nest boxes for house sparrow *Passer domesticus* or swift *Apus apus*, nine integrated bat boxes, and one hedgehog fence tunnel within each length of closeboarded fencing forming a plot boundary (arranged so that each plot is connected to at least two separate adjacent plots or to one other plot and open/public space as appropriate). Thereafter, the development shall be implemented in accordance with the approved details. All features shall be provided prior to first use and shall be maintained and retained thereafter.
- 22) Prior to any works starting on site, a Construction Method Statement for protected species shall be submitted to and approved in writing by the Local Planning Authority. This shall be produced by a suitably qualified ecologist and shall describe Reasonable Avoidance Measures to be employed during construction to avoid impacts on:
- a) Badger, hedgehog and other small animals (including measures to be employed to avoid these species becoming trapped in excavations).
 - b) Nesting birds (including vegetation clearance timings and/or arrangements for ecological supervision).

c) Great crested newt and other amphibians (including details of a toolbox talk to be given to contractors, methods for sensitive clearance of vegetation and the onsite pond, rules for siting and storage methods of building materials and site waste to minimise risks of amphibians using them as temporary refugia and the procedure to be followed if an amphibian is discovered during works).

The approved Construction Method Statement shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 23) The hours of operation for construction and demolition works shall be restricted to 07:30-17:30 Monday to Friday and 08:00-13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays without the prior written authority of the Local Planning Authority.
- 24) Prior to the commencement of development, with the exception of any demolition, a full foul and surface water drainage scheme, shall be submitted to, and approved in writing by, the Local Planning Authority. The design of the foul and surface water drainage system will be in accordance with the strategy as set out on drawing 241775/DS/12 including levels, size, position and construction of all drainage works from the RWP/SVPs of each plot. The submitted information shall include:
- a) A drainage layout to show all surface water drainage from the RWP. This must also include proposed Rain Water Butts.
 - b) A drainage layout to show all foul water drainage from SVP. - A 10% increase in impermeable areas will need to be added to the SWD hydraulic calculations to accommodate any forthcoming urban creep.
 - c) A full manhole schedule must be provided. - Maintenance strategy inclusive of ownership of all shared features on a coloured drawing with key appended.
 - d) Full construction details of all surface water drainage features including hard standing areas.
 - e) A long section of the gravity sewer including the swale to its connection point with the third party surface water drainage system.

The development shall be implemented in accordance with the approved detail.

- 25) Prior to the commencement of development, with the exception of any demolition, a construction phase surface water management strategy scheme shall be submitted to and approved in writing by the Local Planning Authority. The strategy must demonstrate how surface water will be managed throughout the construction phase. The development shall be implemented in accordance with the approved detail.

- 26) Prior to the occupation of any dwelling, a foul water and SUDS compliance report prepared by an appropriately qualified Engineer must be submitted to and approved by the Local Planning Authority. This report must evidence that the foul water and sustainable drainage system has been installed and completed in accordance with the approved scheme (or detail any minor variations). This report should as a minimum cover the following;
- a) Inclusion of as-built drawings in AOD. Levels of all drainage works and FFL must be included. As-built drawings must be provided in PDF and DWG format.
 - b) Inspection details of foul pipework, manholes and SUDS features such as flow controls, storage features and volumes and critical linking features or pipework undertaken, with appropriate photographs and evidence of inspections incorporated,
 - c) Maintenance responsibilities details,
 - d) Details of any remediation works required following the initial inspection,
 - e) Evidence that that remedial works have been completed,
 - f) Full CCTV survey of the whole network.
- 27) Prior to the first occupation of the development hereby approved, an Electric Vehicle Charging Point shall be installed for each dwelling and thereafter retained as such.
- 28) Prior to the first use of the development hereby approved, a habitat management and monitoring plan (HMMP) shall be submitted to and approved in writing by the local planning authority. The HMMP shall accord with the approved landscaping plans and biodiversity metric assessment and cover a minimum period of 30 years from the point that the development is completed (including landscaping), and include the following details:
- a) Description and evaluation of features to be managed.
 - b) Aims and objectives of management.
 - c) Ecological trends and constraints on site that might influence management.
 - d) Method statement for the successful establishment of target habitats and features.
 - e) Prescriptions for management actions, with specific reference to the required habitat condition criteria linked to the supporting biodiversity metric assessment.
 - f) Preparation of a work schedule (including an annual work plan capable

of being rolled forward over a five-year period).

g) Details of the body or organization responsible for implementation of the plan, and extent of their management responsibilities.

h) Ongoing monitoring and remedial measures.

The HMMP shall include details of the legal and funding mechanism by which the longterm implementation of the plan will be secured by the developer with the management bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the HMMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. Thereafter the HMMP will be implemented in accordance with the approved details and management prescriptions implemented across the site for the plan period.

- 29) Prior to the commencement of development, with the exception of any demolition, a certificate confirming the agreement of an Offsetting Provider to deliver a Biodiversity Offsetting Scheme, totalling a minimum of 0.04 biodiversity units, has been submitted to and approved in writing by the Local Planning Authority. The written approval of the Council shall not be issued before the certificate has been issued by the Offset Provider. The details of biodiversity enhancements shall be documented by the Offset Provider and issued to the Council for their records.

End of Schedule