



Appeal Decision

Hearing held on 22 January 2025

Site visit made on 22 January 2025

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2025

Appeal Ref: APP/D3125/W/24/3349750

Land known as The Ashbed, Ladburn Lane, Shilton, Oxfordshire OX18 4AJ

- 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 John Colson against the decision of West Oxfordshire District Council.
 - The application Ref is 23/02404/FUL.
 - The development proposed is the construction of three new detached dwellings and cart lodge style garages.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John Colson against West Oxfordshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The National Planning Policy Framework (the Framework) was updated in December 2024. The main parties were given an opportunity to comment on this and the revised version has been referred to in this decision.
4. The appellant's submission included an updated Landscape Masterplan and Tree Constraints plan, and prior to the Hearing they submitted some additional evidence to support their self-build and custom housebuilding (SBCH) argument as well as comments on the Council's proposed conditions. These documents do not materially alter the development therefore their inclusion would not prejudice any other parties. I also accepted written versions of the verbal statements made by 2 interested parties at the Hearing, and copies were made available to the main parties. I have considered these documents in this decision.
5. The appellant also submitted a draft unilateral undertaking (UU) in relation to securing the proposed dwellings as a SBCH scheme. Although not signed the justification for this was acceptable and a short extension for submission was agreed. This was not met, and no satisfactory reason was given for a further extension.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the appeal site and local landscape;
- whether the appeal site is a suitable location for the proposed development having regard to relevant policies relating to a) 'small villages, hamlets, and the open countryside', and b) accessibility; and
- whether the proposed development would affect the District's Self-building and custom housebuilding (SBCH) supply and constitute a SBCH scheme.

Reasons

Character and appearance

7. The appeal site is on Ladburn Lane, which is situated to the edge of Shilton, a small village located within a natural hollow by a forded stream in the otherwise rolling countryside. Development within Shilton is centralised around the village pond and the junction of The Hill and Bridge Street, and Church Lane. Ladburn Lane has residential development along it, but this peters out as it stretches away from Hen N Chick Lane (the continuation of The Hill) to where it becomes a bridleway and access to Shilton House and farm and opens out into large rolling fields enclosed by low stone walls and trees.
8. The appeal site is a broadly triangular piece of land enclosed by a low stone wall. It is located on Ladburn Lane where the road changes to bridleway. There are a number of trees scattered across the site and along the boundaries, and this provides a reasonably open aspect with glimpses of the countryside beyond. On the opposite side of Ladburn Lane are a number of dwellings set in reasonably large, maturely landscaped plots and along with the appeal site provide a delineation between the denser development closer to Hen N Chick Lane, and the field and countryside which surrounds Shilton. To the rear of the appeal site are some smaller paddocks related to West End Farm camping.
9. The appeal site appears undeveloped and is visually prominent when viewed from Ladburn Lane, the bridleway and public rights of way which cross the fields beyond the site. Therefore, it provides a transitional space between the more developed part of Ladburn Lane, and the open countryside beyond. Thus, it makes a positive contribution to the setting of Shilton, as part of the wider landscape, by enforcing the gentle transition from built-up settlement to countryside.
10. The proposal would erect 3 dwellings with separate parking and gardens, accessible from a shared drive from Ladburn Lane. This would introduce residential development on an otherwise undeveloped site. In combination with the number and size of the dwellings proposed, as well as the site's prominent location and relative open aspect, the proposal would be visually obvious. As such it would change the character and appearance of the site by having a suburbanising effect that would not integrate with the pattern of development along Ladburn Lane nor sit comfortably within such a transitional location. This harmful impact would be further emphasised by the proposed subdivision of the appeal site which would have an enclosing effect. This would reduce the visual interrelationship with the countryside, an intrinsic character of the appeal site and surrounding landscape.

11. It is appreciated that the retention of the existing trees and the bolstering of the boundary landscaping with further trees and planting would provide a level of screening for the proposed buildings. However, the deciduous nature of the existing trees means any screening would be severely reduced during the winter months and any new landscaping would take a considerable time to mature.
12. That historically there were substantially more trees on the appeal site is noted. However, whether or not it can be defined as woodland has little bearing on the effect on the character and appearance of the site or local landscape.
13. Consequently, for the reasons stated above, the proposed development would harm the character and appearance of the appeal site and local landscape. It would therefore fail to comply with West Oxfordshire Local Plan 2031 (LP) Policies OS2 and EH2 insofar as they require new development to protect or enhance the local landscape, the setting of settlements and respect the intrinsic character of the area.

Small villages, hamlets, and open countryside

14. It was confirmed during the Hearing that Shilton and the appeal site would fall into the category of 'small villages, hamlets and open countryside' as defined within LP Policy OS2. This policy requires that new development within this category will be limited to that which requires and is appropriate for a rural location. Where new development is residential, it needs also to be considered against LP Policy H2, which sets out circumstances where a rural location may be appropriate.
15. However, the proposal would not represent the optimum use of a heritage asset, replace an existing dwelling, or reuse an appropriate existing building. Nor would it provide accommodation for travelling communities or ancillary accommodation to an existing dwelling, and the appeal site is not allocated for housing. It has also not been shown that the proposal would be of exceptional quality or innovative design, nor would it serve an essential operational need.
16. I am not convinced that in this case Self-building and custom housebuilding (SBCH) provision would constitute a specific local need which could not be otherwise met elsewhere. As set out in the PPG¹ there is no duty on the relevant authority to permission land which specifically meets the requirements expressed by those on the register. As such, that there are no SBCH opportunities in Shilton does not preclude the appellants seeking SBCH opportunities elsewhere. Therefore, the lack of SBCH in Shilton is not a specific local need, but a much wider need which can be fulfilled anywhere in the district.
17. As no evidence has been submitted to show the proposal would meet any other specific local need, the appeal site location would not meet any of the circumstances where a rural location may be appropriate and so fail to comply with LP Policy H2 and therefore Policy OS2.

Accessibility

18. LP Policy T1 states priority will be given to locating new development in areas with convenient access to a good range of services and facilities and where the need to travel by private car can be minimised due to opportunities for walking, cycling and the use of public transport. This is further emphasised by LP Policy T3 which states all new development will be located and designed to maximise opportunities for

¹ Paragraph 028 Reference ID: 57-028-20210508 Revision date: 08 02 2021

walking, cycling and the use of public transport, and development which fails to make adequate provision or measures to encourage the use of non-car modes of transport will not be favourably considered.

19. It is appreciated that the appeal site is located at the edge of Shilton, and with reasonable non-car access to the village public house and church. At West End Farm camping there is a small shop which provides farm supplies and some local produce which is similarly accessible. However, when considering the domestic requirements of day-to-day life, it is clear that any future occupants would have to leave Shilton on a regular basis to meet those needs.
20. According to the appellants Transport Statement (TS)² there is a bus stop on the B4020 which serves Shilton and is round 750m from the appeal site on the opposite side of the village. The Council has submitted the timetable³ for the bus stop and shows there is a regular, daily service, between Burford and Witney. The appellant also states that Carterton is approximately 2.8km from the appeal site and could be reached by bike in about 10 minutes.
21. However, it is noted that the walk to the bus stop involves walking down a relatively steep hill, across the pedestrian bridge at the ford and back up another steep hill. None of this route is lit and some sections do not have designated footpaths. The same route would need to be taken if cycling into Carterton but with the addition of continuing the journey along the B4020. This is a reasonably busy connecting road which is relatively narrow, and also not lit. In both cases the routes are not optimal in the dark or poor weather, nor easily traversable for those with limited mobility, with small children or carrying shopping. So, these forms of transport are unlikely to be primarily or even regularly utilised by future occupants of the proposal. It is also noted that there is a bus for Burford School which serves Shilton. However, this is of limited benefit as it does not take account of those attending other schools in the area.
22. Therefore, although there are some local facilities and public transport options available, they are not so convenient or abundant as to minimise the use of the private car for travel. Nor are there any measures before me which would encourage the use of non-private car modes of transport.
23. It is appreciated the appellant has proposed electric vehicle charging points to promote such vehicles which could potentially provide a sustainable form of transport. Nevertheless, based on the evidence before me, the occupants of the proposed dwelling would still be heavily reliant on the private car, and so the proposal would not comply with the objectives of LP Policy T1 and T3.
24. According to the TS the proposal would only generate 10 trips daily (5 departures and 5 arrivals), and most journeys would be short. The appellant also drew my attention to their understanding that private vehicle reliance is commonplace within West Oxfordshire due to a large proportion of the population living in rural locations. However, this simply enforces the fact that it is likely the private car will be the primary mode of transport for the proposed occupants, and there is nothing before me which would secure its use predominantly as part of a more sustainable multi-modal or linked trip journey.

² Written statement on Behalf of The Appellant – Traffic and Transportation by Entran Ltd, dated July 2024 (Appendix 4 of the appellant's Statement of Case)

³ Appendix 2b of the Council's Statement of Case

25. Interested parties highlighted that services will not be improved in Shilton unless the population increases. However, the modest increase of 3 dwellings would not have such an impact as to significantly affect the population of Shilton and thereby guarantee an improvement in services.
26. Accordingly, the proposal would fail to comply with LP Policies T1 and T3 so the appeal site would not constitute a suitable location for the proposed development.

Self-build and custom housebuilding (SBCH)

27. It is not in question that the Council has a shortfall of SBCH supply. It calculates this shortfall as 85 units⁴, but the appellant considers the deficit to be considerably more. This discrepancy appears to be down to different interpretations of the SBCH Act 2015 (as amended) (The Act), the SBCH Regulations 2016 (as amended) (The Regulations), and the Planning Practice Guidance: SBCH (PPG), with the appellant disputing the evidential base of the Council's shortfall calculations. Nevertheless, even were I to consider the Council's lower number, I am satisfied a provision of 3 new SBCH units could still have a very tangible impact on the shortfall.
28. During the Hearing, it was confirmed that the appellant and the other proposed occupants are all on Part 1 of the Council's SBCH register. Therefore, according to The Regulations the duty to grant planning permission set out in part 2A of The Act applies. As such the provision of 3 dwellings for the proposed occupants could count towards the SBCH shortfall, assuming they are considered SBCH units.
29. For a dwelling to be considered as SBCH, it must be first occupied by the persons who built or completed it and were wholly or mainly involved in its plans and specifications. From the information before me I am satisfied the proposed occupants of the new dwellings were involved with the specific design of the dwelling they would occupy. However, their first occupation would need to be secured for those dwellings to be considered SBCH.
30. It is noted that in some situations a condition has been used to secure SBCH occupation, but in this instance would unlikely be enforceable. This is due to the design of the dwellings having already been undertaken and occupation would be by other parties as well as the appellant. Therefore, the first occupation of the proposed dwellings would need to be secured by obligation, and this as a way forward was agreed within the Statement of Common Ground⁵.
31. During the Hearing, the main parties agreed the submitted draft UU, notwithstanding a minor drafting error in clause 4.1, would achieve this. And there is nothing before me to conclude otherwise. However, as a finalised and signed copy of the UU has not been submitted, the first occupation of the proposed dwellings cannot be secured. Therefore, the proposal cannot be considered a SBCH scheme so cannot count towards the Council's SBCH supply shortfall.
32. Even were the proposal considered an SBCH scheme, it would need to be assessed against LP Policy H5 which specifically deals with SBCH. This policy, amongst other things, states such housing will be approved in suitable, sustainable locations subject to compliance with other development plan policies including

⁴ As identified in Appendix 1 of the Statement of Common Ground.

⁵ Paragraph 8.1

Policies OS2 and H2⁶. As set out in the other main reasons the proposal would fail to achieve this and therefore would not comply with LP Policy H5.

Other Matters

33. The main parties have drawn my attention to around 20 appeal decisions⁷, beyond those referred to below I am satisfied that there is no conflict between these decisions and my findings. It is noted that the appellant has also submitted a High Court judgement⁸. However, it refers to a business park in Rochdale and without any reference to it within the appellant's evidence I fail to see how this relates to the proposal.
34. That the Forestry Commission gave permission for the felling of trees on the appeal site and reversion on another piece of land is noted. However, this does not alter the planning merits of the case.

Planning Balance

35. Within its Statement of Case the Council confirmed it only had a 4.3-year housing land supply. However, during the Hearing, the Council confirmed that since the recent changes in the Framework this will likely be "quite a lot less"⁹, although the calculations had not been completed. Consequently, Paragraph 11d) ii) of the Framework is engaged.
36. The proposal would provide 3 dwellings reasonably quickly due to the small scale of the scheme. I have considered that the Framework seeks to boost significantly the supply of housing and recognises the importance of small sites in meeting the housing requirement of the area. Along with contributing to the Council's 5-year housing land supply, the associated economic and social benefits and the environmental enhancements proposed, would attract moderate weighting based on the number of houses involved.
37. I have considered the 3 appeals my attention was specifically drawn to in the Hearing. These are Brock Cottage (APP/D3125/W/21/3274197), North Leigh (APP/D3125/W/24/3341580), and Minster Lovell (APP/D3125/W/3331279) all of which refer to SBCH and the weight given within the planning balance. However, I can only give very limited weight to the provision of SBCH due to the lack of a completed UU securing the first occupation of the proposed dwellings.
38. It is noted the appeal site is beyond the Shilton conservation area and would not cause harm in relation to the surrounding public rights of way, ecology, parking, highways safety, the living conditions of neighbours and future residents, drainage, flood risk, and the design and construction of the proposed dwellings. Nevertheless, a lack of harm, is by definition a neutral factor so cannot weigh for or against the proposal.
39. However, I have found the proposal is not sympathetic to local character, and the appeal site would not provide convenient and easy access to services or sustainable modes of transport, which the Framework seeks to provide. Accordingly, the weight I give to the conflict with LP Policies OS2, EH2, H2, T1 and T3 is substantial.

⁶ LP Policy H5 also refers to Policy H3, which refers to the reuse of buildings, but is not relevant to the proposal.

⁷ Including APP/A0665/W/14/2212641 (Secretary of State decision)

⁸Appellant's core document CD-9.01

⁹ As expressed by Mr Wood during the Hearing

41. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

INSPECTOR

Sarah Colson Family member of appellant

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Chris Wood Senior Planner (Appeals)
West Oxfordshire District Council

David Cuthbertson Chair of Shilton Parish Council

Alex Postan	Local resident, and ex- Parish and District councillor
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DOCUMENTS:

1. Document 'APPD3125W243349705 Proposed Conditions' received by email on 20 January 2025 from A Jones
2. Document 'FOI 3226 self-build permission summary' received by email on 21 January 2025 from A Jones
3. Copy of Hearing statement by A Postan
4. Copy of Hearing statement by D Cuthbertson