



Appeal Decision

Site visit made on 12 February 2025

By G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/D3125/W/24/3353496

South Lawn Farm, South Lawn, Swinbrook, Oxfordshire, OX18 4EN

- 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 William Mackinnon against the decision of West Oxfordshire District Council.
 - The application Ref is 24/01030/FUL.
 - The development is described as the conversion of stables/tack room into two bedroom living accommodation.
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Decision

1. The appeal is allowed, and planning permission is granted for the conversion of stables/tack room into two bedroom living accommodation at South Lawn Farm, South Lawn, Swinbrook, Oxfordshire, OX18 4EN in accordance with the terms of the application, Ref 24/01030/FUL, subject to the conditions set out in the accompanying Schedule.

Preliminary Matters

2. Notwithstanding the description of the development used by both parties in the documentation the appellant intends the living accommodation to be used as a single dwellinghouse. Since no agricultural or rural enterprise justification is promoted, it is also intended that the dwelling should be free of occupancy restrictions, that is, a dwelling available for sale or rent on the open market.
3. Although now ceased, some works of conversion have taken place, internally and externally. The appellant therefore seeks permission for the conversion including the retention of the works already carried out. I shall proceed on this basis.
4. Both parties agree that the planning history of the appeal property is relevant, and so do I. In this respect the building was the subject of a planning permission¹ for its conversion to light industrial units and office space. The Council is content that all conditions precedent imposed on the permission have been discharged, and that material operations took place prior to the permission's expiry date. Accordingly, the permission remains extant.
5. The Council's third reason for refusal related to ecological/biodiversity issues. The material submitted by the appellant for the appeal to address these issues has satisfied the Council that its original concerns have in the main been satisfactorily addressed, so that its third reason for refusal is, in effect, withdrawn.

¹ Ref 20/02275/FUL dated 11 December 2020

Main Issues

6. The main issues are: (a) whether this is an appropriate location for the proposed residential use having regard to development plan policy and accessibility to services and facilities; (b) the effects on the character and appearance of the surrounding area, and (c) the effect on the living conditions of neighbouring residents,

Reasons

Appropriateness of Location

7. The appeal property, a former stables/tack room is built in traditional materials. It is located within South Lawn which the appellant describes as a settlement and which the Council describes as a small cluster of development or a hamlet. The first section of the Council's statement of case comprehensively details the nature of the buildings and activities carried on therein. This is a mixture of residential, agricultural, converted commercial and rural enterprise buildings. To my mind, the extent of buildings evident and the various uses carried on means that collectively South Lawn may be appropriately described as a hamlet. However, the hamlet is set well apart from other larger settlements in open countryside.
8. The Council relies principally on policies contained in the West Oxfordshire Local Plan 2031 (LP) in support of its refusal. Policy OS2 is directed to locating development, including housing, in the right places. In this respect it is envisaged that most future new development would be directed to the main and rural service centres identified in Table 4b of the LP, which sets out the settlement hierarchy for the District. More limited development is envisaged in some of the listed villages. The latter section of LP policy OS2 sets out the types of development which may be acceptably located in hamlets, but the text makes it plain that proposals for residential development therein will be considered under LP policy H2.
9. Policy H2 is not inimical to residential development in hamlets, but provides that new dwellings will only be permitted in certain specified circumstances. To my mind, the proposal does not fall readily within any of the eight listed scenarios.
10. LP Policy E3 supports the re-use of traditional buildings such as the appeal property in locations such as this, but only for employment, tourism and community uses. The accompanying text to the policy explains that these uses are more suitable than residential use in accordance with Paragraph 55 of the Framework² which seeks to avoid isolated new homes in the countryside. However, the parties agree, having regard to the Court's decision in *Braintree*³, that the property is not isolated in the terms of the Framework. I share that view, so to my mind, Policy E3 should not be regarded as wholly inflexible when considering the re-use of this traditional building in this hamlet for residential purposes.
11. LP policies T1 & T3 in combination seek to locate new development in areas with convenient access to a good range of services where the need to travel by private car can be minimised, and to maximise opportunities for walking, cycling and public transport. Public Transport is virtually non-existent in the locality, and I share the

² National Planning Policy Framework – advice on isolated homes is now provided in paragraph 84 of the 2024 revision.

³ *Braintree District Council v Secretary of State for Communities and Local Government & Ors* [2018] EWCA Civ 610.

Council's view that because of the distances involved and the nature of the local rural roads, future residents of a dwelling here would more likely than not be heavily dependent on the private car to access services and facilities.

12. Having regard to the above I conclude that whilst the appellant can derive some comfort from the provisions of LP policy E3, having regard to *Braintee*, the proposal conflicts with the provisions for development in locations such as this set out in LP Policies OS2, H2, T1 & T3. Whilst this represents the starting point in my considerations, the material considerations in the form of national policy also weigh heavily arising from the agreed shortfall in housing land supply. This is considered further in the planning balance and conclusions.

Character and Appearance.

13. The appeal property is constructed in traditional materials, and forms part of a linked group of similar buildings. Modifications and alterations to the external appearance of the building would be kept to that deemed necessary for the conversion, and the external area fronting the highway would be used as an amenity space and for parking.
14. Whilst the Council consider that this use of the external area would domesticate the local scene to the detriment of local character, I would regard it as a visual improvement on the current scene, reflecting the residential use of the external areas of the neighbouring property immediately to the south.
15. The Council acknowledges that the principle of conversion has already been established by the 2020 permission, and although additional modifications are proposed, particularly inside the building, the officer report clarifies that the conversion would not harm the form of the original building or remove features of historic or architectural interest. I share that view and consider that the proposals do not harm the character and appearance of the host property.
16. The hamlet is located within the Cotswolds Area of Outstanding Natural Beauty (AONB). When determining the proposal, officers, for the reasons set out in their report, concluded that the proposed development would conserve and enhance the wider landscape and scenic beauty of the AONB. I have no reason to disagree with that assessment.
17. As has already been described the hamlet displays a variety of buildings and uses, and the proposed use would not be incompatible with any. The scheme is acceptably designed, of an appropriate scale to its context, forms a logical complement to the existing scale and pattern of development, conserves and enhances the local designated landscape and does not involve the loss of an area of open space.
18. I therefore conclude that the completed development would sit comfortably within its visual and spatial context without harming its character and appearance. I therefore find no material conflict with those provisions of LP policy OS2 listing the parameters for acceptable forms of development and with the Framework's guidance on protecting the natural beauty of AONBs.

Living conditions

19. The Council's concerns centre on the building's proximity to a neighbouring residential property⁴ and that, consequently, the residents of the latter would be unacceptably overlooked resulting in loss and/or perceived loss of privacy.
20. The proposal's windows, upstairs and down, would look directly out on a gravelled area used by the residents of the neighbouring dwelling for parking and manoeuvring vehicles. The dwelling's principal planted external amenity area is situated well away from the windows of concern. I am therefore satisfied that the use of the neighbouring house's external areas would not suffer unacceptable overlooking.
21. Beyond the parking area stands the neighbouring property's rear single storey protrusion and this has windows facing the appeal property. Viewed from distance they appeared to serve a kitchen and utility area. These windows are closer to the appeal property than would normally be deemed appropriate. However, I am mindful that the permitted scheme for the appeal property also contained windows facing the neighbouring house, albeit that an additional window serving a bedroom is proposed upstairs in this case. Thus, if the commercial scheme were to take place the neighbouring property would be subject to a degree of overlooking during the day, to which the Council had no objection.
22. To my mind the extent of overlooking involved, bearing in mind the extant permission, is not such as would materially worsen neighbouring living conditions. In this respect, although not decisive in my considerations, I note that the occupants of the neighbouring dwelling have not objected to the scheme, which suggests that they would not perceive themselves as being unacceptably overlooked were the appeal scheme to progress. Accordingly, I find no material conflict with the provisions of LP policy OS4 directed to protect the enjoyment and living conditions of the occupants of nearby residential buildings.

Planning Balance and Conclusions

23. I find for the appellant on two of the main issues identified at the outset, but against him on the first, principally on the basis of conflict with settlement policy. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework places considerable emphasis on sustainable development and highlights the delivery of new housing as a national priority. It is an important material consideration in planning decisions.
24. Both parties recognise that there is a deficit of housing land as required by the Framework. This deems the most important LDP policies relating to settlement policy as being out of date, as recognised by the Council's planning officers. The tilted balance is therefore engaged by Paragraph 11d)ii of the Framework which requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when assessed as a whole. In the context of Paragraph 11d)i, since neither the Council nor I found that the development would harm the natural beauty of the AONB there are no strong reasons to oppose the development for this reason.

⁴ Described by the Council as Swinbrook Cottage and by the appellant as The Lodge

25. The fact that policies have to be considered as out of date does not mean that they carry no weight. Having regard to my conclusions on the first main issue they attract some weight but that should be balanced against other aspects of the scheme including its advantages. These include a contribution to improving the local housing land supply and the economic activity and employment opportunities arising from development. I note the Council's point that the development would make only a minor contribution to housing land supply, but I see nothing in the Framework suggesting that its provisions in this respect should not apply to minor development. Moreover, a dwelling would likely provide a home to someone in need.
26. Although clearly situated in countryside the hamlet is not so remote or isolated from significant service centres that the anticipated increase in journeys by private vehicle would prove either onerous or unduly unsustainable. Future residents would merely follow the patterns already established by existing residents in the hamlet, and the advent of electric vehicles in the future would assist in reducing emissions. I am also mindful that the use permitted by the extant permission for the property would itself result in the generation of commuter journeys by car, quite possibly in excess of those generated by the residents of a two bedroomed dwelling. Whilst there would be a potential loss of employment opportunities, this would be outweighed by the additional housing created and by bringing the building into productive use.
27. Moreover, as I found in assessing the second main issue, any harm to the character and appearance of the area would be minimal and localised, and the development would successfully integrate into its scenic surroundings.
28. This is a scheme which has very few adverse impacts which could not be appropriately mitigated, and which do not outweigh its benefits. The provisions of the Framework attract significant weight as a material consideration and indicate to me that the out-of-date policies of the development plan should not prevail.
29. For the above reasons I allow the appeal and grant planning permission subject to conditions which are discussed below.

Conditions

30. The Council has suggested the imposition of conditions in the event of planning permission being granted. The appellant was given an opportunity to comment on them.
31. Since the development has already commenced, the standard time-limiting condition is not necessary.
32. It is necessary that the development is completed in accordance with the approved plans, and a condition to this effect is therefore imposed in the interests of certainty.
33. To ensure that car parking facilities are available at the appropriate time, the Council's suggested condition is imposed in the interests of highway safety. In the interests of visual amenity, I shall extend the requirements of this condition to ensure that the garden area is appropriately laid out.
34. In the interests of biodiversity, and having regard to the submitted report, the Council's condition on further surveys is imposed.

35. Since most of the modest open area at the front would be given over to car parking, and the planted areas would probably need the importation of soil as a cover, I do not consider the Council's suggested contamination conditions to be necessary.

Other matters

36. All other matters raised have been considered and taken into account, including the representations submitted by the Parish Council, who had no objection.
37. I have also taken into account all other references to the *Framework*. Reference has been made to other LP policies, but I consider those to which I have referred to be the most relevant having regard to the facts of the case. No other matter raised in the representations, including the Council's statement of case and appendices, is of such strength or significance as to outweigh those considerations that led to my conclusions. As to the Council's concerns on precedent, this is rarely a good reason, in itself, to withhold permission, and I have therefore determined the appeal, as required, on the basis of its planning merits.
38. Accordingly, the appeal is allowed, subject to conditions.

G Powys Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be completed in accordance with the following approved plans: the unreferenced location plans and plan Ref WM/2020 04Rev C.
- 2) The car parking, turning and manoeuvring areas and the areas proposed for planting shown on the approved plans shall be constructed or laid out before occupation of the development and thereafter retained and used for no other purpose.
- 3) The dwelling hereby approved shall not be occupied and no further works shall be carried out to complete the conversion of the building, including all interior works until a full bat survey has been carried out at the appropriate time of year in accordance with best practice guidance by a competent and licensed ecologist, and the results of the bat survey and a comprehensive mitigation strategy, which shall include specified timescales for all recommended actions have been submitted to, and agreed in writing by, the local planning authority. The approved mitigation strategy shall then be implemented in full, in accordance with the specified timescales, as modified by a relevant European protected species licence from Natural England.