



Appeal Decision

Site visit made on 12 March 2025

by **P B Jarvis DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2025

Appeal Ref: APP/V3120/W/24/3353964

Woodland Lodge, Frilford Heath, Abingdon OX13 5QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Leroy Barry against the decision of Vale of White Horse District Council.
 - The application Ref is P/24/V1326/FUL.
 - The development proposed is a self-build / custom-build three-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Costs Application

2. An application for costs was made by Leroy Barry against the Vale of White Horse District Council and this is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies, including the effect on irreplaceable and priority habitats;
 - If inappropriate, the effect of the proposal on the openness and purposes of the Green Belt;
 - The effect on minerals safeguarding area and adjoining quarry;
 - The effect on highway safety, including parking and turning provision;
 - The effect on the trees covered by the Tree Preservation Order (TPO);
 - The effect on the character and appearance of the area;
 - Whether suitable waste collection and storage facilities would be provided;
 - Whether suitable foul drainage measures can be accommodated,
 - Whether there would be access to sustainable travel options;

- If inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The Framework states at paragraph 154 that development in the Green Belt is inappropriate unless one of a number of listed exceptions apply. Whilst Framework paragraph 154(a) refers to the erection of buildings for agriculture or forestry, the appellant does not argue that the dwelling is required for agriculture or forestry, albeit contending that being able to live on the site will allow better management of the surrounding woodland. However, the appellant suggests that the proposal should be considered as falling within Framework paragraphs 154(e), (f) and (g).
5. In respect of paragraph 154(e), the appeal site lies within open countryside, with the nearest 'small village' as identified in Policy CP3 of the Vale of White Horse Local Plan 2031: Part One (2016) (VWHLF) being Frilford. Policy C13(v) also allows for limited infilling in some listed villages, but none are relevant. Whilst there are a couple of existing dwellings nearby to the west of the appeal site, plus a small group along The Ride further to the west, these and the appeal site lie in an area some distance from any nearby villages and within an area of open farm land and forest. The proposal cannot therefore be considered as limited infill in a village.
6. Paragraph 154(f) allows for limited affordable housing for local community needs under policies set out in the development plan and in that respect VWHLF Policy [orphaned] C13(vi) allows for limited affordable housing for local community needs as set out in Policy CP24. Whilst the appellant notes that his family has recently had to register on the local housing waiting list due to being made homeless and suggests that the proposal will provide an affordable self-build dwelling, the relevant policy requirements relate to larger scale development. The proposal does not, therefore, fall within this exception either.
7. In respect of paragraph 154(g), the definition of previously developed land within the Framework glossary specifically excludes land that is or was last occupied by agricultural or forestry buildings. Therefore, given that the only building currently on the appeal site is for forestry purposes, the proposal does not fall within this exception either.
8. Paragraph 155 of the Framework states that the development of homes in the Green Belt should also not be regarded as inappropriate where the development would utilise grey belt land provided a number of other criteria are met. It excludes land where the application of policies relating to the areas or assets of particular importance, as listed in footnote 7 (to Framework paragraph 11), would provide a strong reason for refusing or restricting the development. These areas / assets include habitats sites and irreplaceable habitats.
9. The appeal site adjoins the White Hart ancient semi-natural woodland, an irreplaceable habitat. Standing advice of Natural England is that a minimum 15 metre buffer zone should be applied around all ancient woodlands. In addition, the adjacent ancient woodland and the woodland to the south, through which the access track runs, are both likely to qualify as Lowland Mixed Deciduous Woodland, a Priority Habitat.

10. The appeal application is supported by an Arboricultural Report (October 2021) (AR) which was prepared to support the application for the existing woodstore on the site. An updated Tree Constraints Plan (TCP) confirms that only three dead, diseased or damaged trees on the appeal site itself require removal and otherwise the proposed dwelling would be located on the compound area that was the subject of the previous permission for the woodstore. However, the information does not provide full details regarding the adjoining ancient woodland areas and how these might be affected by the proposed development. Whilst noting that the appeal site lies just outside the designated ancient woodland area, it does lie within the buffer zone and the siting of the proposed dwelling is such that it may affect trees within it, notwithstanding the suggested construction methods which seek to minimise any disturbance.
11. In addition, the proposal is not accompanied by any ecology report or survey information to identify and assess the potential impacts on the Priority Habitats, both during construction and as part of the overall development. Whilst the proposed dwelling would not itself directly affect these areas, there could be indirect effects both during construction and once occupied. It is noted that a report dated 2022 was provided to support the application for the woodstore, but that does not appear to have been provided nor would it necessarily contain the relevant information to support this current scheme.
12. Thus, in the absence of any clarification as to these impacts and whether they are justified and/or could be appropriately mitigated, the appellant has failed to demonstrate that there would be no adverse impacts on them. The lack of information to demonstrate that there would be no loss or deterioration of the irreplaceable habitat and the lack of information relating to the impact on adjoining priority habitats would be contrary to local and national policy and provide strong reasons for refusing the development. Thus, even without considering the other relevant criteria within paragraph 155, the site does not constitute grey belt land.
13. Overall, in light of the above, the proposal does not benefit from any of the listed exceptions in national policy and would therefore constitute inappropriate development in the Green Belt which, in accordance with Framework paragraph 153, is by definition harmful and should not be approved except in very special circumstances. It would also conflict with VWHLP Policy C13 which seeks to prevent inappropriate development except in very special circumstances in accordance with national policy.

Effect on Green Belt openness and purposes

14. The proposed three bedroomed dwelling would be of two storey height albeit designed with half-height eaves to minimise its overall height. Notwithstanding this, it would introduce a large building volume on a site that currently is relatively undeveloped with only a small woodstore at its southern end. The proposal would thereby have a harmful effect on openness.
15. In terms of purposes, the appeal site lies within a wider area that is intended to check the unrestricted growth of Oxford to prevent it merging with other nearby towns and preserve its special historic setting. The site whilst small in relation to the overall Oxford Green Belt nevertheless contributes to these purposes as being within an area of open and largely unbuilt agricultural and forestry land, but given the limited nature of the development, the effect on these purposes would be

limited. However, in terms of safeguarding the countryside from encroachment, the proposal would have a moderate adverse impact resulting from the built development proposed. The proposal would thus have a harmful effect on Green Belt purposes.

Minerals safeguarding area and adjacent quarry operations

16. The appeal site lies within a Minerals Safeguarding Area. Policy M8 of the Oxfordshire County Council Minerals and Waste Local Plan (2017) (OMWLP) seeks to safeguard such land for possible future mineral use and restrict development that would prevent such use. Three exceptions are set out. The first is that the site is allocated for development, which is not the case for the appeal site. The second is that the need for development outweighs the economic or sustainability considerations relating to the mineral resource affected, but no supporting information in this regard has been provided by the appellant to demonstrate such justification. The third is that the mineral will be extracted prior to the development but no information has been provided in this regard nor would it be appropriate to impose a condition to secure this in such circumstances.
17. There is an existing quarry to the east and the appeal site is located close to its western boundary, separated from it by the narrow belt of woodland to the east. The appeal site is much closer to it than existing residential properties nearby which front the main road and are surrounded by further established trees and vegetation which provide additional separation. It has been confirmed that the quarry will continue to operate for at least a few more years and therefore, there is potential for its operations to affect the living conditions of the occupiers of the proposed dwelling. Whilst the appellant has provided a signed letter to the effect that no complaint would be made regarding the adjoining mineral operation, that has no effect in the long term for future occupiers nor does it satisfy policy requirements.
18. Overall, there would be conflict with Policies M8 and M9 of the OMWLP which in addition to the above seek to prevent development that would directly or indirectly prejudice the use of a safeguarded site.

Highway safety, parking and turning

19. The appeal site would be served by an existing vehicular access off the A338 that was improved to serve the existing woodstore on the site that was permitted in 2023. The access now includes a tarmac area to the front which allows vehicles approaching from the north to pull into the area provided. The Highway Authority has expressed concern that whilst the improved access was considered acceptable to serve the low level of vehicular use associated with the approved woodstore, it would not be safe or suitable to serve the proposed dwelling due to the increased level of vehicular movements that would be generated by a residential property.
20. Parking and turning areas for the proposed dwelling are to be located some distance from the dwelling itself, close to the main access on the A338 within an area notated as 'Driveway Woodland Lodge' on the plans. Whilst this would appear to provide adequate space for parking and turning of vehicles it is some considerable distance from the site of the proposed dwelling. Whilst the byway would connect with the access path through the woods, its width and surfacing would limit its use and not provide for vehicular access. Although the appellant was

able to construct the wood store without direct access, this would be challenging for the construction of the dwelling and would not be convenient or practical to serve the dwelling once occupied.

21. Whilst it may be possible to require further improvements to the access to show improved access, parking and turning arrangements via condition as necessary, there would still be an increased risk of turning movements off and onto the busy A338 which would be detrimental to the safety of other users of the highway. In the absence of information to demonstrate that the increased use of the access could be safely accommodated, the proposal would likely result in harm to highway safety.
22. This would be contrary to VWHLP policy CP33 and policy DP16 of the Vale of White Horse Local Plan 2031: Part two (LPP2) which seek to ensure that the impacts of development on the local road network are minimised and that development is served by safe access and appropriate turning and servicing provision. The proposal would also fail to satisfy paragraphs 116 and 115 of the Framework which seek safe and suitable accesses and to prevent development where there would be an unacceptable impact on highway safety.

Effect on preserved trees

23. Some trees within the appeal site and on land to the north and west neighbouring it are the subject of a woodland Tree Preservation Order (TPO). The updated TCP confirms that only three dead, diseased or damaged trees on the appeal site itself require removal and otherwise the proposed dwelling would be located on the compound area that was the subject of the previous permission for the woodstore. However, the position of the dwelling would be such that the retained preserved trees could impact on the dwelling itself, with associated potential pressure to fell further trees.
24. Thus, in the absence of any clarification as to these impacts and whether they are justified and/or could be appropriately mitigated, the appellant has failed to demonstrate that there would be no unacceptable impacts on the TPO trees. The proposed development would thereby be contrary to VWHLP Policy CP44 which seeks to safeguard landscape character including trees.

Effect on character and appearance

25. The appeal site is located in a relatively tranquil area, heavily influenced by the adjoining woodland areas and countryside location. Whilst there are residential properties to the west, these are some distance from the site screened by intervening mature vegetation and trees such that they have little influence on the otherwise quiet, rural nature of the site. These qualities of the site and its surroundings would be enjoyed by persons using the public right of way running along its western boundary.
26. The existing woodstore has introduced built development within an area that was previously devoid of buildings, but it is a relatively small single storey building with a low key use, clearly related to its surroundings. The building and associated use do not detract from the overall relatively tranquil nature of the site and its rural surroundings.

27. Whilst the proposed dwelling is well designed, using sympathetic materials and of sustainable construction, it would nevertheless considerably increase the amount of built form on the site and its use as a dwelling would be likely to adversely impact the tranquil nature of the site due to the resulting increased activity and domestic use on a daily basis.
28. It would be sited close to the boundary with the footpath which is marked by an existing mixed hedge and new section of beech hedge planted recently by the appellant. In time this will provide some screening of the building but would not be sufficient to fully mitigate its impact and enable the building to be successfully assimilated into its surroundings, due to the limited space available around the proposed building. This would result in an adverse effect on an area of relatively unspoilt, rural character and appearance.
29. The proposal would therefore fail to accord with VWHLP Policies CP37, CP40, CP43 and CP44 which seek development that responds positively to its surroundings and context, is integrated into the landscape character of the area and promotes local distinctiveness.

Refuse storage and collection

30. The above access arrangements could also result in difficulty in the provision of suitable arrangements for refuse storage and collection. However, there appeared to be sufficient space adjoining the site access to provide an area to store bins and whilst the dwelling would be located a considerable distance away, such an arrangement could likely be made acceptable, subject to control by condition. The collection of refuse would be likely to be carried out in a similar way to the nearby dwellings fronting the A338.
31. Overall, suitable provision would be made for refuse storage and collection to accord with LPP2 Policy DP28 which seeks to ensure that development is served by sufficient and safe to use recycling and refuse storage.

Foul drainage

32. In respect of foul drainage, the Council has expressed concern that there would be insufficient room within the appeal site to accommodate the proposed treatment plant and associated drainage field arrangements. No details of these proposed measures have been provided and given the relatively constrained nature and size of the appeal site, the ability of the proposal to be served by a satisfactory foul drainage scheme has not been demonstrated. As such there would be conflict with VWHLP Policy CP42 which requires development to be served by suitable drainage measures.

Sustainable travel options

33. The appeal site is located about 2.5km from Tubney to the south, with Frilford being further away. However, both have few amenities and are accessed via a busy, main A road with no footways. The nearest settlement with a range of amenities is Marcham, about 4km away, designated a larger village in the VWHLP and described as having a limited range of employment, services and facilities.
34. There is a bus service along the A338 which provides a fairly regular service, but the nearest bus stops are 400 metres from the site access with no footway access.

The appellant has clarified that the buses can be requested to stop nearer to the site at the entrance to Upwood Hills Quarry, just to the north of the appeal site access, and on the western side of the road at the end of The Ride opposite. However, whilst these points are nearer they would still involve walking along the busy A road which although only a short distance would not be safe for pedestrians. As such the bus does not provide a reasonable option.

35. Cycling could be an option but would also involve the use of the A338 which, as it is a busy main road with a 50mph speed limit, would not be practical for use except by experienced cyclists and thus not a safe or viable option for all. The byway running along the western boundary of the site provides some walking / cycling opportunities but could not be used all the year round as it is only a grass track the condition of which would deteriorate during wet weather and given the distances involved to access nearby villages, would not be a practical option other than as a leisure route.
36. Overall, therefore, the site is poorly located in this regard and would result in a reliance on the use of the private car for the majority of trips. This would be contrary to policies VWHLP policies CP33, CP35 and CP37 which seek to promote sustainable transport access and enable a modal shift to public transport, walking and cycling and ensure that development is well connected to provide safe and convenient ease of movement.

Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

37. As found above, the proposed development comprises inappropriate development in the Green Belt in addition to which it would fail to preserve openness and would adversely impact on Green Belt purposes. Substantial harm is to be given to these harms in accordance with Framework paragraph 153. Further harm arises in respect of highway safety, Ancient Woodland, an irreplaceable habitat, priority habitats, trees, minerals safeguarding, accessibility, character and appearance, foul drainage and residential environment as set out above.
38. The appellant has argued that the proposed dwelling would allow him to self-build an affordable, off-grid, family home of highly sustainable construction, which the local authority is currently unable to provide for and for which there is currently a much greater need than can be met by the available properties. The Council has confirmed that there is a lack of supply of self-build plots to meet the requirement. The provision of an affordable family home would contribute towards the clear need for such accommodation.
39. At the same time, it would allow for an enhanced management of the woodland within the site for the benefit of the wider community, some of whom have commented on the improvement of the site since being positively managed by the appellant. However, the appellant has not demonstrated that a dwelling is required on site in order to continue successfully with this woodland management.
40. Whilst these other considerations are collectively of significant weight in support of the proposal, they are insufficient to clearly outweigh the substantial harm arising from the inappropriate development and other harms identified. Consequently, the very special circumstances necessary to justify the development do not exist. The

proposal fails to comply with the development plan when considered as a whole and there are no material considerations to indicate that a decision should be made otherwise than in accordance with it.

Conclusion

41. It is therefore concluded that the appeal should be dismissed.

P B Jarvis

INSPECTOR