
Appeal Decision

Site visit made on 7 May 2025

by **D Wilson BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 July 2025

Appeal Ref: APP/C3105/W/24/3357698

Manor House, Islip Road, Bletchington, Oxfordshire OX5 3DP

- 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 Mr Stephen Dunne against Cherwell District Council.
 - The application Ref is 24/00519/F.
 - The development proposed is Variation of condition 2 (plans) of 22/03088/F – alterations to design of main house and garage to include amended chimney design, the use of different construction materials, removal of porch, provision of fire escapes, installation of doors, erection of external stairs to garage, alteration of garage roof from hipped to pitched style roof, insertion of rooflights and addition of solar panels.
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Decision

1. The appeal is allowed and planning permission is granted for Variation of condition 2 (plans) of 22/03088/F – alterations to design of main house and garage to include amended chimney design, the use of different construction materials, removal of porch, provision of fire escapes, installation of doors, erection of external stairs to garage, alteration of garage roof from hipped to pitched style roof, insertion of rooflights and addition of solar panels at Manor House, Islip Road, Bletchington, Oxfordshire OX5 3DP in accordance with the terms of the application, Ref 24/00519/F, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr Stephen Dunne against Cherwell District Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have used the Council's description of development in the banner heading above, on the basis that it accurately and clearly describes the proposed development and I have assessed the appeal on that basis.
4. At the time of my site visit, I saw that the development had commenced, and I have dealt with the appeal on that basis.

Main Issue

5. The appeal is against the non-determination of a planning application. The Council has confirmed in writing that it is supportive of the proposal subject to agreeing a planning obligation under Section 106 of the Town and Country Planning Act 1990 which was not forthcoming with the application.

6. The main issue therefore is whether a planning obligation is necessary and effective in order to make the development acceptable.

Reasons

7. The appeal proposal relates to the existing dwelling, Manor House where planning permission¹ was granted for the demolition of existing dwelling and ancillary buildings and replacement with new dwelling and garage building, associated landscaping and alterations to the access. The previous application was granted subject to a legal agreement which they Council say the appellant has not complied with.
8. The development subject to this appeal seeks to vary the previously approved plans which includes a number of changes to the dwelling and garage. In their statement of case the Council state that the changes are acceptable, subject to the completion of a legal agreement which would secure the demolition of the existing dwelling and ancillary buildings as well as the removal of some permitted development rights.
9. The Council consider that in the absence of a legal agreement, there would be no requirement to demolish the existing dwelling and all ancillary buildings which could result in the provision of two dwellings within the site as well as a number of ancillary buildings. The appellant considers that the demolition of the existing dwelling and removal of some permitted development rights could be controlled by a planning condition.
10. Planning Practice Guidance provides guidance on planning obligations² which is that such obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
11. I note the Council's concerns over the demolition of the existing dwelling and buildings and while it is clear through the original description of development that this forms part of the proposed development. Additional controls are required in order to ensure that the demolition takes place and to ensure that the existing dwelling is not retained.
12. On the basis of the proposed plans that show the demolition of various buildings, there is no evidence to suggest that the permission subject to this appeal could not be implemented, subject to appropriately worded conditions once these demolition works are carried out. It is also clear that the appellant tried to include outbuildings as part of the submission and as such, this matter could have been addressed with the submission of additional or amended plans.
13. The previous planning permission was subject to a planning obligation to secure the demolition of the existing dwelling; however, on the basis of the above, I find no reason why this matter could not be secured by a suitably worded planning condition.

¹ Council reference: 22/03088/F

² Paragraph: 003 Reference ID: 23b-003-20190901

14. The Council also sought to change the description of 'existing dwelling' as part of the planning obligation. I note the Council's reasoning behind requesting this change and their regard to relevant case law³. However, the change in description is generally unclear and the buildings the Council are concerned with are buildings that appear to be able to be lawfully constructed if the appellant chose to. So, seeking their removal would appear to go beyond the application before me.
15. I therefore conclude that a planning obligation is not necessary in order to make the development acceptable.

Other Matter

16. I note the Council sought to amend the definition of the existing dwelling within the proposed planning obligation, which was due to taking into account of case law⁴. In particular that permitted development rights would be lost if the existing dwelling was demolished, albeit some works may have taken place since the determination of the original permission. However, it is clear that the appeal will require the demolition of the original dwelling, and any such permitted development rights would be lost and while works could take place beforehand these are not subject to the control of the appeal before me.
17. The Council has referred to another appeal in an attempt to justify their case. I do not have the full details in respect of such example so I cannot be sure of the circumstances. In any case, I have determined the appeal on its own merits, based on the evidence before me.
18. However, in regard to the appeal decision⁵ referred to, this appears to relate to a single storey extension within the Green Belt. The obligation in that particular case prevented any development whatsoever which is noticeably more restrictive than the obligation in dispute before me and is unlikely to have been able to be dealt with by condition. It is therefore materially different to the appeal before me where I have found the requirements of the obligation could be dealt with by conditions.

Conditions

19. I have considered the Council's suggested conditions in the event I were to allow the appeal. Where necessary, and in the interests of clarity and precision, I have slightly altered them to more closely reflect the advice in the Framework and the Planning Practice Guidance.
20. Condition 1 specifies the approved plans for the avoidance of doubt.
21. Condition 2 relates to the demolition of the existing dwelling and other buildings within the site. The Council and the appellant have both provided suggested wording for this condition, however, both lack clarity and enforceability which would fail the tests outlined in Planning Practice Guidance. The condition requires the demolition of the existing dwelling, garage building and outbuilding shown to be demolished on the proposed site plan for clarity. I have also allowed sufficient time following occupation in order to ensure that bat surveys can take place.

³ Hillside Parks Ltd v Snowdonia National Park Authority [2022]

⁴ Hillside Parks Ltd v Snowdonia National Park Authority [2022] and Arnold v SSCLG [2015].

⁵ APP/C3105/D/21/3266407

22. Condition 3 is required in order to ensure that there is a sufficient parking and manoeuvring area for future occupiers and provision is made to direct run off to permeable or porous areas. Condition 4 ensures that the development achieves an acceptable water efficiency limit in the interests of sustainability.
23. Conditions 5 and 6 require a landscaping scheme to be submitted and implemented in the interests of the character and appearance of the area. Conditions 7, 8, 9, 10, 11 and 12 are all required in the interests of protecting the character and appearance of the area in ensuring suitable materials are used for the walls, basement, garage, roof, windows, doors, openings, rainwater guttering and downpipes.
24. Condition 13 is required in order to prevent clearance during the bird nesting season and condition 14 is to ensure that harm is not caused to protected species. Condition 15 requires details of external lighting in order to protect the living conditions of neighbouring occupiers. Condition 16 requires biodiversity enhancements to be made.
25. Condition 17 is to ensure the environment is protected during construction and condition 18 is required in order to ensure that any unexpected contamination risks are managed.
26. Conditions 19, 20 and 21 remove certain permitted development rights. I note that the appellant considers these conditions unreasonable, however, the proposal would result in a dwelling that is larger than the existing with the proposal further increasing the overall size. I therefore find it exceptionally necessary, in order to protect the openness of the Green Belt, to impose these conditions that prevent the garages and cycle stores being used for additional living accommodation, the erection of outbuildings and enlargement of the dwelling.

Conclusion

27. For the reasons given above the appeal should be allowed.

D Wilson

INSPECTOR

Schedule of Conditions

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents:

20135-OA-MH-ZZ-DR-A-1010 Rev P4 – [Location Plan]
20135-OA-MH-ZZ-DR-A-1020 Rev P2 – [Block Plan]
20135-OA-MH-00-DR-A-1200 Rev P5 – [Proposed Site Plan]
20135-OA-MH-XX-DR-A-5500 Rev. C4 – [Proposed North-West Elevation]
20135-OA-MH-XX-DR-A-5510 Rev. C4 – [Proposed South-East Elevation]
20135-OA-MH-DD-DR-A-5520 Rev. C4 – [Proposed North-East Elevation]
20135-OA-MH-XX-DR-A-5530 Rev. C3 – [Proposed South-West Elevation]
20135-OA-MH-00-DR-A-3500 Rev. C2 – [Proposed Ground Floor Plan]
20135-OA-MH-01-DR-A-3501 Rev. C2 – [Proposed First Floor Plan]
20135-OA-MH-02-DR-A-3502 Rev C2 – [Proposed Second Floor Plan]
20135-OA-MH-04-DR-A-3503 Rev. C2 – [Proposed Basement Plan]
20135-OA-MH-03-DR-A-3504 Rev. C5 – [Proposed Main House Roof Plan]
20135-OA-G-XX-DR-A-5600 Rev. C3 – [Proposed Garage Front Elevation]
20135-OA-G-XX-DR-A-5610 Rev. C3 – [Proposed Garage Rear Elevation]
20135-OA-G-XX-DR-A-5620 Rev. P4 – [Proposed Garage North/East Side Elevation]
20135-OA-G-XX-DR-A-5630 Rev. P5 – [Proposed Garage South/West Side Elevation]
20135-OA-G-00-DR-A-3600 Rev. C1 – [Proposed Garage Ground Floor Plan]
20135-OA-G-01-DR-A-3601 Rev. C2 [Proposed Garage First Floor Plan]
20135-OA-G-RF-DR-A-3602 Rev. C3 [Proposed Garage Roof Plan]
20135-OA-MH-ZZ-DR-A-5010 Rev P5 – [Site Section AA' Rear Elevation]
Bat Report prepared by Ecology by Design dated September 2022
Construction Environmental Management Plan (CEMP) Rev. 01, (22nd May 2023)
Arboricultural Impact Assessment produced by Tree Frontiers (15 August 2023)
121-MHB_MH-DRW-TCP-FP-01 - [Tree Constraints Plan]
121-MHB_MH-INF-SCH-FP-01 - [Schedule of Trees]
Design and Access Statement

2. That within six calendar months of the first occupation or completion of the dwelling hereby approved, whichever is sooner, the existing dwelling known as Manor House, garage and outbuilding as shown to be demolished on the Proposed Site Plan reference 20135-OA-MH-00-DR-A-1200 Rev P5 shall be demolished and the debris removed from the site for disposal elsewhere. The site shall then be made good in accordance with the plans hereby approved.
3. Prior to the first use/occupation of the development hereby approved, the parking and manoeuvring area shall be provided in accordance with the plan approved Drawing No. 20135-OA-MH-00-DR-A-1200 Rev P5 and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring areas shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

4. The dwelling shall not be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.
5. A scheme for landscaping the site shall be provided to and approved in writing by the Local Planning Authority which shall include:-
 - a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),
 - b) details of the hard landscaping including hard surface areas, driveway, parking, pedestrian areas and steps.
 - c) boundary treatments

Such details shall be provided prior to the first occupation of the development hereby approved or such alternative time frame as agreed in writing by the developer and the Local Planning Authority.

The development shall be carried out in strict accordance with the approved landscaping scheme. The hard landscape elements of the scheme shall be carried out within 6 months of the first occupation of the development and shall be retained as such thereafter.

6. All planting, seeding or turfing included in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) [or on the completion of the development, whichever is the sooner,] and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The approved hard landscaping and boundary treatments shall be completed prior to the first occupation of the development and shall be retained as such thereafter.
7. The walls of the dwelling shall be constructed in natural limestone stone (Cadeby bed 6) to match the approved stone sample panel viewed on site on 22nd June 2023. The sample panel shall not be removed from the site until completion of the development.
8. The materials and finishes for the basement level of the dwelling and detached garage hereby approved shall be in accordance with the material schedule labelled Planning Condition 3 received with agent email dated 25 April 2024.
9. The roofs of the development (dwelling and garage) shall be finished in natural slate (ESCO 'MERAYO' Spanish Slate 500mm x 250mm) as viewed on site on 22nd June 2023.

10. The windows, doors and openings within the dwelling shall be in accordance with Drawing number 8505 – [Typical window details], Drawing number 8506 – [Typical door details], Drawing titled 'Sash window plan view section' Rev 1, Drawing titled 'Sash window elev view' Rev 1, Drawing titled 'Glazed doors, zero threshold and direct glazed side unit' Rev 1, Drawing titled 'Pass 24 Pair doors' Rev 1 approved as part of 23/03167/DISC unless otherwise approved in writing by the Local Planning Authority. The windows, doors and openings shall be installed prior to the first occupation of the dwelling and shall be retained as such thereafter.
11. The windows and doors within the garage hereby approved shall be in accordance with the section plans and document labelled Planning Condition 6 received with agent email dated 25 April 2024.
12. All rainwater gutters and downpipes shall be constructed of cast iron or aluminium and painted in Farrow and Ball Hopper Head and permanently retained as such thereafter.
13. All site clearance (including the removal of any vegetation or works to hedgerows) shall be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless the Local Planning Authority has confirmed in writing that such works can proceed, based on submission of a survey (no more than 48hrs before works commence) undertaken by an ecologist (member of the IEEM or similar related professional body) to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site as required.
14. Where an offence under Regulation 43 of the Habitats and Species Regulations 2017 (or any regulation revoking or re-enacting or amending that regulation) is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on bats unless in accordance with the licence approved as part of 23/03167/DISC, or as otherwise approved in writing by the Local Planning Authority.
15. Prior to the installation of any external lighting, full details of the external lighting shall be submitted to and approved in writing by the Local planning Authority. Thereafter, the lighting shall be carried out and retained in accordance with the approved details. At no time shall any additional external lighting beyond that agreed under this condition be installed at the site.
16. The development shall be carried out in accordance with the Biodiversity Enhancement and Method Statement prepared by Ecology By Design dated 4 October 2023 approved as part of 23/03167/DISC, unless otherwise approved in writing by the Local Planning Authority. The biodiversity enhancement measures shall be carried out prior to the first occupation of the dwelling hereby approved and retained as such thereafter.
17. The development shall be carried out in accordance with the approved Construction Environmental Management Plan (CEMP) Revision 01, dated 22 May 2023.

18. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.
19. Notwithstanding the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or reenacting or amending that order), the garage(s) shown on the approved plans shall be retained for the garaging of private motor vehicles and provision of cycle storage shall not be converted to provide additional living accommodation.
20. Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no building or structure shall be erected or placed within the curtilage of the dwelling hereby permitted without the prior planning permission of the Local Planning Authority.
21. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B and D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no enlargement of the dwellinghouse shall be undertaken at any time without the grant of further specific planning permission from the local planning authority.