



Appeal Decision

Site visit made on 07 July 2025

by **N Robinson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 July 2025

Appeal Ref: APP/Q3115/W/24/3358187

St Andrew's Court, Wellington Street, Thame, Oxfordshire OX9 3WT

- 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 Ben Richards (XP 8 Development Ltd) against the decision of South Oxfordshire District Council.
 - The application Ref is P24/S2464/FUL.
 - The development proposed is two proposed 3-bedroom new-build dwellings and associated car parking and amenity.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's submission contains a Phase 1 site investigation which was not part of the original application. This does not represent an amendment to the scheme. The Council has had the opportunity to comment on this. On this basis, I do not consider that any party would be unfairly prejudiced. I therefore have had consideration to the submitted report in determining this appeal.
3. Since the determination of the application the Thame Neighbourhood Plan (2025) (TNP2) has been made and policies ESDQ16 and ESDQ20 of the Thame Neighbourhood Plan (2013) have been replaced by TNP2 policies CPQ1 and CPQ3. It is mandatory for me to take account of the most relevant and up to date information in reaching a decision. I therefore have had regard to these policies.

Main Issues

4. The main issues are:

-the effect of the proposal on the character and appearance of the surrounding area including the setting of the Thame Conservation Area and the setting and significance of nearby listed building 26 Upper High Street; and

-whether the land is contaminated and, if so its effect on the site users.

Reasons

Character and appearance

5. The site comprises the southern corner of a car park associated with a 3-storey mixed use office and residential building (St Andrew's Court) and the neighbouring snooker club. The site is located in Thame town centre and is bordered by a mixture of commercial and residential properties. The buildings on Upper High

Street, to the south of the site, are typically 2-storeys in height with informal, low-key backland areas.

6. The site is located to the north of the Thame Conservation Area (CA) which covers the historical centre of Thame. The CA is formed of long terraces of 2 to 3-storey brick and timber framed buildings reflecting the town's largely unchanged medieval street layout. The significance of the CA appears to be derived from its collection of uniquely designed buildings, the historical layout of streets and open spaces.
7. Statute requires that I pay special regard to the desirability of preserving a listed building or its setting¹. No 26 Upper High Street is a late 18th century 2-storey grey brick grade II listed building to the west of the site. The Thame Conservation Area Character Appraisal (2006) (CACA) references the curved boundary wall, which runs along the eastern property boundary, as being 'quite spectacular' The significance of this building appears to derive from its architectural interest and the quality of its surviving built fabric.
8. Numbers 27,27a, and 28 Upper High Street, located to the south of the car park, are Victorian buildings of local note due to their positive contribution to the character of the CA. The site's open nature allows views of the rear elevation of No 27, and its attractive rear-facing first floor oriel window. The rear elevations of Nos 27a and 28 are largely screened by boundary vegetation.
9. The proposal is for the erection of a pair of 2 ½ storey semi-detached dwellings. The dwellings would be significantly higher than other buildings which characterise the backland area to the rear of Upper High Street and would compete with the more prominent primary buildings of Upper High Street. The development would deviate from the secondary character of the backland area and the hierarchy and layout of secondary buildings in the area, appearing dominant and visually intrusive.
10. The dwellings would have a suburban appearance which would fail to reflect the site's low-key backland context, appearing as an incongruous form of development. The dwellings would be prevalent in views into and out of the CA from surrounding buildings where the development's form and siting would appear uncharacteristic, adversely affecting the character and appearance of the area, the setting of the CA and how it is experienced. Whilst it is stated that there are other examples of backland development within the CA, there is no suggestion that these are comparable in scale or form to the appeal proposal.
11. The dwellings would form part of the broader setting of 26 Upper High Street. The dwellings would visually compete with this building and would appear as an incongruous addition in its setting. Accordingly, the proposal would fail to preserve the setting of this building, undermining the ability to appreciate it, harming the significance of this heritage asset. Whilst views of the oriel window to No 27 Upper High Street would not be obstructed, by virtue of its scale and siting the proposal would nonetheless dominate views of this building, adversely affecting its setting.
12. In light of the above, the proposal would fail to preserve the setting of the listed building 26 Upper High Street. Harm would also arise to the setting of building of local note 27 Upper High Street. The proposal would result in harm to the character and appearance of the area and would result in harm to the CA through

¹ Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

harm to its setting. Given the extent and fairly localised nature of the proposal, the harm to the significance of the designated heritage assets assessed above would be 'less than substantial' but nevertheless of considerable importance and weight. Under such circumstances, the National Planning Policy Framework (the Framework) advises that harm to designated heritage assets should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.

13. The PPG² provides guidance on the optimum viable use for a heritage asset and how this is taken into account in planning decisions. There is no evidence before me that the preservation of the listed building and the character and appearance of the CA would be at risk if the appeal were to fail. Consequently, in view of the harm I have identified to heritage assets, I give the public benefits associated with securing the site's optimum viable use limited weight.
14. The Government's objective is to significantly boost the supply of housing, and the proposal would provide 2 family dwellings on a site with good access to facilities, services and public transport. There would be social and economic benefits to local services and facilities during the construction and occupancy phases. The proposal would provide the opportunity for landscaping and ecological enhancements. The appellant also references benefits arising from a reduction in town centre parking and traffic related noise and pollution. Given the shortfall in housing delivery in the district, these matters weigh in favour of the proposal.
15. Framework Paragraph 125(c) states that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused. The provision of housing on a brownfield site within a settlement is a positive consideration in favour of the proposal. Nevertheless, the PPG³ is clear that this needs to be considered alongside other policies in the Framework, and complying with certain parts of it does not result in complying with it as a whole. In this respect, the Framework also confirms that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance.
16. The Framework is clear that great weight should be given to the conservation of heritage assets. As heritage assets are an irreplaceable resource, when considered against other policies in the Framework, the benefits arising from the redevelopment of this brownfield site, along with the other public benefits outlined above, are not sufficient to outweigh the great weight that I must attach to the harm that would be caused to the designated heritage assets. In arriving at this conclusion, I have given due weight to the court case to which I have been directed⁴ in relation to the interpretation and application of the relevant policies in assessing harm to heritage assets and their settings.
17. The proposal would be harmful to the character and appearance of the surrounding area, the setting of the CA and the setting and significance of a listed building and the setting of a building of local note. Conflict therefore arises with those aims of Policies ENV6, ENV7, ENV8, DES1 and DES2 of the South Oxfordshire Local Plan (2020)(LP) and Policies ESDQ16 and ESDQ20 of the

² Paragraph: 016 Reference ID: 18a-016-20190723

³ Effective use of land

⁴ Barnwell vs East Northamptonshire DC 2014

TNP2 which require that proposals should be of a high quality design which responds positively to the setting and character of the area, should create a positive relationship between the site and the existing built-up area, should complement the special character of the town centre, including the height and massing of buildings, materials, building styles and roof heights, take account of the desirability of sustaining and enhancing the significance of heritage assets and should not cause harm to the historic environment including the special interest, character, setting and appearance of conservation areas and the significance of listed buildings.

Contaminated land

18. The phase 1 site investigation identified no sources for land contamination that could present a risk to the development. Given this, the site does not comprise contaminated land. I therefore find no conflict with LP Policy ENV11 which states that proposals should be appropriate to their location and should be designed to ensure that the occupiers will not be subject to the adverse effects of pollution.

Other Matters

19. The Council raised no objections to the proposal on grounds of its effect on the highway network or the living conditions of the occupiers of neighbouring buildings. Nonetheless, compliance with the relevant development plan policies on these matters would be required in any case, therefore these matters weigh neutrally, rather than in favour of the proposal.

Planning Balance and Conclusion

20. The Council accepts that it is unable to demonstrate a 5-year supply of deliverable housing sites. In these circumstances, Paragraph 11d of the Framework indicates 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 taken as a whole unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Footnote 7 of the Framework lists designated heritage assets as such assets of importance.
21. I have found harm in relation to the effect of the development on the setting of the CA and a listed building, which, in accordance with Footnote 7 of the Framework, provides a clear reason for refusing the proposal. Therefore, the proposal does not benefit from the presumption in favour of sustainable development outlined at Paragraph 11, and, as a material consideration, the Framework would not indicate that permission should be granted.
22. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

N Robinson

INSPECTOR