
Appeal Decision

Site visit made on 16 October 2025

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 November 2025

Appeal Ref: APP/F1610/W/25/3365592

Former Shapes and Sizes Nursery, Todenham Road, Moreton in Marsh GL56 9NP

- 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 & Mrs Todd & Rosalyn Holden against the decision of Cotswold District Council.
 - The application Ref is 24/02742/FUL.
 - The development proposed is a two storey detached dwellinghouse with associated alterations and hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. One of the reasons for refusal given in the decision notice stated that the proposal had not demonstrated that it could achieve the requirement to provide a minimum 10% biodiversity net gain as given in Schedule 7A of the Town and Country Planning Act 1990 (the Act). A statement¹ provided with the appeal on this matter advises that with the addition of 1m of hedgerow, the net gain can be achieved and the condition capable of being discharged.
3. Furthermore, a planning obligation pursuant to Section 106 of the Act was submitted by the appellant which was agreed and executed between the main parties. This would secure the required contribution to the Council's monitoring of compliance with the Habitat Monitoring and Management Plan.
4. I note the Council agrees that the proposal could be developed with a 10% biodiversity net gain in accordance with the Act and this reason for refusal therefore falls away.

Main Issues

5. Based on the above, the main issues in this appeal are as follows:
 - Whether the appeal site represents a suitable location for the proposal.
 - The effect of the proposal on the character and appearance of the area.
 - Whether a safe and suitable access can be achieved for all users.
 - The effect of the proposal on protected species.

¹ Heritage Environmental Consultants

Reasons

Whether Suitable Location

6. The appeal site is located to the northeast of the settlement of Moreton-in-Marsh. There would be no restrictions on occupancy or tenure of the proposed dwelling and as such, policy DS4 of the Cotswold District Local Plan 2011 – 2031 (LP) (adopted August 2018) states that new-build open market housing will not be permitted outside Principal and Non-Principal Settlements unless it is in accordance with other policies that expressly deal with residential development in such locations. There is no dispute that the appeal site is located outside of principal and non-principal settlements.
7. I am therefore taken to policy H3 of the LP which relates to rural exception sites. Part 2 of H3 advises on the scenarios whereby single self-build plots may be brought forward as exception sites subject to meeting all of criterion a–d. However, there is nothing before me to indicate that the appellant is registered with the Council for a self-build plot, nor is there any obligation to secure this tenure. Policy H3 does not make provision for open market housing and as such, regardless of whether the site is isolated or closely related to the built-up areas of the village, the proposal would not meet the exceptions of policy H3.
8. Policy INF3 of the LP seeks to ensure that development gives priority to pedestrians and cyclists and provides access to public transport facilities taking account of the travel and transport needs of all people. The appellant does not dispute that the proposal would not meet the requirements of access to public transport and walking and cycling links from the appeal site to nearby services and facilities. I understand that Moreton-in-Marsh is some 800m from the appeal site, and for pedestrians or cyclists this would involve travel along an unlit road with no footpaths and a 60 miles per hour speed limit. As such this would not be an inviting route to walk into the nearby settlement which would necessitate use of private transport for travel for occupiers of the dwelling.
9. The appellant advises that they consider the appeal site to constitute previously developed land due to its former use. However, the supporting text of policy DS4 states that any land that falls outside Development Boundaries and Non-Principal Settlements is referred to as countryside, even if it is technically previously developed land.
10. Based on the foregoing, the proposal would not constitute a suitable location for housing with regards to the spatial distribution and sustainable transport aims of the development plan. This would conflict with policies DS4, H3 and INF3 of the LP as explained above.

Character and Appearance

11. The appeal site is of a roughly triangular shape and was formerly part of a nursery business which has evidently been closed for some time. The site currently comprises the remains of overgrown hardstanding, disused outbuildings, a caravan, debris and spoil heaps reflective of its former use. The boundaries are formed of trees and metal fencing.

12. I have had due regard to the appellant's Design and Access Statement² (DAS) and the Council's assessment in its officer report. These advise that the appeal site is located within 'Moreton-in-Marsh Surrounds' Special Landscape Area and the Cotswolds Fringe. The wider landscape includes the 'Pastoral Lowland Vale' Landscape Character Type and 'Upper Evenlode Vale' Landscape Character Area. Features of these classifications include undulating topography of small, rounded hills and valleys, generally secluded intimate landscapes interspersed with open character, and a generally sparse settlement pattern dominated by farmsteads and dwellings.
13. More specifically, the area around the appeal site comprises the narrow, tree-lined Todenham Road to the south, expanses of agricultural fields to the west, north and east, a disused airfield now used as a Fire Service college to the south and a small industrial estate to the east. As such, while the local area is predominantly rural and features many of these positive attributes of the landscape character types, there is also a variety of detracting features in the vicinity with an industrial character. The appeal site itself is unkempt and while it is secluded and not readily visible from most public vantage points, it is generally of neutral value in terms of its contribution to the character and appearance of the area.
14. My attention is drawn to the Cotswolds Design Code (the CDC) which advises that in designing new development, close attention to the site and its setting should work at all levels, from the overall principle, density and grain to the scale, form, roofscapes, elevations and detailed features of the buildings. The CDC discusses 2 general design approaches: the Cotswold vernacular and contemporary. For the former this can include a general simplicity of form and design, often giving buildings an understated appearance, with any ornamentation usually limited to architectural features, while for contemporary approaches this can include the use of modern, non-local materials which may contribute towards a successful contemporary design, including timber cladding.
15. The appeal proposal would see the erection of a two-storey detached dwelling. The DAS advises that design cues were taken from the typical Cotswolds vernacular, including its light stone facing elevations, stone tiling, horizontal orientated fenestration, front gables and elements of oak frame and weatherboarding. Associated hardstanding for access and parking, paving to the rear and the domestication of the large areas around the dwellings for garden space would also be included.
16. The proposed dwelling would be of considerable scale, with the evidence stating a floorspace of some 460 metres squared (m²). While I understand that a proportion of this includes rooms and facilities relating to the care of a family member, this is indicated in the letter provided by a specialist³ to require some 150m². An additional 300m² over and above this requirement would create an executive style mansion, untypical of the traditional Cotswolds cottage type examples cited in the DAS and from my observations locally on my site visit, incongruous to the area. While the site is large, the proposed garden area is considerable and would cover a significant proportion of the wider site.
17. Moreover, the design of the dwelling would lack the simple form and appearance of a building traditionally associated with a rural location. This is particularly as a

² land studio – August 2023.

³ Maggie Sargent & Associates – 4 July 2025.

result of its range of roof types and complicated form including large gables off the ridge line. Although I understand the design cues taken from the traditional ideal of Cotswolds architecture as pointed out in the DAS, the result is an uncomfortable mix of styles with an asymmetrical frontage, an adjoining timber clad garage and a middle section joining the two competing design aspirations which seemingly fall between the Cotswolds vernacular and contemporary design. As a result, the proposed development resembles a patchwork of design approaches and is not reflective of its location and inherent character locally and on a wider scale in the landscape.

18. The visual assessment within the DAS demonstrated through imagery taken from nearby viewpoints shows that the dwelling would not be readily visible from most public vantage points. Viewpoint 4 taken from the south of the site at the access from Todenham Road would offer clear views into the site, although these would be fleeting and predominantly from motorists. As such, the visual impact would be negligible and localised.
19. Although the proposal may improve the general aesthetics of the appeal site given its degradation and debris left since the nursery business ceased, it would nevertheless introduce a large and uncharacteristic intrusion into the local area, contrary to the prevailing character.
20. Taken together, the proposal would harm the character and appearance of the area. This would conflict with policies EN1, EN2, EN4 and EN6 of the LP. These seek to ensure that development within Special Landscape Areas (as shown on the Policies Map) will be permitted provided it does not have a significant detrimental impact upon the special character and key landscape qualities of the area including its tranquillity. The proposal would also be contrary to the advice in the CDC and paragraph 135 of the National Planning Policy Framework (the Framework), which seeks to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

Access

21. The proposal would utilise the existing vehicular access from Todenham Road to the south. The road has a 60 miles per hour (MPH) speed limit and the Council advises that in this scenario a 215m visibility splay should be achievable in either direction. I have had regard to the Appellant's transport statement⁴ which states that after installing and monitoring an Automatic Traffic Count survey for 8 days, the 85th percentile speeds were just below 50mph, necessitating a splay in either direction of 141m. I note the Council does not dispute this and I see no reason to disagree with this assessment.
22. The submitted access drawing⁵ demonstrates visibility splays in excess of 200m when looking right and when looking left, the y-distance lies between the prescribed Design Manual for Roads and Bridges (DMRB) 'one step below desirable minimum' of 110-metres and the desirable minimum of 143-metres. However, in both cases the splays clearly would be interrupted by foliage to the sides of the proposed access. I observed on the site visit that this would severely preclude views to both sides. This would necessitate a vehicle to pull out from the site onto the road to

⁴ Milestone Transport Planning – May 2025.

⁵ Proposed Access Arrangement and Achievable Visibility Splays - 25-054/001 Rev A

improve visibility, which I am concerned would clearly increase the risk of collision with other motorists and cyclists to the detriment of highway safety.

23. While it is suggested that the maintenance and cutting back of the foliage could be controlled by condition, there is nothing before me to indicate who the landowner of the tree lined verges is given it is outside the appeal site and therefore whether it would be possible to ensure that the blocked views could reasonably be controlled over the lifetime of the proposal. The condition would therefore not pass the tests of reasonableness or enforceability, nor is there any other means of securing this in perpetuity. Given the personal circumstances of the appellant and their family, safe access and egress is of particular concern to me.
24. I note that the transport statement advises that the former use would have involved greater numbers of comings and goings from customers and suppliers. However, alongside a lack of reported accidents on the road in that area, those factors do not make the access safe, nor is it the proposal before me. I have concerns relating to the existing situation on the ground rather than a hypothetical scenario whereby the garden centre could be reopened.
25. To conclude on this issue, the proposal would not provide a safe and suitable access for all users which would increase the risk of collision between vehicles attempting to egress from the site and other motorists and cyclists. This would conflict with policy INF4 of the LP, which seeks to ensure development provides safe and suitable access. The proposal would also be contrary to paragraph 115 of the Framework which advises that development should ensure that safe and suitable access to the site can be achieved for all users.

Protected Species

26. I note in the Council's officer report that due to the age at the time of the appellant's survey work and reports⁶, which were over 12 months old, these were not considered valid due to the concern relating to Great Crested Newts (GCN) present in a pond in the garden of a property to the north.
27. An update⁷ on this situation was provided with the appeal which advises that the situation with regards to nearby GCN was unchanged. However, this conclusion was reached without an updated survey and the assertion that the GCN population may have bred earlier than usual due to warmer weather and moved on from the pond is without substantive reasoning. I note that while the Council accepts that the initial survey could still be valid, there is no suitable licensing pathway for potential disturbance to GCNs.
28. To that end, I note that consultation was undertaken with a Newt Officer who concluded that there is a reasonable likelihood of impacts upon GCNs given the appeal site being located within a red impact zone, the presence of 10 ponds within 500m of the site and records of GCNs in the 3 ponds initially surveyed in the Great Crested Newt and Herptile Survey. Licensing options were suggested and included submitting a NatureSpace Report or Certificate to demonstrate that the impacts of the proposed development can be addressed through Cotswold Council's District Licence or an application to Natural England which would require the submission of a mitigation strategy to the Council to ensure that sufficient information is provided

⁶ Phase 1 Ecological Survey (Heritage Environmental Contractors, June 2023; Great Crested Newt and Herptile Survey report (Nigel Hand Central Ecology)).

⁷ Nigel Hand Central Ecology – 5 May 2025

in accordance with the Circular 06/2005 the development plan, the Framework and Natural England's standing advice.

29. None of this is before me and as such I share the concern of the Council that given the presence of a protected species nearby, insufficient information has been submitted to ensure compliance with relevant legislation, including the Conservation of Habitats and Species Regulations 2017 (as amended).
30. This would be contrary to policy EN8 of the LP, which states that development with a detrimental impact on other protected species and species and habitats of principal importance for the purpose of conserving biodiversity will not be permitted unless adequate provision can be made to ensure the conservation of the species or habitat. The proposal also be contrary to the aims of the Framework, particularly paragraph 187 which seeks to ensure developments incorporate features which support priority or threatened species.

Planning Balance

31. The main parties agree that the Council cannot currently demonstrate a 5-year supply of deliverable housing land. This figure is put at 1.8 years, which is a considerable shortfall. I am therefore taken to paragraph 11(d) of the Framework. This advises 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. With regards to the main issues in this appeal, paragraphs 110, 115, 135 and 139 are of particular importance.
32. I have found that the proposal would conflict with the spatial distribution of housing and sustainable transport aims of the development plan and would harm the character and appearance of the area. Moreover, it has not been satisfactorily demonstrated that the scheme could provide safe and suitable access which could lead to increased collision risk and harm to highway safety, while it has also not been demonstrated that harm to protected species could be avoided or mitigated. These matters collectively weigh against the proposal considerably, conflicting with the development plan as a whole, supplementary planning documents and relevant advice in the Framework.
33. I have had due regard to the personal circumstances of the appellant and their family, including the Public Sector Equality Duty (PSED) set out under s149 of the Equality Act 2010. While I will exercise discretion in this report, from the evidence submitted, I understand that a family member suffers from a rare and serious medical condition which requires constant care and attention. I understand that the current home of the appellant's family is unsuitable for their care needs and alternatives are not available in the area as indicated by searches on property selling websites.
34. With regards to the main issues, I take on board the argument that given their circumstances, the appellant and their family would be unlikely to be able to walk into Moreton-in-Marsh or use public transport. Moreover, given the specific requirements of the building to cater for their care and therapy needs, this would have dictated in part of the form of the dwelling with its bespoke requirements.

35. I have great sympathy for their situation, and the ability to offer better care and therapy at home in a dwelling tailored to their circumstances close to family would no doubt greatly improve the living conditions of the appellant's family. These considerations weigh in favour of the proposal substantially.
36. Notwithstanding the personal circumstances attached to the case, the proposal would also add a dwelling to the Council's supply, which is deficient at present. Alongside the construction benefits related to the scheme, this would be worthy of some limited weight in favour of granting permission.
37. I am informed that the previous nursery use of the appeal site is extant and that the appellant has been approached by interested parties to reuse the site in this way. It is claimed that in this scenario, the harm to the character and appearance of the area and highway safety would be greater than the proposal. However, I have nothing substantive before me with regards to the regeneration of the site in this manner and as such, this is given little weight as a fallback position.
38. I have had regard to the other cases presented whereby Inspectors allowed dwellings due to personal circumstances. While some of the issues in those cases are the same as this appeal, such as character and appearance and the location of the proposal, none of these related to protected species or highway safety concerns, while some of the personal circumstances in those cases differed to those before me. As such these other cases do not persuade me the proposal is acceptable as I have assessed this appeal on its own merits.
39. However, the benefits do not lessen the harms I have identified which I must consider in balanced terms. I am particularly concerned about the proposed egress onto a 60mph road with insufficient visibility in both directions. This would pose a significant safety risk to the family which is particularly stark given the personal circumstances put forth. Moreover, there is insufficient information before me to establish whether a legally protected species would be harmed or if harm could be mitigated during construction or occupation of the dwelling due to the proximity of the habitat.
40. Drawing things together, alongside the significant benefits derived from the appellant's personal circumstances, there would be further limited benefits of an additional dwelling to the Council's supply and associated economic benefits throughout construction. However, to my mind the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits in this case.

Conclusion

41. The proposal would conflict with the development plan as a whole. There are no material considerations which indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

C McDonagh

INSPECTOR