

**DEVELOPMENT CONTROL COMMITTEE
GUILDHALL, ABINGDON
MONDAY, 24TH JULY, 2006 at 6.30 PM.**

SUPPLEMENTARY PAPERS

Open to the Public including the Press

9. Appeals

(Pages 2 - 9)

Dismissed

The following appeal has been dismissed by the Planning Inspectorate:

- (iv) Appeal by J Lonsdale against the Council's decision to refuse to permit the demolition of redundant farm buildings and the erection of five family houses with change to residential use at Home Farm, Sparsholt (SPA/15623/3).

The decision to refuse was made by the Committee at its meeting on 3 January 2005. A copy of the decision notice together with details of costs is attached at **Appendix 4**.



Appeal Decision

Hearing held on 6 June 2006

Site visits made on 5 and 6 June 2006

by **D G Hollis** BA DipTP MRTPI JP

an Inspector appointed by the Secretary of State for
Communities and Local Government

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Date: 7 July 2006

Appeal Ref: APP/V3120/A/06/2007783

Home Farm, Sparsholt, Oxfordshire OX12 9PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by J L S Lonsdale against Vale of White Horse District Council.
- The application Ref SPA/15623/3 is dated 23 September 2005.
- The development proposed is "*demolition of redundant farm buildings and erection of five family houses with change to residential use*".

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. At the Hearing an application for costs was made on behalf of J L S Lonsdale against the Vale of the White Horse District Council. This application is the subject of a separate Decision.

Main Issues

2. From my consideration of the written representations and those made at the Hearing, I have concluded there are two main issues. Firstly, whether the proposed development would comply with adopted planning policy. Secondly, whether the form and layout of the proposed development would preserve or enhance the character or appearance of the Sparsholt Conservation Area.

Planning Policy

3. The development plan consists of the adopted Vale of White Horse Local Plan 1999 and the approved Oxfordshire Structure Plan 2016. The former has been the subject of revision under the Second Deposit Draft Local Plan 2011; an Inquiry has been held and the Inspector's report submitted to the Council. Sparsholt is regarded as one of the smaller villages in the District and applications fall to be considered under Policy H6 of the adopted Local Plan and Policy H12 of the Draft Local Plan. Policy H6 restricts new residential schemes in such villages to only one or two dwellings as infilling subject to various criteria. Policy H12, in its original form, sought to resist any further general market housing in smaller villages, including Sparsholt.
 4. However, in his report, the Local Plan Inspector considered that approach to be too restrictive and recommended that in such villages new development should be permitted as infilling with no more than one or two small new dwellings within the existing built-up area of a settlement. At the Hearing, the Council's representative confirmed that the Council had now resolved to accept the Inspector's recommendation in respect of Policy H12 and
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this would have the effect of continuing the approach to new development required under the adopted Policy H6.

5. Reference was also made in written representations and at the Hearing to other policies. Policy H1 of the Structure Plan limits new development in villages to that required for local needs and to support balanced communities. Policy H1 of the adopted Local Plan deals with the supply of housing land and Policy H2 sets out specific allocations for housing. Policies H4 and H5 deal with development in the main built-up areas and the larger villages respectively. Policies D1, D2 and D3 refer to the design of new developments and the impact on neighbouring uses; Policy HE1 deals with development in Conservation Areas. Policy GS6 of the Draft Local Plan deals with the efficient use of land and buildings within settlements. In terms of national planning policy, reference was made to PPS1 and 7, and PPG3 and 15.

Reasons

6. Planning permission has already been granted for the two houses proposed for the West Street frontage and a further scheme for two dwellings on the Watery Lane frontage is awaiting a decision from the Council. At the Hearing, the representative from the Council confirmed that no objection was raised to the appeal proposals in respect of highway access, flooding or foul drainage; the various bodies response for these matters had not opposed the scheme. It was also accepted that given the change to the wording of Policy H12, the appellant does not have to prove a local need or that the scheme should be on the basis of maintaining the vitality of the community. Although local residents and the Parish Council considered the proposal would not preserve the character of the Conservation Area, the Council's Conservation Officer did not oppose the scheme on such grounds. However, the Council does not regard the appeal site as previously developed land in terms of the advice in Planning Policy Guidance 3 (PPG3).
7. Given all of these circumstances, it seems to me that the Council's sole objection is that the revised wording for Policy H12 that has now been adopted by the Council limits each new housing scheme in villages such as Sparsholt to no more than one or two dwellings as infilling developments. However, there is nothing in the Inspector's report or the new policy that restricts such infilling to just one scheme of one or two dwellings in each village. Indeed, at the Hearing, it was confirmed by the Council's representative that it would be possible for the appellant to submit separate planning applications for the new housing and still comply with Policy H12.
8. The Council suggested that the development of five dwellings in Sparsholt would not be sustainable in terms of national planning policy. Whilst I agree that Sparsholt has few facilities, I fail to understand how the Council can regard a number of individual planning applications for one or two dwellings as being an acceptable form of development, but one comprehensive scheme for a similar number of dwellings as being unsustainable. Although new development schemes must be considered against adopted planning policy, there is also a need to ensure any decision restricting housing development is on a sound and proper basis in order to assess whether the development would cause significant harm to any interests of acknowledged importance. But, for the Council to resist the current scheme simply because it is a comprehensive proposal is unreasonable.

9. I now turn to the second of the main issues that I have identified. At my site visits to the locality, I noted that the predominant characteristic of development in this particular part of the village is of mostly frontage developments. There are a few examples of where development has been constructed to the rear of other properties, but not in a manner that has a significant impact upon the overall appearance of the Conservation Area.
10. In West Street, the two proposed houses would fit well into the character of the area as they would follow the existing frontage form of layout of other dwellings. Similarly, the two plots fronting Watery Lane would tend to reflect the frontage development on the opposite side of the road, as well as other housing along this frontage. I acknowledge that local residents and the Parish Council do not agree with that assessment, but I concur with the Council that these four plots would reflect the character of this part of the Conservation Area. Indeed, the dwelling on plot three would reflect the form and layout of the adjoining property known as College Cottage.
11. However, I do not consider the dwelling on plot five would follow the predominant characteristics of frontage developments in this vicinity. Due to its location, the dwelling would extend and consolidate development in depth. In my opinion, that would be a form of development contrary to the general layout of development in this particular location and as such would not preserve the character of the Conservation Area. I am aware that the existing agricultural buildings do extend the built form further into the site than the adjacent dwellings and have a larger floor area than the proposed development, but many Conservation Areas contain buildings that make no positive contribution to the character of the area. As the Council have agreed to the demolition of those existing buildings, the removal of those structures and replacement by other buildings should be an opportunity to enhance the Conservation Area and new buildings designed to respect the context of the particular location. For the reasons I have given, I do not agree that the present scheme achieves that objective by extending new housing in depth.

Conclusions

12. For the reasons I have given above and having regard to all other matters raised at the Hearing or in written representations, I have concluded that the appeal should be dismissed.

Formal Decision

13. I dismiss the appeal, and refuse to grant planning permission for the demolition of redundant farm buildings and erection of five family houses with change to residential use.



APPEARANCES

FOR THE APPELLANT:

Mr S Whitfield of DPDS Consulting Group of Swindon

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Walker of Vale of White Horse District Council

DOCUMENTS

Document 1 List of persons present at the Hearing
Document 2 Costs application document submitted by Mr Whitfield



Costs Decision

Hearing held on 6 June 2006

Site visits made on 5 and 6 June 2006

by **D G Hollis BA DipTP MRTPIJP**

an Inspector appointed by the Secretary of State for
Communities and Local Government

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Date: 7 July 2006

Costs application in relation to Appeal Ref: APP/V3120/A/06/2007783 Home Farm, Sparsholt, Oxfordshire OX12 9PT

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by J L S Lonsdale for a full award of costs against Vale of White Horse District Council.
- The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for "*demolition of redundant farm buildings and erection of five family houses with change to residential use*".

Summary of Decision: The application is allowed in the terms set out below in the Formal Decision and Costs Order.

Submissions made on behalf of the appellant

1. It is considered that a full award of costs should be made as the application complies with paragraph 6 of Annex 1 of Circular 8/93. The Council was also given prior warning of the application in a letter dated 13 April 2006 in which it was concluded that the Council had behaved unreasonably and not determined the planning application in accordance with the advice in paragraphs 10-16 of the Annex to Planning Policy Statement 1.
2. In Circular 8/93 it is made clear that a Council should not prevent, inhibit or delay development which could reasonably be permitted. In their report to Committee dated 3 January 2006, the Council Officers made it clear that development on the appeal site could be achieved in a piecemeal fashion by way of a succession of planning applications for one or two dwellings without affecting adopted Local Plan policy. Furthermore, the Council have already granted planning permission for the two houses proposed on the West Street frontage and a further application on the Watery Lane frontage is still pending. It is very likely that the appellant will eventually obtain planning permission for the five dwellings the subject of the appeal, but over a much longer period of time. The Council has delayed development which could reasonably have been permitted.
3. It is also necessary for the Council to demonstrate that it had reasonable grounds for taking a decision contrary to its Officer's recommendation. The Council has merely identified the position of Sparsholt in the Council's village hierarchy policies and asserted that it is in an unsustainable location. But no evidence has been provided to show the development would cause any demonstrable harm to interest of acknowledged importance. The Council has failed to demonstrate what planning harm would arise from the technical breach of the Council's policies; the village is not in such an unsustainable location as the Council

suggest. Neither has the Council taken proper account of national planning advice or to the effects of Policy GS6 of the emerging Local Plan.

4. In reply to the Council's response, it was stated that the Council had not denied that the appeal site could be developed in a piecemeal manner following the adoption of the amended wording to Policy H12 in March 2006; no substantial evidence has been submitted to show the proposed development would be unsustainable.

Response on behalf of Vale of White Horse District Council

5. In respect of the appellant's letter dated 13 April 2006, there was no explicit indication that an application for costs would be made. The Council was entitled to consider the scheme on its merits; the permitted development for two dwellings was in accordance with adopted policy. Because of competing demands upon the Council's time, it has not been possible to determine the outstanding planning application prior to the Hearing; but that matter should not have a material effect upon the application for an award of costs.
6. It is contended that the Council have submitted reasonable grounds for opposing the appeal proposals; the development would be contrary to adopted policy and in an unsustainable location. At the time when the planning application was under consideration, there was a different wording proposed for Policy H12. If the Local Plan Inspector had agreed with that wording, the scheme would have been correctly opposed. It is not just a question of a technical breach of policy and the appellant's evidence regarding sustainability is unfounded.
7. Councillors were well aware of Policy GS6 and the redevelopment potential for the appeal site. The Council have demonstrated that refusal of the scheme is justified even though it was contrary to their Officer's advice.

Conclusions

8. The Council have resolved to adopt the revised wording for Policy H12 which, in common with existing Policy H6, permits infill development of one or two dwellings within villages such as Sparsholt. Indeed, planning permission was granted for two houses on the West Street frontage on that basis. Neither has it been denied by the Council that a succession of individual planning applications for one or two dwellings on the appeal land would have been given planning permission in accordance with adopted planning policy. At the Hearing the representative of the Council confirmed that such an approach would comply with the amended wording of Policy H12. On the face of it, it seems to me that in such circumstances the Council is being quite unreasonable in seeking to resist a comprehensive development of the appeal site, but would be likely to agree to several individual schemes amounting to a similar development.
9. To seek to resist development because a scheme does not comply with the wording of a policy is not the only exercise necessary for a Council to undertake when determining a planning application. There also needs to be an assessment of whether the proposal would cause any significant harm to interests of acknowledged importance. In this case, the only reason advanced by the Council was that the five proposed dwellings would be in an unsustainable location. Whilst I accept that Sparsholt has few facilities, the Council's adopted policy wording would still allow for planning permission to be given for the current appeal proposals irrespective of any arguments about the proposed development being in a

- sustainable location. It seems to me that the Council has demonstrated no reasonable grounds for not recognising that situation in terms of its resolved reason for refusal and for proceeding to resist the appeal on the basis it gave, contrary to its Officer's advice.
10. However, I also need to take into account that I have dismissed the appeal for reasons which have nothing to do with the Council's case at the Hearing. My decision was solely on the grounds that, in my opinion, development in depth would be contrary to the character of this part of the Conservation Area. The Council did not seek to pursue this aspect of the scheme, despite opposition from local residents and the Parish Council on this point and upon which they could have mounted substantial arguments. I accept that if the Council had acted reasonably in its interpretation of its adopted planning policy, the appellant would not have had the delay in proceeding with the development or the cost of defending the proposals at a Hearing. However, if the Hearing had not been held as a result of the appeal process, I would not have had the opportunity of reaching the decision I have on the basis of all the available evidence, including the assessment I was able to make from my site visit of the impact of each component of the scheme.
 11. In these circumstances, having regard to the general pre-conditions for a costs award in the Circular, at Annex 1, paragraph 6, while I am satisfied that the Council acted unreasonably, I am not satisfied that the appellant incurred wholly unnecessary expense of appealing and receiving the unfavourable planning decision he has now received. However, I do accept that he incurred some unnecessary expense in seeking to rebut the Council's resolved reason for refusal. Since I consider that the Council would have had reasonable planning grounds for refusing planning permission on the basis of the impact of plot five, I conclude, consistent with my appeal decision, that a full award of costs would not be justified in all the circumstances. While the appellant has argued that, but for their unreasonable behaviour, the Council would have probably permitted the five dwellings, including the development in depth in this part of the Conservation Area, I have concluded against such an outcome on the overall planning merits. However, I conclude that a partial award of costs is justified against the Council for the appellant's preparatory work to rebut the Council's resolved reason for refusal, together with the time spent at the Hearing discussing the claimed conflict with adopted planning policy.
 12. Given that at the Hearing the Council did not oppose the scheme on the basis that I have determined the appeal, I have estimated the length of time spent at the Hearing on that second main issue to be fifteen minutes; the total time spent at the session at the Guildhall, Abingdon was about two hours thirty minutes. As the time spent travelling to and from the site visit, as well as the time spent walking the site and part of the village was necessary for me to assess the impact of the fifth plot, I do not consider that aspect of the application for costs should form part of the award.
 13. For the reasons that I have given, I therefore conclude that a partial award of costs is justified and the application is allowed in the terms set out in the Formal Decision and Costs Order.

Formal Decision and Costs Order

14. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Vale of White Horse District Council

will pay to J L S Lonsdale, the costs of the appeal proceedings, limited to the appellant's costs of preparing for and rebutting the Council's resolved reason for refusing planning permission at the Hearing in the Guildhall, Abingdon minus a period of fifteen minutes, such costs to be assessed in the Supreme Court Costs Office if not agreed. The proceedings concerned an appeal under section 78 of the Town and Country Planning Act 1990 as amended against the failure to determine an application for planning permission for demolition of redundant farm buildings and erection of five family houses with change to residential use on land at Home Farm, Sparsholt, Oxfordshire OX12 9PT.

15. The applicant is now invited to submit to Vale of White Horse District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Supreme Court Costs Office is enclosed.

D. J. Adkins