

APPENDIX 8 Vale District Council's performance 1 January 2021 end of June 2021 – quality of decisions – non-major appeals allowed (overturned)

To accompany Table 7

Application Reference	Site Address	Description of Development	Decision Process	Appeal Process	Appeal Decision	Costs
P18/V1886/FUL	15 Cumnor Hill, Oxford	Demolition of existing dwelling. Construction of 2.5 storey building containing 9 flats (7 x 2bed and 2 x 1Bed), improved vehicular access and associated works	Delegated refusal	WR	Appeal allowed 4 January 2021	N/A
P19/V3253/FUL	Rumseys Barn, London Road, Blewbury	Conversion of existing double garage and swimming pool enclosure to form new dwelling	Delegated refusal	WR	Appeal allowed 29 January 2021	N/A
P20/V0857/O	Land off Lower Road, Chilton	Provision of 6 serviced plots for	Delegated refusal	Hearing (virtual) 8 April 2021	Appeal allowed 28 May 2021	N/A

		self and custom build dwellings				
P19/V2459/O	Land behind 31-33 The Causeway, Steventon	Provision of self-build and/or custom housing plots for 7 detached dwellings	Delegated refusal	Hearing (virtual) 15 April 2021	Appeal allowed 28 May 2021	N/A
P20/V0404/FUL	2 Tennyson Drive, Abingdon	Extension and conversion of existing house into four new dwellings, 2x2 bed flats and 2x1 bed flats with associated parking (Removal of one bedroom and reduction in mass as shown on P11G	Committee overturn	WR	Appeal allowed 9 April 2021	Costs application made by the appellant.

Costs: A costs application was made by the appellant on the grounds of delays due to highways matters; the fact that the committee debate was not based on accurate information about the site and no formal site visit was undertaken and inconsistent decision making.

The Inspector refused the cost application since there was evidence of the council and appellant working together to resolve highways issues which would have necessitated the instruction of a highways consultant to assist them, the delays were acceptable in the light of the Covid 19 pandemic and the schemes the appellant considered comparable were not.



Appeal Decision

Site visit made on 17 November 2020

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2021

Appeal Ref: APP/V3120/W/19/3232046 15 Cumnor Hill, Oxford, OX2 9EY.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lucy Developments Ltd. against the decision of Vale of the White Horse District Council.
 - The application Ref. P18/V1886/FUL, dated 25 July 2018, was refused by notice dated 23 April 2019.
 - The development proposed is the demolition of existing dwelling and construction of 2.5 storey building containing 8 No. 2-bed flats, including improved vehicular access, 8 resident car parking spaces, 16 covered cycle parking spaces and covered refuse/recycling store.
 - This decision supersedes that issued on the 1st October 2019. That decision on the appeal was quashed by Order of the High Court.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and construction of a 2.5 storey building containing 8 No. 2-bed flats, including improved vehicular access, 8 resident car parking spaces, 16 covered cycle parking spaces and covered refuse/ recycling store at 15 Cumnor Hill, Oxford, OX2 9EY, in accordance with the terms of the application, Ref P18/V1886/FUL, dated 25 July 2018, and the plans submitted with it, as amended on the 26 March 2019, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. The appellant submitted amended plans of the proposal on the 26 March 2019, before the Council's formal decision was made, to supersede the plans originally submitted to the Council with the planning application. The details of the revised drawing numbers are set out in paragraph 18 of the appellant's statement 'Re-Determined Appeal Representations', as agreed with the Council, and I have had regard only to these plans.
3. I note that the Council issued a Certificate of Lawfulness in February 2020¹ which indicates that a proposal to extend the area of hardstanding at the front of the property to have a larger parking and turning area for the dwelling would be lawful 'permitted development' as defined in the GPDO². The appellant describes this as a 'fallback' position.

¹ Ref. P20/V0359/LDP

² Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Main Issues

4. The main issues are:

- the effect of the proposed redevelopment scheme on the character and appearance of the area; and
- the effect on the living conditions of the occupiers of the neighbouring properties.

Reasons

Background

5. The appeal site comprises a detached house within a large garden which is set back from the frontage along Cumnor Hill, a main road leading west out of Oxford. The site lies at the Botley end of the hill and the road rises to the west to the village of Cumnor. There are other detached houses to the west of the appeal site but a new building of apartments lies to the east at No.13 on the corner with Hurst Rise Road and some of the detached houses in this side road back onto the appeal site.
6. The proposal involves the redevelopment of the existing property with a new building of mainly 2.5 storey form with accommodation in the roof space lit by a combination of small dormer windows, windows in the gables and rooflights.

Policy context

7. The Council's Local Plan 2031 Part 2 was adopted on the 9 October 2019. This replaces the Local Plan 2011 as referred in the second reason for refusal.
8. The representations of some local people refer to the emerging Cumnor Neighbourhood Plan but there is no evidence presented that this plan relates to the appeal site or that it has been 'made' following a referendum therefore I have not been able to afford it weight.

Effect on character and appearance

9. The relevant policy on design matters is Core Policy 37 of the Local Plan 2031 which, amongst other aspects, requires new development to be of a high quality design which responds positively to the site and surroundings and reinforces local identity. In assessing this issue, I have had regard to the Council's Design Guide (DG) adopted in 2015 and to the specific design principles as referred to in the reasons for refusal which I will consider in turn. I note that Part 6 of the Design Guide refers to 'buildings in rural and lower density areas' and the introduction to this includes a reference to Cumnor Hill. However, having regard to the surroundings of the appeal site in the local part of Cumnor Hill, which is a general suburban area associated with Botley rather than a rural landscape, in the absence of any specific clarification in the Guide, I find that the principles set out in Part 6 of the Guide are of very limited relevance to the appeal site.

DG51, and DG69 – Scale, height and massing

10. The existing dwelling has a mainly two storey form and an appearance akin to a ski chalet with a shallow sloping roof and prominent white painted fascia at the eaves. It is not of a design generally characteristic of the area and there

are no compelling planning reasons to require its retention. Nevertheless, the building is well set back from the road frontage and this form is repeated along most of Cumnor Hill.

11. The proposed building respects this general building line with an even greater set back from the road. The local area is also characterised by large buildings, mainly detached houses on the higher reaches of the road, but around the appeal site there are other examples of larger buildings comprising apartment development. This includes the development on the adjacent site at No.13. On the southern side of the appeal site the house at No.17 is also of a large scale with 2.5 storeys of accommodation. I find that the general scale of the building proposed is not at odds with the site's surroundings.
12. The setting of the proposed building in the street scene, as shown on plan PA-09 Rev B indicates that the height of the building would respect that of neighbouring properties and also follow the general slope of the land. Viewed from the front the mass of the building would be greater than the existing chalet but would not appear too great or imposing in the context of the immediately adjacent properties. There would be a slight reduction in the gap between the corner of the building and the party boundary to the west but the greater width of the proposed building would not give rise to an unacceptable visual bulk as demonstrated in the street scene elevation.
13. The building would have a greater depth, shown in part by the crown roof where there would be a roof ridge at the front as well as on each side elevation. However, this building depth would not be apparent in views from a north-east direction in Cumnor Hill as these would largely be screened by the presence of the building at No. 13 and its forward position in the street. Viewed from the south-west the large west elevation would be seen in the context of the extended front at No. 17 and existing vegetation in the front garden, and this structure and the landscaping help reduce the apparent bulk of the building.
14. Overall, I find that the scale, height and massing of the building proposed would respond positively to the surroundings of the site and meet the characteristic form of the area. It would not have a harmful effect on the local street scene but would enhance it.

DG75 – apartment parking

15. The Council's objection about parking relates to the prominence of the proposed parking area at the front of the site and suggests that this would have an overbearing visual effect on the area. The amended scheme indicates that a parking area for eight spaces and visitor parking can be formed in a sweep of hard surfacing at the front of the building and by making use of a variation in surface materials. The appellant says that the effect of the parking area proposed should be compared to that of the 'fallback' position, as described in paragraph 3 above, on what could be lawfully undertaken as 'permitted development'. However, I am not able to place much weight on this comparison as it is not established that it is any landowner's clear intention to carry out such changes while the host property is a dwellinghouse and in advance of any redevelopment scheme. I have therefore considered the parking proposal on its individual merits.

16. The land at the front of the No.15 rises from the road and also there is the general slope of the land from east to west. The parking of vehicles to the front of the proposed new apartment building could therefore be quite prominent in the street scene. However, the existing parking area and driveway is well screened by the hedge and tree along the road frontage. The proposed parking scheme would retain much of the openness to the front of the building and the width and alignment of the access road has been reduced and mellowed from the original submission. The revision for the waste bin area shows that this would be small in scale and can be further screened by planting. Overall, I am satisfied that with appropriate landscaping and surface materials the parking area proposed would be integrated well in the local landscape, as suggested in DG75, and it would not be an overbearing or harmful feature in the local street scene.
17. The Council refers to another decision where an appeal³ for a redevelopment with flats was dismissed at 108 Cumnor Hill, but it appears to me that the circumstances of that site are materially different to the appeal site, as that part of the Hill is characterised by less dense individual houses in large gardens within a mature landscaped setting.
18. I conclude on this issue that it has been demonstrated that the redevelopment scheme proposed would respond positively to the site and its surroundings and would enhance the character and appearance of the area rather than harm them. It therefore meets the requirements of Core Policy 37 and the emphasis placed on good design in section 12 of the National Planning Policy Framework (the Framework).

Effect on living conditions

19. Core Policy 23 on housing density now supersedes Policy DC9 and this requires new development to be at a higher density unless various factors apply, including having an adverse effect on the amenity of neighbours. The Council's concerns are about the relationship with No.2 Hurst Rise Road but the occupier of No.4 of this road together with No.17 Cumnor Hill also raise objection to the scheme under this issue.
20. Dealing with the Hurst Rise Road properties first, the officer report sets out the distances involved in the relationship between the two properties, including the difference in land levels, and I also considered the specific relationships at my site visit. The existing chalet building is sited close to the eastern boundary of the site and at a point where the rear garden of No.2 is at its shortest. The proposed scheme re-sites the building bulk further south and the flank wall is staggered away from neighbouring land. Moreover, the amended plan avoids windows at first floor level in the flank elevation facing east.
21. I have also had regard to the subsequent Daylight and Sunlight Analysis (DaSA) prepared in June 2019 on behalf of the appellant. This concludes that the proposed building would not cause loss of daylight or sunlight to the surrounding properties and would have a negligible effect on the gardens' hours of sunlight. This evidence is not contested by the Council.
22. Although there would be an increased building bulk and height, I am satisfied that the siting and staggered set back of this elevation of the proposed building

³ APP/V3120/W/19/3227259

mean that it would not have an overbearing effect on the general residential aspect enjoyed by the occupiers of the Hurst Rise properties, bearing in mind this suburban area is already developed.

23. Turning to No.17 Cumnor Hill, this detached property is well set back from the road frontage and is sited close to the party boundary shared with the appeal site. The property also has a number of windows at ground and first floor level which look towards the appeal site but the majority of these at first floor level light bathrooms with two of the windows being to a bedroom as set out in the DaSA.
24. The proposed building would have side facing eaves level about the same height as the existing chalet but the flank wall of the building would be closer to the boundary. However, the re-sited building would lie in part along-side the single storey element to the front of No.17 which does not have windows in the flank elevation. Taking account of the assessment in the DaSA, it is reasonably demonstrated that the position and extent of building bulk would not result in a loss of daylight or sunlight to this property. The proposal would therefore not have an overbearing impact on the amenity or living conditions of the occupiers of this property.
25. I conclude on this issue that on the evidence presented and my observations at the site visit, the proposal would not have an adverse effect on the amenity or living conditions of the occupiers of neighbouring properties and I find no conflict with the requirements of Core Policy 23.

Other matters

26. Local residents also raise concern that the proposed development of apartments would add to a problem of air pollution from cars parking at the front of the site. However, there is no substantiated evidence before me to demonstrate that there is an existing problem over air quality locally or that the proposal would make this materially worse.

Planning Balance

27. On the main issues I have found that the scale, height, massing and overall design of the proposed new building of apartments would respond positively to the surroundings of the site in this lower part of Cumnor Hill and also maintain the characteristic set back of development in the frontage. The proposal would not have a harmful effect on the street scene but would enhance it. Moreover, the detailed evidence submitted by the appellant demonstrates that the proposed building although larger in size than the existing chalet would not have an overbearing effect on the amenity or living conditions of the occupiers of properties neighbouring the site.
28. This assessment is based on the amended plans submitted in March 2019 which had been revised to address concerns about the extent and form of the parking area and access road and the direct effect on neighbours.
29. Taking account of the Council's Design Guide I find that the proposal meets the relevant provisions of the development plan on securing high quality design. The proposal is also in line with the guidance in the Framework in support of sustainable development which makes an effective use of land and achieves well designed places without harming the character of an area.

30. This accord with an up-to-date development plan is not outweighed by any other consideration, either on its own or taken collectively, and this indicates that the appeal should be allowed.

Conditions

31. The Council recommends seven conditions on any permission which I will consider under the same numbering. Some of these conditions are 'pre-commencement' ones but this restriction on development is unnecessary and the conditions can be amended to ensure that the condition must be satisfied before any construction works begins.
32. In addition to the condition on the commencement of development (no.1) a condition (no.2) which specifies the plans that are approved is necessary in the interest of clarity as well as the appearance of the area and the development, if proceeded with, must be in accordance with them. The appearance of the development is also dependant on a detailed landscaping scheme (no.3) and I will add to the one recommended by the Council to make it clear that the landscaping scheme has to address the boundaries of the site and the open garden and parking area to the front.
33. Further details are also required of the disposal of foul and surface water from the site (no's 4 and 5) in the interests of avoiding pollution and flooding and I will impose these conditions. Condition no.6 is also necessary to ensure that there is reasonable parking provision on site for the development proposed.
34. Finally, the condition (no.7) regarding the external materials of the development is reasonable and necessary to ensure that the development fits in with the surroundings of the site and I will impose it but modify it so that it relates to the surface materials of the driveway and parking area as well.

Conclusion

35. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the details shown on the following approved plans; PA-01, PA-02E, PA-03, PA-04, PA-05, PA-06F, PA-07F, PA-08D, PA-09B, PA-10B, PA-15 and PA16 received on 3rd August 2018 and 2nd April 2019, except as controlled or modified by conditions of this permission.
- 3) No construction shall take place until landscape details have been submitted to and approved in writing by the Local Planning Authority. These details shall include schedules of new trees and shrubs to be planted, noting species, plant sizes and numbers/densities, the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme. The landscaping scheme shall address the eastern, western and southern boundaries of the site, the parking areas, and the open area of garden.
- 4) No construction shall commence until a full surface water drainage scheme has been submitted to and approved by the Local Planning Authority. The surface water drainage scheme must include details of the size, position and construction of drainage works and be designed to accommodate a 1 in 100 year storm + 40% CC. Thereafter the surface water drainage scheme shall be implemented in accordance with the approved details.
- 5) No construction shall commence until a full foul water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The foul water drainage scheme shall include details of the size, position and construction of the drainage scheme, all coupled with calculations to evidence this. Thereafter the foul water drainage scheme shall be implemented in accordance with the approved details.
- 6) The residential units shall not be occupied until the car parking spaces, turning spaces, access improvements, cycle parking provision, and vision splays shown on approved drawing number PA-02E1, received 2nd April 2019 have been constructed and surfaced. The parking spaces shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking spaces, cycle parking provision and vision splays shall be kept permanently free of any obstruction to such use.
- 7) The exterior of the development hereby permitted, together with the driveway and parking areas, shall only be constructed in the materials specified on the plans hereby approved or in materials which shall previously have been approved in writing by the Local Planning Authority.



Appeal Decision

Site visit made on 11 January 2021

by **Jonathan Manning BSc (Hons) MA MRTPI**

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

Decision date: 29 January 2021

Appeal Ref: APP/V3120/W/20/3259797

Rumseys Barn, London Road, Blewbury, Didcot, OX11 9PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Annabel Cochrane against the decision of Vale of White Horse District Council.
 - The application Ref P19/V3253/FUL, dated 4 December 2019, was refused by notice dated 27 March 2020.
 - The development proposed is conversion of existing double garage and swimming pool enclosure to form new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing double garage and swimming pool enclosure to form new dwelling at Rumseys Barn, London Road, Blewbury, Didcot, OX11 9PB, in accordance with the terms of application ref: P19/V3253/FUL, dated 4 December 2019, subject to the planning conditions in the attached schedule.

Main Issue

2. The main issue of the appeal is whether the proposal would preserve or enhance the character or appearance of the Blewbury Conservation Area.

Reasons

3. The appeal site is located on and accessed from London Road. The site includes an existing double garage and a building that houses a currently unused swimming pool that are both ancillary to the residential dwelling known as Rumseys Barn. The scheme seeks to convert the existing buildings, with an additional new glazed link between the two, to form a new independent 2 bedroom residential dwelling. This would involve the partitioning of the existing garden of Rumseys Barn.
4. The appeal site is located within the Blewbury Conservation Area (the BCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the BCA.
5. A previous Inspector for an appeal¹ immediately to the west of the appeal site stated: *'This part of BCA on the northern side of London Road is characterised by a variety of age and architectural style to its built form which appears to be*

¹ APP/V3120/W/18/3209796

largely in residential use. However, despite this variety there is a clear linear pattern of development with the majority of dwellings fronting onto and in close proximity to London Road. Largely these dwellings have generous space around them. This gives this part of BCA a spacious character and appearance, which is further enhanced by the presence of established trees within gardens’.

6. I agree with this assessment for the northern side of London Road, within the vicinity of the appeal site. However, from my own observations, I consider that the southern side of London Road has a different character and appearance, with dwellings that have much less space between them, particularly moving west from the appeal site. The space behind these dwellings is far less evident. For these reasons, in my view, the southern side of London Road within the vicinity of the appeal site has a much more compact character and appearance than the northern side. This is also evident from the plot area and density assessment carried out by the appellant². I consider that the northern and southern side of London Road influence the overall character and appearance in the immediate area around the appeal site.
7. Further, whilst it is clear there is a prominent linear pattern to development along London Road with dwellings fronting onto the highway, there are several instances of substantial buildings set further back from the road along driveways. The previous Inspector³ also commented on this and stated: *‘I acknowledge that there is development that does not conform to this linear arrangement, including the dwelling identified as Scott’s Gap... However, from my observations it appears that a large proportion of the built form to the rear of the frontage properties is historic and relates to converted ancillary outbuildings/agricultural buildings. Furthermore, despite being converted to residential use these buildings largely retain their ancillary/subservient character and appearance’.*
8. The scheme would utilise existing buildings and when viewed from London Road, would not appear as an obvious independent dwelling that would jar with the existing grain of development. Instead, due to the scale and siting of the existing buildings, it would retain an ancillary/subservient character and appearance, in keeping with the other existing examples in the area that I observed and were referred to by the previous Inspector above.
9. Whilst I acknowledge that the size of the appeal site and the remaining plot associated with Rumsey Barn would be fairly modest, there are numerous other comparable plots within a close distance of the appeal site, as can be seen in the appellant’s plot area and density assessment, particularly taking into account the southern side of London Road.
10. The Council are of the view, that the subdivision of the plot would represent an over intensive use of the site / over development, with the proposed dwelling coming with its own additional movements and domestic paraphernalia, which would be detrimental to the character of the area. I consider that the scheme would provide for sufficient amenity space for a 2 bedroom dwelling and would not appear cramped. The host dwelling would also retain a reasonably sized garden. In addition, I am mindful that the Council has not raised any concerns with regard to the living conditions of the future occupants or in terms of

² Design and Access Statement – Supplementary Information, dated March 2020.

³ APP/V3120/W/18/3209796

impacts from noise and disturbance to the occupants of neighbouring properties.

11. It was evident from my site visit that views of the appeal site are relatively limited. But where views are gained, namely from neighbouring properties, I agree with the Council's conservation officer that higher quality materials and the removal of some rooflights would enhance the appearance of the appeal site. Whilst the conservation officer was commenting in terms of the setting of nearby listed buildings, I consider that this also applies to views from neighbouring properties.
12. For all of the above reasons, I consider that the scheme would preserve the character and appearance of the BCA and therefore complies with Policy CP37 of the Vale of White Horse Local Plan 2031 Part 1, Policies P2 and P6 of the Blewbury Neighbourhood Plan, the National Planning Policy Framework and the Council's adopted Design Guide.

Other matters

13. Neighbouring residents have raised strong concerns with regard to the proposed parking arrangements for the scheme. I am content based on my observations at the site visit and the evidence provided by the appellant that suitable access and parking can be achieved. Whilst the manoeuvres are clearly tight, I accept they are nonetheless achievable, including at night, given the use of headlights.
14. Whilst the parking arrangements for Rumseys Barn require cars to be moved to allow another car to exit, this is not an uncommon arrangement. In addition, it has been suggested that the cars used to demonstrate the turning areas were overly small. However, the cars used were a large sports car and a family sized hatchback. To my mind, this offers a reasonable representation.
15. Whilst it has also been suggested that the turning areas could be blocked by other parked vehicles, I consider this to be unlikely as only the occupants of the proposed dwelling or Rumseys Barn are likely to utilise the northern part of the driveway where the turning areas are located. Further, a planning condition can be imposed that ensures the parking and turning areas remain unobstructed and in use for the intended purpose, this includes the garage. It has been suggested that such conditions won't be enforced. However, there is no reason before me to believe that the Council would not do so if required.
16. I acknowledge that other properties also use the shared driveway and there is reliance on parking within a garage halfway along the driveway and a parking space to the north of the garage. However, it is clear from the evidence that vehicles can be turned at the northern end of the driveway without interfering or blocking the other garages or parking space.
17. Vehicles speeds along the driveway and whilst manoeuvring within it would be low and giving the limited number of transport movements that would occur, there would be no unacceptable risk to highway or pedestrian safety.
18. Turning to sight lines of the main access, I observed that these are adequate for the proposed development of one additional dwelling. Given this, along with the 30 mph speed limit on London Road, I consider that the access is suitable and there would not be any unacceptable risk to highway safety in this regard.

19. In terms of emergency access, I am mindful that the access driveway is already in place and serves Rumseys Barn. I am not of the view that the addition of one dwelling utilising the existing driveway would result in unacceptable safety concerns.
20. I am also mindful that the Council's highway officer does not raise any concerns following the provision of the additional highway evidence and this adds weight to my own findings.
21. The noise and disturbance associated with the additional dwelling, including vehicle movements would be minor and would not, in my view, result in unacceptable living conditions to the occupants of neighbouring properties, including Gable End.
22. There is no evidence before me to suggest that the drainage network in the area cannot accommodate an additional dwelling. Further, such matters can be addressed by a planning condition that would secure a suitable drainage scheme.
23. Concern has been raised that there will be impacts on the occupants of neighbouring properties during the construction works. However, any disturbance would be temporary and therefore it is not a reason to withhold planning permission.

Conclusion and Planning Conditions

24. For the reasons given above, and having regard to all other matters raised, I consider that the scheme complies with the development plan when considered as a whole and the appeal therefore succeeds, subject to necessary planning conditions.
25. I have considered the Council's suggested conditions against the tests set out within the Framework and the advice provided by the Government's Planning Practice Guidance (the PPG) and have amended them where required. As well as the standard time limit condition (1), I consider that a condition (2) is necessary to ensure the development is undertaken in accordance with the approved plans to secure certainty.
26. Conditions (3) and (4) are necessary in the interests of the character and appearance of the area. To ensure that there would be no adverse impacts on the water environment, the imposition of conditions (5) and (6) are required.
27. To ensure the protection of existing trees, condition (7) is imposed. The appellant has questioned the need for this condition. However, there are several trees within the neighbouring property to the west that are sited close to the boundary with the appeal site. Therefore, I consider the provision of an arboricultural method statement to be necessary to ensure that no harm is caused to the trees during the refurbishment works. The Council's suggested condition in this regard included a large amount of detail and requirements. I have not included this in the condition in the interests of brevity, but I am nonetheless mindful that such detail can be requested by the Council when discharging the condition.
28. Condition (8) is required in the interests of biodiversity. Conditions (9) and (10) are necessary, to ensure the scheme is acceptable in terms of highway safety.

29. The Council has suggested a condition that seeks to restrict permitted development rights. However, I consider that exceptional circumstances to do so have not been demonstrated. I have therefore not imposed the sought condition.
30. There are several pre-commencement conditions. I am satisfied that this is necessary to make the development acceptable in planning terms and it would have been otherwise necessary to refuse planning permission.

Jonathan Manning

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall be begun within a period of three years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the details shown on the following approved plans:
 - Location Plan - LSA-043-FP-L-101 Rev B;
 - Site Plan Proposed - LSA-043-FP-P-101 Rev C;
 - Block Plan Proposed - LSA-043-FP-P-102 Rev D;
 - Site Plan Existing Demolition - LSA-043-FP-D-103 Rev B;
 - Existing Elevation Demolition - LSA-043-FP-D-201 Rev B;
 - Existing Elevation Demolition - LSA-043-FP-D-202 Rev B;
 - Proposed Elevation - LSA-043-FP-P-201 Rev B;
 - Proposed Elevation - LSA-043-FP-P-202 Rev C;
 - Proposed Long Section - LSA-043-FP-P-301 Rev C;
 - Proposed Plan Basement Floor - LSA-043-FP-P-105 Rev C;
 - Proposed Plan Ground Floor - LSA-043-FP-P-103 Rev D;
 - Proposed Plan Mezzanine Floor - LSA-043-FP-P-104 Rev C;
 - Parking Tracking Space 1 - LSA-043-SK-201;
 - Parking Tracking Space 2 - LSA-043-SK-202;
 - Parking Tracking Space 3 - LSA-043-SK-203;
 - Parking Tracking Space 4 - LSA-043-SK-204; and
 - Parking Tracking Space 5 - LSA-043-SK-205.
- 3) Prior to the commencement of development, samples of all materials to be used externally in the construction of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 4) Notwithstanding any details shown on the approved drawings, the sites internal and external boundaries shall be enclosed in accordance with a detailed landscaping scheme and programme of implementation which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed prior to the first occupation of the dwelling hereby approved.
- 5) Prior to the commencement of development, a full surface water drainage scheme, including details of the size, position and construction of drainage works, shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be designed to accommodate a 1 in 10 year storm + 40% CC and must follow SuDS principles. All drainage works will be implemented in accordance with the approved details prior to the first occupation of the development hereby approved.
- 6) Prior to the commencement of development, a full foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme, all coupled with calculations to evidence this. All drainage works will be implemented in accordance with the approved details prior to the first occupation of the development hereby approved.

- 7) Prior to the commencement of any site works or operations, including demolition and site clearance relating to the development hereby permitted, an Arboricultural Method Statement and accompanying Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 8) Before the first occupation of the development hereby permitted, the recommendations set out within Section 5 (mitigations and enhancements section) of the bat emergence survey report, dated 28 August 2019 (REF 2019-040 version 1.1) and Section 5.2 (bird mitigation and enhancements) of the preliminary bat roost assessment report, dated 20 June 2019 (REF 2019-040 version 1) shall be implemented.
- 9) Prior to the first occupation of the new development, the vehicular parking area/spaces and turning spaces shall be constructed in accordance with the details shown on approved drawing numbers LSA- 043-FP-P-103 Rev D, LSA-043-SK-201, LSA-043-SK-202, LSA-043- SK-203, LSA-043-SK-204, and LSA-043-SK-205. The parking and turning areas shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking and turning areas shall be kept permanently free of any obstruction to such use.
- 10) Notwithstanding the provisions of Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), the garage accommodation forming part of the development shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose.



Appeal Decision

Hearing (Virtual) Held on 8 April 2021

Site Visit made on 20 April 2021

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2021

Appeal Ref: APP/V3120/W/20/3261691

Land off Lower Road, Chilton, OX11 0RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Summix (Chilton) Developments LLP against the decision of Vale of White Horse District Council.
 - The application Ref P20/V0857/O, dated 20 March 2020, was refused by notice dated 13 August 2020.
 - The development proposed is the provision of 6 serviced plots for self and custom-build dwellings, all matters reserved except access and layout.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for access and layout.
3. Due to discussions at the Hearing about suggested planning conditions, I asked both parties to review, discuss and agree the draft list of planning conditions having regard to the six tests set out in paragraph 55 of the National Planning Policy Framework (the Framework). If, having discussed the merits of the suggested conditions, agreement could not be reached, I invited written comments from either party to explain their respective position. I have had regard to the revised suggested planning conditions and the submissions made by each party in reaching my decision.

The plans, revisions and whether prejudice would be caused to interested parties

4. The planning application made to the Council included a proposed illustrative masterplan, an access plan and a site location plan¹. These plans were subsequently consulted upon. In response to this, the Highway Authority explained that any proposed access would need to link to adjacent pedestrian infrastructure to the west. As such, a new footway was sought but the effect of this on existing trees was highlighted.
5. Revised plans² were submitted on 6 July 2020 to the Council along with supporting technical information concerning trees and transport matters. The revised plans included a footpath to the west of the proposed access and a potential alternative footpath to the east. The footpath to the east largely falls

¹ Plan Ref: BIR.5094_03_03_Rev G, JNY8238-03 Rev A and BIR-5094_01 Rev A

² Plan Ref: BIR.5094_03_03_Rev H and BIR.5094_10

within the site edged red whereas the footpath to the west does not. Further comments were provided by the Highway Authority and the Forestry Team on the revisions and the Council proceeded to refuse planning permission based on the merits of the revised plans. Residents were not, however, despite the description of development being updated, re-consulted on the revised plans nor was the site edged red amended to reflect the proposed footpath.

6. The appellant company submitted evidence with the appeal to address the Council's third and fourth reasons for refusing planning permission. They also confirmed that the footpath to the east is no longer part of their proposal as the gradient that the link would need to overcome from the road would not be suitable for all. Instead, their submissions include a revised site location plan, illustrative masterplan, illustrative footpath proposals and several engineering drawings³ which relate to the footpath to the west. The former two plans alter the site edged red to include the western footpath. The illustrative footpath plan is more detailed than the revised scheme determined by the Council.
7. The appeal process should not be used to evolve a scheme, but there would be no material change to the scheme considered and refused by the Council. That said, residents are concerned about highway safety on Lower Road and they have not been given an opportunity to comment on any proposed footpaths or the amended site edged red. They were informed of the appeal and given the opportunity to comment further should they have wished to, but the consultation letter does not draw residents' attention to the amended plans or the detail submitted about the footpath which they were not consulted upon by the Council after the scheme was revised. In the interests of fairness and natural justice, I consider interested parties would be prejudiced by the consideration of the proposed footpath. The main parties' common position about the Council's third and fourth reasons for refusing planning permission based on the information submitted as part of the appeal does not change this.
8. Thus, I have considered the appeal based on the plans originally submitted to the Council. I will explore the merits of the scheme having regard to these plans and the points put to me about the proposal's effect in the main issues.

Main Issues

9. The main issues in this case are: (a) whether the development would accord with development plan policies relating to the location of development in the District, including the provision of self-build and custom-build dwellings; (b) whether the proposed development would conserve and enhance the North Wessex Downs Area of Outstanding Natural Beauty (AONB); and (c) the effect of the proposed access arrangements, having regard to protected trees, hedgerows and accessibility.

Reasons

Location of development and self-build and custom-build dwellings

10. Chilton is identified as a Smaller Village in Policy CP3 of the Local Plan 2031 Part 1 Strategic Sites and Policies (Local Plan). Smaller Villages have a low level of services and facilities, where any development should be modest and proportionate in scale and primarily be to meet local needs. The market town

³ Plan Ref: BIR.5094_Rev B, Plan Ref: BIR.5094_03_03_Rev J, BIR.5094_38-B and Statement of Common Ground, Paragraph 2.9

of Wantage, accessible by a local bus service, offers a wider range of facilities and services while Harwell Oxford Science Centre is situated around 1.5 miles to the north-west of the site and provides employment opportunities in addition to a small parade of shops which includes a newsagents, bank and a nursery.

11. The appeal site is a paddock which adjoins the settlement of Chilton. The site is not isolated. Residential properties to the south of Lower Road extend to the south and west of the appeal site and are read as being part of the village. However, this does not necessarily mean that the site ought to be developed to mirror that extent. The village hall and playing fields are to the north of the site. To the west of the appeal site, is further paddock. Beyond here and Lower Road, are allotments. The site is enclosed by a mixture of hedgerows, hedgerow trees and a linear tree belt to the north. Whilst the site's boundaries are not delineated on the ground to the north and west, it is enclosed to the south and east by the existing pattern of the settlement.
12. The character of the village varies in terms of the age, style and finish of properties, but also in terms of the layout, as the settlement pattern is not wholly linear, though this is a strong component of Chilton. However, the proposed dwellings, while of a lower density, would be laid out in a manner that would not resonate with the tighter grain, and thus, character of the village which is evident on Main Street and Lower Road near to the site. The site also lies outside of the proposed settlement boundary of the Chilton Neighbourhood Development Plan, but this is emerging and yet to be examined. Even so, the site is visually understood as being on the edge of, but outside of the village. This is reinforced by the frontage development on High Street backing onto the site, by the tree belt that separates the wider parcel of land with the village hall and playing fields to the north, and the allotments to the west which are not uncommonly found at the edge of village settlements. As such, despite the presence of the A34, the site lies in the open countryside.
13. The modest and proportionate scale of the proposal and any potential for it to meet local needs does not change this. Even if I am wrong about the site's location, the proposal would not be infill development as paddock would remain to the west. Policy CP4 states that development in open countryside will not be appropriate unless specifically supported by other relevant policies as set out in the Development Plan or national policy. The focus in this case is Policy DP1 of the Local Plan 2031 Part 2 Detailed Policies and Additional Sites (Local Plan 2) which supports the provision of plots for sale to self and custom builders.

Self-build and custom build housing

14. The Council has a duty under the Self Build and Custom Housing Act 2015 (as amended by the Housing and Planning Act) ('the Act') to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. Framework paragraph 61 is supportive of this type of housing.
15. There is no dispute between the main parties about the number of persons who have been added to the register in each base period since December 2015. The demand for each base period must be met by 30 October 3 years after the end of that period.
16. For the purposes of meeting the demand, the Act defines a development permission is suitable if it is a permission in respect of development that could include self-build or custom housebuilding. The Planning Practice Guidance (the

Guidance) outlines examples of how authorities could determine whether an application, permission or development is for self-build or custom housebuilding⁴.

17. The Council accepts that it has not granted enough suitable planning permissions to address the demand arising from the first two base periods (70 and 109 entries respectively) which was to be met by 30 October in 2019 and 2020. It is continuing to assess whether other planning permissions have been granted which could count towards the first, second or third base periods. This work is ongoing, and I must reach my decision based on the current situation.
18. Notwithstanding the demand established by the register, the Council speculates on what the 'actual' demand is for this type of housing if they were to apply a local eligibility test and financial solvency test. This is an academic exercise as neither test has been subject to public consultation as advised by the Guidance. The Council confirmed at the Hearing that it does not operate a two-part register. In any event, information from the various sources identified by the appellant company could point to a potentially higher level of demand compared to that established by the register.
19. Regardless, the proposal would contribute towards meeting the demand arising from the third base period (80 entries). As of 24 February 2021, the Council confirmed that 7 suitable permissions have been granted. This figure was unchanged at the time of the Hearing. The Council has until 30 October 2021 to meet this demand and fulfil its duty for the third base period, but the Council recognised that it would, based on current progress, not be likely to meet the demand for the third base period. I am aware of an appeal at Steventon⁵ for 7 self-build and custom build houses and as part of that Hearing there was anecdotal evidence of a further proposal on another site in the District, but even if all these were granted planning permission, there would still a good number of suitable permissions to grant and there is no evidence to suggest that there are other schemes either being considered or likely to be considered or determined by the Council before the end of October.
20. A planning condition would secure this type of housing. Hence, the proposal would contribute towards addressing the demand arising from the third base period. This provision would be of a substantial benefit given the period of time left for the Council to meet the demand for the third base period.
21. Discussion at the Hearing centred on how the under delivery of self-build and custom build houses against the established demand from the first two base periods should be dealt with. The number of suitable permissions granted by the Council for these base periods varies between the main parties with either 47 (appellant) or 53 (Council) suitable permissions granted for the first base period, and either 24 (appellant) or 25 (Council) for the second base period.
22. Legislation, planning policy or guidance does not set out how any under supply of this type of housing should be dealt with. However, not accounting for past under delivery would seem to be, when considered in the context of the duties placed on local authorities in the Act, Framework paragraph 61, Local Plan 2 Policy DP1 and Government's encouragement for this type of housing, illogical. Approaches to unmet demand, which is a relevant consideration, have been

⁴ Paragraph: 038 Reference ID: 57-038-20210508

⁵ Appeal Ref: APP/V3120/W/20/3265465

considered in several appeal decisions⁶. However, if I did take it into account, the substantial weight that I set out above would not change due to the proposal's scale. Nevertheless, the unmet demand would only confirm the weight that I have given to the provision of this type of housing.

23. The main parties agree that the development plan is not out-of-date as the Council can demonstrate a five-year supply of deliverable housing sites. A different stance is taken by the appellant in the Steventon case, so I address the point out of consistency. Local Plan Policies CP3 and CP4 appear to be fulfilling their purposes based on the level of housing supply in the District. These policies must be read alongside other policies in the development plan, such as Policy DP1. Jointly, these policies support self-build or custom build housing schemes or with elements thereof if in line with the settlement hierarchy and the strategy for housing delivery. There is not a specific exception to the Council's strategy that allows this type of housing to come forward in the open countryside. But, evidently the mechanics of policy or the application of it are not yielding the number of suitable permissions required. However, the position could change once further robust work is completed by the Council. Given this and considering how Policies CP3, CP4 and DP1 can operate together, I am content that they are not out-of-date.

Conclusion on this main issue

24. The provision of self-build and custom-build dwellings would accord with Local Plan 2 Policy DP1. However, it does not 'specifically support' development of this type of housing in the open countryside which is the wording used in Local Plan Policy CP4. This leads me to conclude that the development would not accord with Local Plan Policies CP3 and CP4 and Local Plan 2 Policy DP1 which, when taken together, relate to the location of development in the District, including the provision of self-build and custom-build dwellings. This is the approach set out in the explanatory text to Local Plan 2 Policy DP1.

North Wessex Downs Area of Outstanding Natural Beauty

25. Chilton, including the appeal site is located within the AONB. Framework paragraph 172 explains that great weight should be given to conserving and enhancing landscape and scenic beauty in an AONB. This is the primary purpose behind the AONB designation. Framework paragraph 172 goes onto to say that the scale and extent of development within AONB's should be limited even though I agree with the main parties that the appeal scheme would not be 'major development'. Local Plan CP44 is consistent with the Framework in giving high priority to the conservation and enhancement of the natural beauty of the landscape and resisting harmful development.
26. The AONB Integrated Landscape Character Assessment locates Chilton within the Downs Plain and Scarp landscape character type, characterised by a large scale, open arable landscape. The appeal site and Chilton do not seem to make a significant contribution to this character type. From the wider landscape, Chilton has a wooded setting which is mainly experienced from elevated views surrounding the village. Consequently, the proposal would have a negligible impact when viewed from long distance views.
27. Chilton lies within the Hendred Plain character area and the appeal site shares some of its identified characteristics of undulating landscape, shelter belt

⁶ Appeal Decision Refs: APP/G2435/W/18/3214451; APP/W0530/W/19/3230103; and APP/C1570/W/19/3234530

planting and equestrian activity. The site abuts Chilton, which means that the visual effect of the appeal scheme would be experienced locally in this context. Lower Road connects a number of public rights of way that allow movement between the village and the wider AONB.

28. The appeal scheme is for a different type of housing, for a lower number of units and the layout is not the same as that which was dismissed at appeal in 2016⁷. The appeal site may be a small component of the AONB, but it was expressed in this decision that a localised experience of the site 'does not imply that the site is unimportant to the AONB. The site is an attractive, open area that forms part of the immediate setting of the western edge of Chilton and enhances its local character.' Both landscape experts agreed that the baseline has not changed from 2016.
29. As I set out earlier, the layout of the proposed dwellings, while of a lower density, would not resonate with the tighter grain, and thus, character of the village near to the site. The individual design of each of the dwellings, the scale of the development and the use of a design code would mitigate this to some extent, as would the retention of existing boundaries and further planting, though the latter would take some time to establish. Even so, the proposed layout would have a suburban feel that would not sit comfortably as an extension to the village given that the site acts as a transition between the built form and the rural countryside. Despite the localised effect, the proposal would be out of keeping and it would affect two of the characteristics of the character area of an undulating landscape and equestrian activity.
30. By forming a new access from Lower Road an initial adverse impact would be felt due to the removal of around 28 metres of hedgerow. The access would create a new visual break in what is otherwise a consistent stretch of trees and hedgerow. Despite the driveways on Lower Road of a comparable width to the proposed access, the new access would be a new urban feature.
31. I note the conclusion of the appellant's Landscape and Visual Impact Assessment and the Council's assessment. However, in my own view, the proposed development would be likely to lead to a large localised magnitude of change to this attractive, open area that is part of the immediate setting of the western edge of Chilton which enhances its local character.
32. Unlike the previous appeal scheme, T5 is proposed for retention. By not removing any soil from or needing to regrade the verge will help achieve this, though the access would be formed partly into its root protection area. Even so, I consider that it could potentially be retained. New landscaping within the site, and near to or next to the proposed access could mitigate the loss of the hedgerow and potential loss of T5 if it were to be affected by the new access. It would also soften the development to some extent and help it respond to the character of the area. Over time this would develop, but the proposal would still likely amount to a moderate adverse effect which would be a harmful visual impact to the landscape's character. Planting would be highly unlikely to mitigate this impact. Hence, the proposal would not conserve and enhance the land which positively contributes to the landscape character and setting of Chilton and by extension the AONB.
33. I conclude that the proposed development would not conserve and enhance the

⁷ Appeal Decision Ref: APP/V3120/W/16/3153209

AONB which means that conflict would occur with Local Plan Policies CP37 and CP44 and Framework paragraph 172. Jointly these seek high quality designed development that responds positively to the site and its surroundings with a high priority given to conservation and enhancement of the natural beauty of the AONB.

Effect of proposed access arrangements

Footpath provision

34. The scheme originally submitted to the Council did not include any footpath provision either along Lower Road or within the site or adjoining land. However, development either on the appeal site or the wider parcel of land that the site forms part of has been proposed through various schemes. In these schemes, each scheme has included a foot/cycle path running behind the trees and hedgerow that line Lower Road to provide a link between the existing footway provision to the east and west of the site.
35. The Highway Authority's stance about a new footway is consistent with earlier schemes. While the appellant company did revise their proposals to show a footpath to the west, they stated at the Hearing that the footway to the west was not part of their original scheme and that I may need to consider whether it is necessary or not if I did not accept the revised plans.
36. The section of Lower Road extending across the site's frontage is narrow and has no footway. The road is used by pedestrians, including children attending the nearby primary school, cyclists, horse riders, and a variety of vehicles including buses. The road is a country lane and while the road offers good visibility in either direction, is subject of a 30 mph speed limit and does not seem to be heavily trafficked, I recognise the potential conflict that could arise between different road users and the effect this could have on their safety. A link parallel to and bypassing the narrow part of the road would remove this potential conflict. However, previous schemes were for a different number of dwellings spread across the entire parcel of land that would have resulted in a considerably greater number of movements by vehicles or other road users than the 6 dwellings now proposed.
37. A partial footpath link would mean that vulnerable road users would still need to share Lower Road for a section that dips slightly between the proposed access and existing footway around the junction of Lower Road and Thorningdown when travelling in a easterly or westerly direction. The scale of the proposal would result in an increase in vehicle movements, but not to an extent that I consider they would dominate Lower Road at the expense of other modes of transport or cause Lower Road to not provide for safe movement. Hence, notwithstanding my view about a comprehensive foot/cycle link, the need for a footpath to the west that does not resolve the potential conflicts on Lower Road is not there.
38. There was considerable debate between the main parties at the Hearing about the use of a Grampian condition to secure the western footpath. However, such a condition would not be necessary for the reasons set out.

Effect of footpaths on trees and hedgerow

39. Despite the Council's concerns relating to the effect of the footpaths to the east and west of the access on existing trees and hedgerow, no such issues would

occur based on the proposal originally submitted and consulted upon.

Effect of the proposed access on trees and hedgerow

40. The proposed access from Lower Road into the site has not changed since the appellant company's original submission. This can, based on the technical responses submitted by the appellant company, be formed without incurring into the roof protection areas of any protected trees that extend along Lower Road. Nor would the access affect the stems of these trees either from its construction or the formation of visibility splays in either direction which would not rely on the removal of any highway verge either. However, the construction of the access would result in the loss of a section of hedgerow and potential loss of T5 to the east of the access. These could be mitigated by suitable replacement planting being brought forward at reserved matters stage and controlled through a planning condition.

Conclusion on this main issue

41. I conclude that the proposal would accord with Local Plan Policies CP37 and CP44 which, among other things, seek new development to be of high-quality design, well connected to provide safe and convenient ease of movement by all users and to integrate it into the landscape character of the area.

Other Matters

42. The communal areas of the appeal site not set aside for individual plots would be formed first to enable each plot to be sold as a service plot. They would not be areas of public open space even though a large part of the site includes a new attenuation pond. I note the Council's concerns about how foul and surface water drainage is managed and maintained between the communal areas being finished, up to the final plot being occupied and in the long term so that they function effectively. However, based on the evidence before me, I am of the view that they could be addressed through planning conditions.

43. Various other planning conditions have been discussed and agreed between the main parties as part of the appeal, and while these have been drafted having regard to the six tests, they do not overcome the harm that I have identified in respect of the first two main issues.

Conclusion

44. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

45. The proposal would accord with the Government's objective to significantly boost the supply of housing and it would widen the type and size of housing in the area. This would be a limited social benefit. Specifically, the proposal would help meet the demand for self-build and custom-build housing. The provision of this type of housing is a social benefit that carries substantial weight for the reasons set out above. Even so, the proposal would still conflict with the District's strategic approach to the delivery of housing as it does not 'specifically support' development of this type of housing in the open countryside. The statutory duty of the Act to meet the demand for this type of house and the Framework's support for a range of house sizes, types and tenures do not outweigh this significant conflict.

46. I attach significant weight to the scheme's conflict with policies relating to the AONB due to great weight that should be afforded to conserving and enhancing the landscape and scenic beauty of this designation. Future occupiers would be likely to use and support local services, local facilities and local businesses, albeit the village has a low level of services and facilities. The development of each house should also create opportunities for local builders, tradesmen and builder's merchants leading to local employment opportunities. The proposal would offer social and economic support the wellbeing of the community, but they would not outweigh the conflict that the scheme would cause with the aims of conservation and enhancement of the AONB. No harm would be caused by the proposed access arrangements.
47. Having regard to the merits of this case, I conclude that these considerations, including the provisions of the Framework, do not outweigh the scheme's conflict with the development plan as a whole. Nor do they indicate that I should take a decision other than in accordance with the development plan.
48. For the reasons set out above, I conclude that the appeal is dismissed.

Mr Andrew McGlone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Paul Hunt
Jeremy Peachey
Andy Moger
Richard Brown
Oliver Brown
Stuart Wand
Andy Warren

Howes Percival
Pegasus Group
Tetlow King
Richard Brown Planning
Richard Brown Planning
Pegasus Group
Cotswold Wildlife Surveys

FOR THE LOCAL PLANNING AUTHORITY:

Celina Colquhoun		39 Essex
Tracy Smith	South Oxfordshire and Vale of White Horse District Councils	
Ryan Hunt	South Oxfordshire and Vale of White Horse District Councils	
Joe Smith	South Oxfordshire and Vale of White Horse District Councils	
Clare Roberts	South Oxfordshire and Vale of White Horse District Councils	
Luke Veillet	South Oxfordshire and Vale of White Horse District Councils	
Martin Deans	South Oxfordshire and Vale of White Horse District Councils	
Peter Radmall		Landscape Consultant
Alex Tait		39 Essex

INTERESTED PARTIES:

Alan Liddle
Martin Edwards
Chris Broad, Chair, Chilton Parish Council
Andre Botha, Albright Dene Ltd

DOCUMENTS:

- 1 - Policy DP1 of Local Plan 2031 Part 2 Detailed Policies and Additional Sites
- 2 - Appeal Note, Ref: 4129-6311-1213
- 3 - Draft s106 – Open Space
- 4 - Chilton Draft Conditions Schedule
- 5 - Supplementary Note, Vale of White Horse District Council

PLANS:

BIR.5094_03_03_Rev J
BIR.5094_38-C
BIR.5094_Rev B



Appeal Decision

Hearing (Virtual) Held on 15 April 2021

Site Visit made on 19 and 20 April 2021

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2021

Appeal Ref: APP/V3120/W/20/3265465

Land behind 31-33 The Causeway, Steventon OX13 6SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Joe McDermott of Albright Dene Ltd against the decision of Vale of White Horse District Council.
 - The application Ref P19/V2459/O, dated 7 October 2019, was refused by notice dated 17 June 2020.
 - The development proposed is an outline application for provision of self-build and/or custom housebuilding plots for 7 detached dwellings, with all matters reserved except for access and layout.
-

Decision

1. The appeal is allowed and planning permission is granted for outline application for provision of self-build and/or custom housebuilding plots for 7 detached dwellings, with all matters reserved except for access and layout at Land behind 31-33 The Causeway, Steventon OX13 6SE in accordance with the terms of the application, Ref P19/V2459/O, dated 7 October 2019, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for access and layout.
3. The main parties agree that a revised layout to plot 7 submitted as part of the appeal is minor in detail. The dwelling is now shown to be positioned further away from the eastern boundary, and the gable end facing the driveway has been moved to the rear of the house. Both parties agree that the consideration of the amended plans as part of the appeal would not prejudice interested parties. I agree and thus I have considered the appeal on this basis.
4. In my Pre-Hearing Note, I identified the provisional main issues in this case. The fourth of these concerned local bus transport and biodiversity. Along with the land to the east, the site is a Priority Habitat as a Traditional Orchard. Three fruit trees on site are a remnant part of this habitat. To address a net loss of biodiversity, it is common ground between the main parties that a planning condition would mitigate the effects of this. Moreover, they agree that landscaping details could be addressed at reserved matters stage so that the proposed development would not have a significant biodiversity impact.
5. A signed and dated Section 106 Deed of Agreement (s106) has been submitted which includes a contribution towards public transport services. As a result, the Council accepts that the fourth reason for refusing planning permission has been addressed. I agree, and I am satisfied that this would meet the tests of

the Framework and Regulation 122 of the Community Infrastructure (CIL) Regulations. The s106 also includes provisions in respect of self-build and custom housebuilding and a waste strategy. I shall consider the merits of these shortly. A Unilateral Undertaking mirroring the provisions of the s106 was also submitted by the appellant in case the s106 was not executed in accordance with the deadline that I set for its submission. However, as the s106 has been signed and dated by all parties, I have reached my decision based on the s106.

6. To reflect the party's points made at the Hearing, I have adjusted the third main issue compared to the version that I read out at the start of the event.

Main Issues

7. The main issues are: a) whether the proposed development would preserve or enhance the listed buildings at 39 The Causeway, 35/37 The Causeway, Pound House, The Cottage, the Raised Causeway, Station House and Brook House, and character or appearance of the Steventon Conservation Area; b) whether the development would accord with development plan policies relating to the location of development in the District, including the provision of self-build and custom-build dwellings; and c) whether the proposed development would provide suitable access arrangements and adequate provision for on-site waste management.

Reasons

Heritage assets

8. Steventon is an historic, extended village that has evolved along two historic routes: The Causeway which runs roughly west to east and joining it, on its southern side, High Street, which runs roughly south to north. The village is characterised by domestic and commercial development. The appeal site is located near to the centre of the village, to the west of the junction of The Causeway and High Street. The site itself mostly lies behind the detached dwellings at 31 and 33 The Causeway. It comprises of improved grassland with an area of dense scrub with four mature sycamore trees on the southern boundary. Beyond here is a field extending to Ginge Brook and the buildings of Station Yard which lie near to the Great Western Railway line. Access to the site is between Nos 29 and 31. To the west of the site is Bargas Close, which contains 15 static caravans. To the east is a rectangular shaped orchard. Dwellings accessed from High Street adjoin its eastern boundary.
9. The proposed access and the upper part of the site lie within the Conservation Area whilst most of the site lies outside, but next to the larger of part of the Conservation Area which is focussed around the historic core of the village and its listed buildings. The smaller part of the Conservation Area is to the south of the site around the former railway station, Station House, Brook House and the 20th century development at Station Yard that abuts the railway line.
10. The early development of the village took place along the length of the 'Raised Causeway' which is an ancient, raised cobbled Grade II* listed pathway lined by mature trees that extends alongside The Causeway. Buildings within the Conservation Area range from 15th and 16th century timber framed houses to 19th brick vernacular and mid-20th century housing. The village has a high number of Grade II and II* listed timber framed houses that extend along the Raised Causeway towards the Grade I listed parish church found at the western end of The Causeway. Fields and paddocks do abut, extend up to and between

parts of the village, and in turn the Conservation Area. Some then give way to a character that is more readily associated as open countryside. This reflects the village's rural heritage.

11. Several of the historic buildings along this part of The Causeway are listed, including Nos 35/37 (Grade II), 39 (Grade II*), Pound House and The Cottage (both Grade II). Pound House and The Cottage are the closest to the appeal site. The latter of the two is an exposed timber frame two storey building with a two-storey bay window with a jettied roof over. Pound House is of a roughcast construction on timber-framing with a plain tile roof and a brick chimney stack above the ridge to the right of centre of this two-storey dwelling. To the rear of Pound House is a long orchard/paddock.
12. Nos 35/37 is next to the junction of Bargus Close with The Causeway. This two-storey timber framed building is now two dwellings and has a rendered cross-wing to the left-hand side. Next door is No 39 which is a two-storey detached dwelling dating from around late 14th century with additions in later years. The building is rendered with a timber frame and a cross-wing.
13. The appeal scheme would not physically affect any of the listed buildings and not fall within the setting of Station House and Brook House which were constructed for use by the Great Western Railway. These buildings are a reasonable distance from the site, separated by other development which is more reflective of the village's vernacular and associated with the arrival of the railway to Steventon in 1840. Hence, no harm would arise to their significance. The proposal would also not harm the setting, and thus the significance of the southern part of the Conservation Area.
14. No appraisal or management plan associated with the Conservation Area has been produced as per Policy CP39 of the Local Plan 2031 Part 1 Strategic Sites and Policies (Local Plan). The setting of the Conservation Area extending along The Causeway varies according to the development or space next to it or how it is experienced. In turn this influences its significance, albeit it remains an irreplaceable resource and great weight should be given to its conservation. Nevertheless, I agree with the appellant's assessment that the eastern and western ends of The Causeway are areas of very high heritage significance, and that there are pockets of 20th century development next to or to the east of the site that don't positively contribute to its significance. The listed buildings either side of the proposed access in tandem with the Raised Causeway do, however, still positively contribute to the overall significance of the Conservation Area, though the varied type, form and age of development along this stretch of The Causeway displays how the village has evolved over time.
15. Gaps between buildings fronting The Causeway between High Street and Stocks Lane are not uniform in their size or frequency. Nor do they always allow views beyond due to alignment of built form or the presence of outbuildings. These gaps, when travelling by car or on foot in either direction on The Causeway, are not readily perceived due to the speed of travel, the need to focus on oncoming or parked vehicles, or the close proximity of the footway to the frontage development. So, while there are limited glimpsed views, the undeveloped land behind parts of the frontage development is not readily apparent or sensed. The projection of development at Bargus Close and outbuildings associated with nearby dwellings also influences matters.
16. However, the experience differs from the elevated Raised Causeway which is

set back on the northern side of The Causeway. Users speed of travel allows for the site's surroundings to be appreciated. Mature trees lining the Raised Causeway inhibit views to some extent, especially whilst in leaf, but there are pockets of elevated views through some gaps and above boundary treatments to the undeveloped land beyond. This positively reflects the village's rural heritage, historic pattern of development and evolution. At times, the views include Steventon Hill. Some gaps also include views of the static caravans on Bargas Close, Timsbury House, the development next to the railway line and the electrified lines themselves. The ridgeline of Steventon Hill prevents views to the wider countryside beyond.

17. The proposal would introduce development behind the predominate frontage development lining The Causeway, despite the development at Bargas Close and on and behind High Street. While the proposed layout would allow views down the access road to the land beyond, the access would be a long formal arrangement. The use of a design code would inform any reserved matters application so that the dwellings are of a high-quality design and responsive to their surroundings, but even with bespoke designs, the proposal would erode the sense of open space that the appeal site positively contributes to and which informs the sense of being within a rural village. The loss of this space would adversely affect the character and appearance of the Conservation Area as a whole and harm the rural setting, and thus significance of the listed buildings at Nos 35/37, 39, Pound House, The Cottage and The Raised Causeway.

Location of development

18. Local Plan Policy CP3 details the settlement hierarchy in the District. Steventon is a 'Larger Village'. Local Plan Policy CP4 outlines the Council's strategy for meeting housing needs through the allocation of strategic sites, and development within the 'built area' of the larger settlements such as Larger Villages. The appeal site is not allocated for development by the Local Plan or by a neighbourhood plan. There is no defined settlement boundary for Larger Villages, such as Steventon. Consequently, it is a matter of judgement¹ as to whether or not the appeal site lies within the built area of Steventon.
19. Bargas Close could be viewed as an anomaly in the context of the historic pattern of development nearby, but it has been part of the village for a long period of time. Built form has also been added to the east of the site over the 20th century. The appeal scheme would mirror the length of Bargas Close and extend as far as the development at Timsbury House.
20. Collectively, the existing development on The Causeway, High Street (including that set behind and accessed from High Street) and Bargas Close provides a sense of enclosure to three sides of the site even with the adjacent orchard separating the site to the development to the east. The dense scrub and trees on the site's southern boundary add to the sense of enclosure, but their retention cannot be relied upon in perpetuity. Between here and the buildings at Station Yard is a field leading to Ginge Brook. While this physically 'loops' around to the other side of Bargas Close and a wider field/paddock, this is not appreciated from within the site, from The Causeway or High Street. The railway line beyond Station Yard is a strong physical feature with Steventon Hill rising up beyond and of a more rural countryside character. The perception from within the site is one of enclosure, but it does have a transitional feel

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

between the development fronting The Causeway and the open countryside beyond Station Yard and the railway line. However, the site does not have the same open character as the land beyond the railway line or benefit from its openness due to the built form adjoining the site or near to it.

21. The relationship between and point at which built form becomes open countryside varies physically and visually across the village. The appeal site has a greater degree of enclosure and far fewer physical and visual links to the open countryside than the Brewers Close² site which affects how it is experienced. Hence, the two sites are not directly comparable. I have also noted the context to 97 The Causeway³, but this differs to the appeal site due to the cohesive block of undeveloped backland spaces that extend between the development on The Causeway and Castle Street. There is not the same sense of enclosure as that which influences the appeal site. Therefore, I consider, on balance, that the appeal site lies within the built area of Steventon.

Self-build and custom housebuilding

22. The Council has a duty under the Self Build and Custom Housing Act 2015 (as amended by the Housing and Planning Act) ('the Act') to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. Policy DP1 of the Local Plan 2031 Part 2 Detailed Policies and Additional Site (Local Plan 2) and Framework paragraph 61 are generally supportive of the provision of plots for sale to self and custom builders in the District. Framework paragraph 61 reflects this.
23. There is no dispute between the main parties about the number of persons who have been added to the register in each base period since December 2015. The demand for each base period must be met by 30 October 3 years after the end of that period.
24. The Council accepts that it has not granted enough suitable planning permissions to address the demand arising from the first two base periods (70 and 109 entries respectively) which was to be met by 30 October in 2019 and 2020. It is continuing to assess whether other planning permissions have been granted which could count towards the first, second or third base periods. This work is ongoing, but I must reach my decision based on the current situation.
25. Despite the demand established by the register, the Council speculates on what the 'actual' demand is for this type of housing if they were to apply a local eligibility test and financial solvency test. This is an academic exercise as neither test has been subject to public consultation as advised by the Planning Practice Guidance. The Council confirmed at the Hearing that it does not operate a two-part register.
26. In any event, the proposal would help meet the demand arising from the third base period (80 entries). As of 24 February 2021, the Council had granted 7 suitable planning permissions. This figure was unchanged by the time of the Hearing. The Council has until 30 October 2021 to meet this demand and fulfil its duty for the third base period. The Council accepted in the Chilton⁴ hearing that it would, based on current progress, not be likely to meet the demand for

² Appeal Decision Ref: APP/V3120/W/16/3160879

³ Appeal Decision Ref: APP/V3120/W/18/3208949

⁴ Appeal Ref: APP/V3120/W/20/3261691

the third base period. A different view was expressed by Ms Smith at the Hearing relating to this case, but consistency is important in decision-making. I am aware of the 6 self-build and custom build houses proposed at Chilton and anecdotally of a further proposal on another site in the District, but even if all these were granted planning permission, and suitable, there would still a good number of permissions to grant and there is no evidence to suggest that there are other schemes either being considered or likely to be considered or determined by the Council before the end of October. The proposed provision would be of a substantial benefit given the period of time left for the Council to meet the demand for the third base period.

27. Notwithstanding this, the appellant considers Policies CP3, CP4 and DP1 are out of date due to the under delivery of this type of housing. The number of suitable permissions granted by the Council for the first two base periods varies between the main parties with either 30 (appellant) or 53 (Council) suitable permissions granted for the first base period, and either 13 (appellant) or 25 (Council) for the second base period.
28. Legislation, planning policy or guidance does not set out how any under supply of this type of housing against the established demand should be dealt with. However, not accounting for past under delivery of this type of housing would seem to be, when considered in the context of the duties placed on local authorities in the Act, Framework paragraph 61, Local Plan 2 Policy DP1 and Government's encouragement for this type of housing, illogical. Approaches to unmet demand, which is a relevant consideration, have been considered in several appeal decisions⁵. If I were to take unmet demand into account, the scale of the proposal would not change the substantial weight that I have set out above, nevertheless, the position would only confirm my opinion about the weight that I have given to the provision of this type of housing.
29. Local Plan Policies CP3 and CP4 outline the approach to housing development in the district, where it ought to be located and how much. They don't specifically refer to self-build or custom build housing, so they must be read with other development plan policies such as Policy DP1. As the Council can demonstrate a five-year supply of deliverable housing sites, Policies CP3 and CP4 appear to be fulfilling their purposes. Jointly Policies CP3, CP4 and DP1 support self-build or custom build housing schemes or with elements thereof if in line with the settlement hierarchy and the strategy for housing delivery. There is not a specific exception to the Council's strategy for housing delivery that allows self-build and custom build housing to come forward. But, evidently the mechanics of policy or the application of it are not yielding the number of suitable permissions required. However, the position could change once further robust work is completed by the Council. Given this, and considering how Policies CP3, CP4 and DP1 can operate together, I am content that they are not out-of-date.

Conclusion on this main issue

30. I conclude, in respect of this issue, that the proposal would accord with Local Plan Policies CP3 and CP4 and Local Plan 2 Policy DP1 which, when taken together, relate to the location of development in the District, including the provision of self-build and custom-build dwellings.

⁵ Appeal Decision Refs: APP/G2435/W/18/3214451 and APP/W0530/W/19/3230103

On-site waste management

31. Local Plan Policy CP43 seeks developments to make adequate provision for the recycling of waste on site. Local Plan 2 Policy DP28 adds that development will not be permitted if recycling and refuse provision that meets the requirements set out within the policy cannot feasibly or practicably be provided. Proposals must ensure that there is sufficient space for recycling and refuse containers; access is safe for existing users/residents and for refuse and recycling collection vehicles; and the location and design of recycling and refuse provision should be integral to the design of the proposed development, having regard to the level and type of provision.
32. The width and length of the proposed access would mean that the Council's large refuse vehicles would not be able to access the site to undertake household refuse and recycling collections. It would also not be practical or reasonable for future occupiers to move refuse, recycling and food waste receptacles to the kerb on The Causeway for collection due to the distance and number of containers involved. The latter would be likely to block or hinder pedestrian access along the footway and/or affect potentially affect the safety of vehicles using the road. A communal collection point nearer to the highway is also not an option due to the width of the proposed access as this would comprise the ability of users to pass one another safely.
33. The appellant submitted an option agreement during the Hearing. This may allow the access to be widened, but it is not the scheme before me and both parties agreed that it was a matter of fact and that I was not being asked to grant planning permission on this basis.
34. Given the practical issues of a Council waste collection, the s106 proposes a private waste collection to mirror the Council's own service in terms of bin provision and the frequency of collection for refuse, recycling and food waste.
35. The evidence shows that a private waste contractor could use a vehicle to access the site, collect refuse and recycling, turn around and leave in forward gear. Moreover, each property could have separate refuse and recycling containers to match the size of those used for Council collections. There is sufficient space for these to be accommodated on each plot. The key difference would be that future occupiers would need to pay for this service. While this would be an extra financial commitment on top of Council Tax, this would not be prohibitively expensive for future occupiers.
36. The Council also collects food waste weekly. This is in line with the proposals within the Environment Bill which is yet to receive Royal Assent. The evidence of the potential private waste operator confirms that they would be unable to offer a weekly food waste collection. Therefore, to match the Council's service, the appellant suggests two options. The first is that the Council collect food waste. A partial collection service may not be normal practice, but it is possible based on the size of the vehicle currently used. However, this size of vehicle could well change. Hence, Council food waste collections are uncertain over the lifetime of the development.
37. The second option would be a composting bin for each dwelling. This could be of a benefit to the environment in mitigating the effects of climate change, and financially beneficial to future occupants as they could re-use composted material in their gardens. Otherwise future occupiers would either dispose of their food waste in refuse collections, need to pay for food waste to be

collected or they would need to dispose of it themselves. It is therefore a sustainable waste management measure that would encourage future occupiers to recycle their food waste. While the Council are concerned about its potential use, and I recognise that it would be a choice for future occupiers, this is no different to the choice that residents have in using the Council food waste collection. The Environment Bill may change matters, but my decision is based on the current situation and adopted development plan policy.

38. The Council are worried about future occupiers expecting a Council run collection service and the associated costs of responding to queries such as this, but there is no substantive evidence of what, if any, costs there would be to the Council based on a private waste collection service.
39. Insofar as the s106, I consider that the proposed waste strategy would meet the tests of the Framework and CIL Regulation 122. Consequently, I conclude that the proposed development would provide suitable access arrangements and adequate provision for on-site waste management and would as a result accord with Local Plan Policy CP43 and Local Plan 2 Policy DP28. These policies collectively seek development to make adequate provision of the recycling of waste on site and ensure safe access for existing users/residents.

Other Matters

40. Points are raised by residents about the use of The Causeway, highway safety and the effect of additional parking. The proposal would provide off-street parking for each plot and the access could be used by the majority of vehicles, including fire tenders. There would not be any specific visitor parking, but there are no parking restrictions along this stretch of The Causeway which allows for good forward visibility in either direction. Although vehicles do need to wait to pass oncoming vehicles, the proposal would not change this or make matters worse in highway safety terms.
41. I have had regard to the points raised about the effect of the proposal's construction on existing built form, but there is no substantive evidence before me to support the concerns. Any existing damage will not be because of the proposal as no development has commenced.

Planning Balance

42. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
43. The Government's objective is to significantly boost the supply of housing and the proposal would accord with the strategic plan-led approach set out in the Development Plan and provide 7 modern self-build and custom-build dwellings in a location with adequate access to facilities and services.
44. No harm would be caused by the proposed waste strategy and the s106 would mitigate the scheme's impact on public transport services and biodiversity. These matters do not weigh in favour or against the proposal.
45. I have found that the character and appearance of the Conservation Area would not be preserved and that the proposal would harm to the setting of the listed buildings at Nos 35/37, 39, Pound House, The Cottage and The Raised Causeway which would be contrary to the respective duties of Sections 66(1)

and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

46. In terms of the Framework, the degree of harm to the special interest and significance of the heritage assets would be at the lower end of less than substantial harm. Even so, I give it great weight and importance. Policies DP36 and DP37 along with Framework paragraph 196 require such harm to be weighed against the public benefits of the proposal which require clear and convincing justification. Policy DP37 states insofar as the Conservation Area that the development should make an equal or greater contribution in terms of public benefit.
47. The provision of self-build and custom-build houses would be a public benefit as they would help the Council meet its duty, help address the established demand for this type of house and widen the type and size of housing in the area. These are substantial social benefits. The s106 would secure the provision of the self-build or custom-build houses and satisfy the relevant tests. Future occupiers would be very likely to use and support local services, local facilities and local businesses. Consequently, the proposal would make a positive contribution to the local economy. The development of each house should also create opportunities for local builders, tradesmen and builder's merchants leading to local employment opportunities, especially given that construction is the third highest employment type in Steventon⁶. These economic benefits carry moderate weight. Council Tax is mitigation not a public benefit. Collectively, in this case, I consider these public benefits would outweigh the less than substantial harm that I have identified. Accordingly, the proposal would accord with Local Plan Policies CP1, CP37 and CP39, and Local Plan 2 Policies DP36, DP37 and DP38 and Framework paragraph 196.
48. I note the Corner Mead⁷ appeal decision, but the issues in this case differ. Concerns are expressed about a precedent being set, but my decision is based on the specific circumstances of the site, its surroundings and the merits of the case itself. It would be for the Council to consider any other development proposal based on its own merits in the first instance but having visited the village I am satisfied that my decision would not set a precedent.

Conditions

49. Conditions in respect of the reserved matters for the individual plots and the shared area of the site are necessary due to the nature of the scheme before me and to ensure the site is developed in accordance with the details submitted. I understand the points about the length of time which the development could take place over and to strike a balance between this and the type of housing that would be pursued by individuals, I have adjusted the timescale for submission of the reserved matters for each individual plot. An approved plans condition is necessary in the interests of certainty. Whilst allowing for flexibility in the design of each self-build and custom-build dwelling, a design code condition is necessary so secure a coherent and high-quality development that conserves or enhances the surrounding historic environment. For the same reason, conditions to secure tree protection measures and landscaping of the shared area are necessary.
50. A condition to secure a detailed sustainable drainage scheme for foul and

⁶ Appellant Statement of Case, Appendix C

⁷ Appeal Decision Ref: APP/H1840/W/19/3241879

surface water is necessary to prevent pollution and flooding. To ensure the construction of the development does not adversely affect highway safety, the living conditions of residents and the historic environment, I have imposed a condition for a construction traffic management plan. Conditions have been imposed in respect of car parking provision, turning areas and the access in the interests of highway safety. To compensate and mitigate for the net loss of biodiversity resulting from the development I have imposed a condition to secure off-site biodiversity enhancements. To minimise the impacts of the development on biodiversity, I have imposed a condition requiring the recommendations of the Preliminary Ecological Appraisal to be implemented. A permitted development restriction is necessary for extensions, roof additions or alterations and outbuildings due to the size of the plots, neighbouring residents living conditions and so that future development accords with the design code. A permitted development restriction is also necessary for gates, fences, walls or other means of enclosure to ensure compliance with the design code.

Conclusion

51. The proposal would accord with the Development Plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision.
52. For the reasons given above I conclude that the appeal should be allowed.

Mr Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Within two years of the date of this planning permission an application for approval of the initial reserved matters for the Initial Phase of the development involving all elements of the scheme not comprised within the individual dwelling plots shall be submitted, to include the following details:
 - the site access works comprising the access to The Causeway generally in accordance with, but not limited in detail to the application drawings, such including the removal or relocation of the existing telegraph post;
 - the shared access driveway and shared surfaces;
 - all car parking facilities and manoeuvring areas to be provided within the site in accordance with Oxfordshire County Council's standards (Transport for New Developments Parking Standards for New Residential Developments 2017 design guide document or any superseding document);
 - any external lighting in these areas;
 - site boundary treatments and structures;
 - landscaping not incorporated within a residential plot curtilage including shared open space and associated tree planting; and
 - the identification of plot boundaries

All subsequent reserved matters for each individual plot or plots must be submitted not later than three years from the date of this planning permission and development must be begun not later than two years from the date of the approval of the last reserved matter for the Initial Phase.

- 2) Approval of the details of the scale and appearance of buildings and landscaping within any particular plot (hereinafter called "the reserved matters") shall be in accordance with the approved Design Code for the site and shall be obtained from the Local Planning Authority in writing before the development of the dwelling on that plot is commenced. The development of each plot shall be carried out as approved.
- 3) That the development hereby approved shall be carried out in accordance with the following approved plans, A-02-102; A-01-101 Appeal Revision – Plot 7; Parameters for 7 plots Rev A; 333675-1; P850-03; P850-04; and P850-02a, except as controlled or modified by conditions of this permission.
- 4) No reserved matters applications shall be submitted until such time as a Design Code for the entirety of the site has been submitted to and approved in writing by the Local Planning Authority. The Design Code shall reflect guidance in the Vale of White Horse District Council Design Guide (March 2015) and include details, but not be limited to;
 - the form, massing and scale of the buildings;
 - plot coverage and plot parameters;
 - maximum building and storey heights for each plot;
 - building appearance;
 - building openings
 - material palette and detailing;
 - boundary treatments, soft and hard landscaping;
 - vehicle parking reflecting parking provision as per the approved initial reserved matters
 - cycle parking facilities;
 - external lighting;

- water and Waste Water (including SUDs);
- sustainable Construction (standards and design principles);
- gross Internal Floor Areas meeting the Local Government's Technical Housing Standards - Nationally Described Space Standard Level 1 in the case of any one or two-bedroom dwellings; and
- facilities for the storage of household waste and recycling;

All reserved matters applications shall include a statement providing an explanation as to how the design of the development complies with and responds to the details approved in the Design Code. The development shall thereafter be carried out in accordance with the approved details.

- 5) Prior to the commencement of any site works (including site clearance) a protected area shall be designated for all existing trees which are shown to be retained, and the trees shall be protected in accordance with a scheme which complies with the current edition of BS 5837: "Trees in relation to design, demolition and construction" that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The approved measures shall be kept in place during the entire course of development.
- 6) No development shall commence until a detailed sustainable drainage scheme for foul and surface water along with a programme and phasing plans for these works has been submitted to and approved by the Local Planning Authority. The strategy shall be based on Version 3 of the Flood Risk Assessment prepared by Water Resource Associates dated October 2019 and the information contained within letter reference WRACS02 dated 06/12/2019. The scheme shall have full consideration for the hydrogeological situation of the site and be based on latest sustainable drainage principles. No dwelling shall be occupied until all drainage required to serve that dwelling has been constructed in accordance with the scheme. The scheme shall include;
 - infiltration tests to be undertaken in accordance with BRE365;
 - proposed discharge rate limited to greenfield QBar (if attenuation based) and details of flow control;
 - SUDS features, attenuation requirements and detail drawings;
 - detailed drainage layout with pipe/chamber/soakaway numbers & sizes;
 - maintenance and management plan for SUDS;
 - detailed network calculations to include climate change allowances;
 - ground investigation report;
 - proposed site levels, floor levels and an exceedance plan;
 - site emergency response plan based on Environment Agency warnings with safe access and egress routes highlighted.
- 7) No development hereby permitted shall commence until a Construction Traffic Management Plan (CTMP) is submitted to and approved by the Local Planning Authority. The CTMP shall include details of:
 - parking arrangements for all vehicles of site personnel, operatives and visitors and mechanisms to ensure no vehicles of site personnel, operatives and visitors are parked on The Causeway;
 - the arrangements for the loading and unloading of plant and materials on to the site for the duration of the works;
 - the storage of all plant and materials on the site;
 - on-site turning for construction vehicles;
 - hours of construction and operation of machinery of deliveries;

- confirmation that no deliveries of plant or materials to/from the site shall take place between the hours of 0730 – 0930 hours and 1500 – 1800 hours;
- point of contact details for site manager during initial construction phase and prior to the construction of individual units;
- details of where the approved CTMP will be displayed on site for all site personnel, operatives and visitors to observe;
- details of wheel washing facilities and their location on the site;
- a plan showing the route to and from the site along the highway network for delivery vehicles; and
- details of how access to the site will be controlled (e.g. a banksman).

The approved CTMP shall be implemented prior to any works being carried out on site and shall be maintained throughout the course of the development and the development of each individual plot.

- 8) Subsequent to the initial reserved matters application, a scheme for the landscaping of the site in communal areas, including boundary treatments and the planting of live trees and shrubs, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the building up of the eastern stone boundary wall and schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and a implementation and maintenance programme.

The approved scheme shall be commenced prior to the first occupation of any dwelling and implemented in accordance with the approved implementation programme. Thereafter it shall be maintained in accordance with the approved scheme and maintenance programme. In the event of any of the trees or plants so planted within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, such trees or plants shall be replaced in the next planting season with others of similar size and species.

- 9) No development shall commence until details of all car parking facilities and manoeuvring areas to be provided within the site have been submitted as part of the initial reserved matters and approved in writing by the Local Planning Authority. The approved car parking and manoeuvring facilities shall be provided before first occupation and shall thereafter be retained at all times for the use of the development.
- 10) No development shall commence until details of the proposed works to the existing access to the site have been submitted as part of the initial reserved matters and approved in writing by the Local Planning Authority and no part of the development shall be occupied until those works have been constructed in accordance with the approved details. Thereafter, prior to the first occupation of any dwelling, the entire means of access to and shared surface drive within the site (except for the final surfacing thereof) shall be laid out, constructed, lit and drained and if required, temporary or permanent traffic calming shall be put in place in accordance with the previously approved details.
- 11) No development shall commence unless and until a certificate confirming the agreement of an Offsetting Provider to deliver a Biodiversity Offsetting Scheme totalling a minimum of 0.82 biodiversity units has been submitted to and approved in writing by the Local Planning Authority. The written approval of the Council shall not be issued before the certificate has been issued by the Offset Provider. The

details of biodiversity enhancements shall be documented by the Offset Provider and issued to the Council for their records.

- 12) The development hereby approved shall be implemented in accordance with all the recommendations made in section 6 of the supporting Preliminary Ecological Appraisal (Ecology By Design Ltd, 18/04/2019, Project Code: EBD000803).
- 13) Notwithstanding the provisions of Classes A, B, and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), there shall be no extension to any of the dwellings hereby permitted and no incidental buildings or structures shall be erected within the curtilage of any dwelling without the prior grant of planning permission.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) (England) 2015 (or any Order revoking or re-enacting that Order) the erection or construction of gates, fences, walls or other means of enclosure as described in Schedule 2, Part 2, Class A of the Order shall not be undertaken without obtaining planning permission from the Local Planning Authority.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Karen Cooksley
Andre Botha
Nichola Burley

W Legal
Albright Dene Ltd
Heritage Vision

FOR THE LOCAL PLANNING AUTHORITY:

Celina Colquhoun		39 Essex
Tracy Smith	South Oxfordshire and Vale of White Horse District Councils	
Samantha Allen	South Oxfordshire and Vale of White Horse District Councils	
Ryan Hunt	South Oxfordshire and Vale of White Horse District Councils	
Lisa Selby	South Oxfordshire and Vale of White Horse District Councils	
Kate Morris	South Oxfordshire and Vale of White Horse District Councils	
Luke Veillet	South Oxfordshire and Vale of White Horse District Councils	
Paul Harrison	Oxfordshire County Council	
Nick Hill	South Oxfordshire and Vale of White Horse District Councils	
Alex Tait		39 Essex

INTERESTED PARTIES:

Lesley Lovell	
Alexandra Freeman	
Dr C Wilding	Steventon Parish Council
Angela Einon	Steventon Parish Council

DOCUMENTS

- 1 - Suggestion walking route for site visit
- 2 – Two photographs of Council food collection vehicle
- 3 - Option agreement
- 4 – Revised wording to suggested condition no. 7
- 5 – Unilateral Undertaking
- 6 – Section 106 Dead of Agreement



Costs Decision

Site visit made on 22 March 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Costs application in relation to Appeal Ref: APP/V3120/W/20/3264528 2 Tennyson Drive, Abingdon OX14 5PD

- 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 Mrs Lee Kelsey for a full award of costs against Vale of White Horse District Council.
 - The appeal was against the refusal of planning permission for extension and conversion of existing house into four new dwellings, 2x2 bed flats and 2x1 bed flat with associated parking.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The application experienced significant delays during its consultation period, notably in regard to liaison with the Highway Authority. Some of the delays can be explained by the restrictions placed on officer site visits during the Covid-19 lockdown. The remainder were the result of toing and froing as the appellant sought to challenge the highways response. The matter was resolved in the appellant's favour when a senior officer reviewed the case. The original highway officer raised additional concerns that should have been voiced sooner, but ultimately it was a difference of professional opinion over the application of maximum parking standards. The appellant incurred the expense of appointing a highway consultant but this was a necessary part of the process of engaging with the Highway Authority.
4. The District Council was entitled to rely upon expert advice from its consultee, even if that advice was far slower than might be ideal. Bearing in mind the extenuating circumstances of the global pandemic, and the pressures placed on public bodies during this time, I do not consider that the delays incurred constitute unreasonable behaviour. I have noted that the case officer maintained reasonable communication with the applicant throughout the process.
5. The appellant has various grievances in relation to the committee debate and argues that this was not based on an accurate knowledge of the site. Despite lockdown restrictions, the site is clearly visible from the road and members would have been able to visit individually prior to the committee. For those

unable to do so, I am told that photographs of the site and its surroundings were made available as part of a presentation with the proposed plans. It is evident that there was discussion at the meeting on the merits of the application. The nature of debate varies between committees, and it is not for me to pass judgement on whether this particular committee adhered to its own protocols – that is a matter for the Council. The question for me to consider is whether the decision arrived at by members has been substantiated with evidence.

6. The refusal reason is clear and specific and cross-referenced to development plan policy. It is not uncommon in my experience for professional officers to assist members with the framing of their objections. The Council's statement of case expands upon the refusal reason by describing the character of the area and explaining how the proposal would affect this. The evidence seeks to differentiate the appeal scheme from the development at 9 Masefield Crescent. Although the appellant cites this and other corner developments as precedents, the reality is that each is different in terms of its scale, design and surrounding context. None of the other schemes are directly comparable and therefore the Council was not guilty of dealing with similar cases in an inconsistent manner.
7. The appeal required the exercise of judgement concerning the impact on the character and appearance of the area. Given the degree of subjectivity involved it would not be appropriate to make an award of costs unless the local planning authority has failed to support its arguments with any objective analysis. In this case, the Council has been able to provide an explanation as to why it considers the proposal would harm the character and appearance of the area. Overall, I am satisfied that the concerns raised by the planning committee had a rational basis, even though I have concluded that the proposal would not have a material adverse impact on the character and appearance of the area.
8. Officers, having recommended the original application for approval, were not prepared to support a revised scheme and they were reluctant to provide constructive advice on what could make the proposal acceptable. Although a more helpful stance may have lessened the appellant's frustration, it would not have avoided the appeal in its entirety. The stated intention was to progress the appeal alongside a new application in order to allow an earlier start on site. On this basis, unnecessary or wasted expense has not been demonstrated.
9. It may be that the application could have been determined sooner, had the Covid-19 restrictions not been in place and the Highway Authority been more efficient in its consideration. Nonetheless, for the reasons set out above, unreasonable behaviour has not been demonstrated. The appeal could not have been avoided and therefore it follows that the costs incurred in preparing the appellant's evidence were required expenditure. Unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Robert Parker

INSPECTOR



Appeal Decision

Site visit made on 22 March 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Appeal Ref: APP/V3120/W/20/3264528

2 Tennyson Drive, Abingdon OX14 5PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Lee Kelsey against the decision of Vale of White Horse District Council.
 - The application Ref P20/V0404/FUL, dated 10 February 2020, was refused by notice dated 11 November 2020.
 - The development proposed is extension and conversion of existing house into four new dwellings, 3x2 bed flats and 1x1 bed flat with associated parking.
-

Preliminary Matters

1. The above wording is taken from the application form. Revised plans were submitted during the course of the application. These altered the housing mix to 2x2 bed flats and 2x1 bed flats. The Council made its decision against the amended plans and I shall determine the appeal on the same basis. I have adjusted the description of development in my decision to reflect the revisions.

Decision

2. The appeal is allowed and planning permission is granted for extension and conversion of existing house into four new dwellings, 2x2 bed flats and 2x1 bed flats with associated parking at 2 Tennyson Drive, Abingdon OX14 5PD in accordance with the terms of the application, Ref P20/V0404/FUL, dated 10 February 2020, subject to the conditions set out in the attached schedule.

Application for costs

3. An application for costs was made by Mrs Lee Kelsey against Vale of White Horse District Council. This application is the subject of a separate decision.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal property occupies a corner plot at the junction of Tennyson Drive and Masefield Crescent. This link-detached house is a component part of the street scene of Masefield Crescent and is particularly prominent in views from the direction of Mill Road. Hedging along the boundary with Masefield Crescent is visually attractive, but the side garden does not make a significant contribution to the sense of spaciousness at the junction.

6. The proposal would bring the built form closer to Masefield Crescent and this would make the appeal property more conspicuous in the street scene. However, visibility does not always equate to harm. The new extension would be lower than the existing roof ridge and its mass would be articulated into two discrete blocks with varying eaves heights. From most angles, the extension would read as 1½ storey, particularly from the front where a dormer would sit within the roof slope. Materials would match the host property, with contrasting cladding being used to break up the side elevation. The result would be a subordinate addition which harmonises with the original building.
7. The design would be unique to the appeal property; there are no similar examples within the surrounding area. However, this is a mature residential estate and domestic extensions are commonplace. Given the wide variety that exists locally, including extensions that have taken place on corner plots, I do not consider that the development would be out of keeping. The extension would be set back into the site behind the pavement and grass verge, and this would ensure that it is not overly dominant in views along Masefield Crescent. The retention of existing greenery would help to soften the visual impact.
8. I am told that the planning committee voted to refuse the application on the basis that it failed to meet the criteria in DG 51, 52, 57 and 59 of the Council's Design Guide Supplementary Planning Document (2015) (SPD). These criteria have not been addressed in the authority's evidence, but having read the guidance I do not consider there to be any substantive conflicts. The proposed extension would have an appropriate scale, form and massing and furthermore the design of the roofscape and dormer would be acceptable.
9. Accordingly, I conclude that the proposal would not cause unacceptable harm to the character or appearance of the area. There would be no conflict with Policy CP37 of the Vale of White Horse Local Plan 2031 (LP) insofar as this seeks high quality design that responds positively to the site and its surroundings.

Other Matters

10. The site lies within Abingdon which is classified as a Market Town within the LP. Market Towns have the greatest long-term potential for development to provide the jobs and homes to help sustain, and where appropriate, enhance their services and facilities to support viable and sustainable communities in a proportionate manner. The extension and conversion of the appeal property to flats is therefore acceptable in principle, subject to compliance with policies on detailed matters such as design and highways.
11. The scheme makes provision for 4 parking spaces, equivalent to 1 per flat. This is in line with the Oxfordshire Parking Standards. Concerns have been raised regarding highway safety impacts. However, a development of this nature is unlikely to generate a large number of traffic movements or significant additional demand for parking. The extension would not obstruct sight lines at the junction and timed and dated photographic evidence submitted by the appellant, together with my own observations, indicates that displaced parking, including visitor parking, can be safely accommodated on the road. The Highway Authority considers the proposal to be acceptable in highway terms and based on the evidence before me I am minded to agree.
12. Paragraph 109 of the National Planning Policy Framework explains that development should only be prevented or refused on highways grounds if there

would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Whilst I acknowledge the level of local concern in relation to parking and highway matters, such adverse impacts have not been evidenced.

13. The proposal provides courtyards for the ground floor flats and a communal amenity space for the first floor flats. This accords with the recommendations set out within principle DG 72 of the Design Guide SPD. Although gross internal floor areas have not been provided there is no suggestion that the flats would be substandard in terms of their internal floor area. Overall, I am content that the flats would provide an acceptable living environment.
14. The plans show that the proposed extension would have windows in the side elevation. However, an adequate distance would be maintained to existing dwellings on the opposite side of Masefield Crescent, sufficient to ensure that there would be no material loss of privacy. The distance to neighbouring properties is also such that the development would not have an overbearing impact or result in a material loss of daylight or sunlight for adjoining occupiers.
15. The Council's drainage engineer is satisfied that, subject to further details of surface water disposal being secured by condition, no significant flooding issues would arise. There is no technical evidence to lead me to a different view.
16. I have taken account of all other concerns raised, including those in relation to party wall issues and pollution from an oil storage tank, but they do not alter my overall conclusion. As regards concerns over precedent, it is an established principle that planning applications should be determined on their own merits.

Conditions

17. In addition to the standard commencement condition I have attached a condition specifying the approved plans, in the interests of certainty. To secure harmonious treatment, a condition is required in relation to materials.
18. I have also imposed conditions to secure the car parking and cycle parking provisions, in the interests of highway safety and encouraging sustainable transport modes respectively. For highway safety reasons a further condition is needed to require the provision of visibility splays.
19. Details of foul and surface water drainage are required prior to groundworks commencing and therefore the Council's suggested pre-commencement conditions are justified.

Conclusion

20. The proposal would accord with the development plan read as a whole. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Drawing no TNNY.P11 Revision G.
- 3) No development shall commence until a full surface water drainage scheme, including details of the size, position and construction of drainage works, coupled with Planning Practice Guidance measures, has been submitted to and approved in writing by the local planning authority. The drainage scheme shall be designed to accommodate a 1 in 100 year storm + 40% climate change allowance and shall be implemented in accordance with the approved details prior to the completion or first occupation of the development, whichever is sooner.
- 4) No development shall commence until a full foul water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the size, position and construction of the drainage scheme, all coupled with calculations to evidence this. The approved scheme shall be implemented prior to first occupation of the development.
- 5) The development shall not be occupied until visibility splays have been provided in both directions measuring 2.4m by 25m or to the termination of the road. Such splays shall be designed to ensure there is no obstruction to vision above 0.9 metre in height relative to the centre line of the adjacent carriageway over the whole of each visibility splay area. Thereafter, the visibility splays shall be permanently maintained free from obstruction to vision.
- 6) The development shall not be occupied until the parking spaces shown on approved Drawing No. TNNY.P11 REV G, have been constructed, surfaced in a properly consolidated material (not loose stone or gravel) and marked out. The parking spaces shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking spaces shall be kept permanently free of any obstruction to such use.
- 7) The development shall not be occupied until the cycle parking provision shown on approved Drawing No. TNNY.P11 REV G has been constructed. Thereafter, the cycle parking provision shall be kept permanently free of any obstruction to such use.
- 8) The development shall be built using only the external materials specified on the forms and/or shown on the approved drawings the subject of this planning permission, unless otherwise agreed in writing by the local planning authority.

*** END ***