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## Appeal Decision

Site visit made on 11 December 2018

**by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 January 2019**

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**Appeal Ref: APP/D3125/W/18/3208764**

**The Paddocks, 58 Worton Road, Middle Barton, Chipping Norton, Oxfordshire OX7 7EE**

- 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 Paul Wilcox & Mrs Elizabeth Wilcox against the decision of West Oxfordshire District Council.
  - The application Ref 17/03815/OUT, dated 3 November 2017, was refused by notice dated 6 February 2018.
  - The development proposed is demolition of existing property and proposed erection of 11 new residential dwellings on land at the rear.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Paul Wilcox & Mrs Elizabeth Wilcox against West Oxfordshire District Council. This application is the subject of a separate decision.

### Preliminary Matters

3. The revised National Planning Policy Framework (the Framework) was published on the 24 July 2018. Furthermore on 12 September 2018 a Written Ministerial Statement (WMS) was made which temporarily amends how paragraph 11 (d) of the Framework applies in Oxfordshire. Both main parties have had the opportunity to comment on the Framework and the WMS.
4. The appeal is in outline with all matters reserved. A plan<sup>1</sup> submitted with the application shows 11 dwellings on the appeal site, which I have treated as illustrative.
5. It has been brought to my attention that the West Oxfordshire Local Plan 2011-2031 (LP) was adopted on the 27 September 2018. The LP replaces all of the saved policies of the West Oxfordshire Local Plan 2006-2011. Policy EH1 of the emerging version of the LP was renumbered to become LP Policy EH2. Both parties are aware of this and have had a chance to comment. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis.
6. A Transport Statement (TS) was submitted during the appeal process and the Council and Highway Authority have had the chance to comment on this. The Highway Authority has stated that based on the information provided within the TS that it is satisfied that the development proposals would not result in a

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<sup>1</sup> Drawing No 116659-004

significant and unmitigated impact on the local network and that the previous concerns expressed through reason for refusal No 3 have been addressed. As such, I have not considered this matter any further in the main issues.

### **Main Issues**

7. The main issues are:-

- the effect on the character and appearance of the area;
- the effect on the living conditions of adjacent occupiers with regard to noise and disturbance.

### **Reasons**

8. The appeal site comprises 58 Worton Road (No 58), a detached dwelling, its garden areas and a presently unused paddock that has an outbuilding on it that has been used in the past to house horses. The proposal would involve the demolition of the existing house and the erection of 11 dwellings.

#### *Character and appearance*

9. The West Oxfordshire Landscape Assessment (WOLA) indicates that the appeal site falls within the Ironstone Valleys and Ridges Character Area. It states that the character of this area is defined by its overall diversity, with the complex landform and the intricate patchwork of fields, hedges and woodland combining to create a rich pattern of landscape. Within this area it also identifies a number of local landscape types and the site is indicated to be within the semi-enclosed limestone wolds (large-scale) landscape. The key characteristics of this landscape include land use dominated by intensive arable cultivation with only occasional pasture, some visual containment provided by large blocks and belts of woodland creating a semi-enclosed character and moderate intervisibility. The site is not within an Area of Outstanding Natural Beauty.
10. The WOLA also states that Middle Barton is a sprawling, unplanned settlement with a mixture of building styles and materials. There is no dispute that the appeal site can be treated as previously developed land that adjoins the built up area of the village of Middle Barton and that in those circumstances LP Policy H2 states that new dwellings will be permitted provided the proposal complies with the general principles set out in LP Policy OS2 and any other relevant policies in this plan.
11. LP Policy OS2 relates to locating development in the right places and states, amongst other things that the villages are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities. The general principles of this policy include that all development should, amongst other things, form a logical complement to the existing character of the area, not have a harmful impact on the amenity of existing occupants and as far as is reasonably possible protect or enhance the local landscape and the setting of the settlement. I will return to the amenity of existing occupants in the second main issue.
12. LP Policy EH2 states, amongst other things, that the quality, character and distinctiveness of West Oxfordshire's natural environment, including its landscape and countryside will be conserved and enhanced.
13. No 58 is located within a small row of detached dwellings that is separated from the main part of the village's built form, which is on the same side of Worton Road, by the playing fields and grounds of the Middle Barton Sports

and Social Club. This row of dwellings has fields and the paddock that forms part of the appeal site to the north and east of it. As a result, this part of Worton Road is characterised by a linear pattern of development fronting the public highway that is significantly narrower in depth, from Worton Road, than developments on the opposite side of Worton Road and on the same side of this road within the main part of the village. The appeal dwelling appears to be of modern construction and its demolition alone would have a neutral impact on the character and appearance of the area.

14. Due to the sloping topography Worton Road rises as you travel out from the centre of Middle Barton. Consequently, there are views of the rear part of the appeal site and its landscaping and trees from Worton Road across the grounds of the Sports and Social Club. There are also views of this part of the site from the nearest public right of way (PROW) to the east of it. Due to its mainly undeveloped nature and its landscaping and trees the rear part of the appeal site has more visual affinity with the countryside that surrounds this part of the settlement than the urban form of Middle Barton. Moreover, within these views that part of the site forms part of the countryside setting of the settlement and visually it makes a contribution to the rural character of the area.
15. The submitted layout is illustrative of how the 11 dwellings could be accommodated on the site and the appellants are not tied to that layout as all matters are reserved for later approval. However, given the shape of the site, its restricted width between 56 and 60 Worton Road and the scale of the development it is highly likely that the plan before me is representative of where the means of access and dwellings would be sited. In particular, the majority if not all of the dwellings would occupy the section of the site that is to the rear of the existing dwellings.
16. As such, the houses would be set well back from Worton Road. I acknowledge that the layout of the scheme could be designed to ensure that the existing landscaping and trees on the boundaries of the rear part of the site could be retained and supplemented by additional planting to reduce the visual impact of the development. Given the semi enclosed nature and moderate intervisibility achievable within the character of this landscape long distance views of the development would be unlikely. Furthermore, given the scale of the development the distinctiveness of the wider landscape would not be materially altered.
17. Nonetheless, the dwellings would be seen in glimpsed views along the new access drive. They would also be apparent from the grounds of the Sports and Social Club, from Worton Road and the PROW especially in the months when the landscaping would not be in full leaf. The proposal would introduce new built form and hard surface areas for access and parking into largely undeveloped land that, at present, positively contributes to the rural character of the area. The proposal would therefore erode the present undeveloped character of the rear part of the site and the rural character of the area.
18. Furthermore, the positioning of dwellings behind the frontage properties would be at odds with the pattern of development in this part of the village. In visual terms I consider that the development would not integrate successfully with this part of the existing settlement and it would appear as an anomalous cluster of housing projecting into the countryside setting of the village. Consequently the proposal would not appear as a logical complement to the

existing character of the area but as an unsympathetic extension into the countryside. I appreciate that there is some variation in building patterns in Middle Barton and that the settlement has an open and sprawling character when taken as a whole. However, the proposed development would be seen in the context of the immediately adjoining development where properties are linear in form and directly front the public highway.

19. The paddock area appears to have been unused for some time and large parts of it are currently overgrown and poorly maintained but it does not appear out of place in its landscape context. I do not consider that the removal of the untidy appearance of this part of the appeal site would mitigate the harm I have identified above.
20. The appellants have drawn my attention to a number of other developments that have been built or approved in the area. However, I do not have the full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. Moreover, since the matter under consideration in this appeal is specific to the site and its immediate surroundings I have given them limited weight. In any case, I am required to determine the appeal on its own merits.
21. Taking into account all of the above, the proposal would not form a logical complement to the existing character of the area and it would not protect or enhance the countryside setting of the settlement. As such, it would materially harm the character and appearance of the area. It follows that the proposal would conflict with LP Policies H2, OS2 and EH2.

#### *Living conditions*

22. As stated above, it is highly likely that the means of access for vehicular and pedestrian traffic to serve the development would be in a similar form to that shown on the submitted plan given the size and shape of the appeal site. As such, the access would be between 56 and 60 Worton Road (Nos 56 and 60). At present these dwellings have side elevations that are within close proximity of their boundaries with the appeal site. The access drive would run adjacent to these side elevations and the boundaries of their rear gardens.
23. I noted at my site visit that there is a low background noise level when standing within the rear garden of No 58. I acknowledge that at different times of the day the background noise level may be different. However, given the rural character of the area the existing occupiers of the adjacent dwellings are likely to experience relatively tranquil levels of noise and disturbance when within their rear gardens. Furthermore, the existing drive and access on the site only serves No 58 and the paddock.
24. The access drive would be designed to ensure that it would be of sufficient width to allow vehicles to use it. The site appears to be in a relatively accessible location and therefore a number of trips from it may not utilise a private car. I have little evidence before me to indicate the potential number of trips that would be generated by the development. I also note that the Highway Authority have stated that the quantum of development is unlikely to have a significant impact on the local highway capacity.
25. Nevertheless, the intensity and activities occurring on the site as a result of the development are likely to be materially different to its use as a paddock and

one dwelling. In particular, it is likely to lead to a level of comings and goings from vehicles and pedestrians that would be substantially higher than might be expected from the existing use.

26. As such, the occupants of the properties either side of the proposed access drive are likely to experience materially higher levels of noise and disturbance associated with vehicular and pedestrian movements passing in close proximity to their dwellings. In addition, the proximity of the access drive to their rear gardens would lead to a significant reduction in the level of tranquillity that these gardens currently enjoy.
27. The existing boundary treatments and landscaping could be supplemented with additional fencing and landscaping. This may mitigate the noise and disturbance to some extent especially that of headlights in the hours of darkness. Nevertheless, no noise assessment has been submitted and as such I have no technical evidence before me in relation to the existing background noise levels and noise levels from the existing use compared with the proposed noise levels.
28. Taking into account all of the above, the evidence before me does not offer sufficient clarity and robustness for me to be able to conclude that the proposed development would not cause harm to the amenity of the neighbouring occupiers due to noise and disturbance. Moreover, from the information before me it appears likely that it would cause a harmful impact on their living conditions in this respect. Consequently, it follows that the proposal would conflict with LP Policy OS2. The proposal would also conflict with paragraph 127 of the Framework which states, amongst other things, that decisions should ensure that developments create places with a high standard of amenity for existing and future users.

#### *Other matters*

29. I note the appellants' concern regarding difficulties communicating with the Council. However, that is not a matter for my consideration in the context of this appeal decision.
30. A planning application for dwellings north of the appeal site and No 60 was submitted in 2018 and the Council resolved to refuse that application but it was withdrawn before the decision was issued. A further planning application for housing on that site could be resubmitted. However, I am required to determine the appeal on its individual merits.

#### *Planning balance*

31. The appellants have stated that they are willing to provide 3 affordable houses as part of the development to meet an identified need for affordable homes in Steeple Barton. LP Policy H3 states that housing schemes of 11 or more units or which have a maximum combined gross floor space of more than 1,000m<sup>2</sup> will be required to provide affordable housing on-site. Whilst there would be a net increase of 10 dwellings on the site as the proposal is in outline form I have little evidence to indicate that the floor space of the dwellings would be more than 1,000m<sup>2</sup>. I note that the Council do not consider that an element of affordable housing is necessary to make the development acceptable in planning terms. Furthermore, there is no specific mechanism before me such as a completed legal agreement under Section 106 of the Town and Country



- Planning Act 1990 that would secure this. This is therefore a matter which does not weigh for or against the proposal.
32. Bearing in mind this is an outline application, a reserved matters scheme could be appropriately designed in materials that would be sympathetic to the vernacular architecture of the surrounding area. The Highway Authority now considers that the proposal would not result in a significant and unmitigated impact on the local network. The Council did not object to the proposal in relation to its impact on heritage assets, archaeology, biodiversity or the privacy of neighbouring occupiers. However, the lack of harm in these respects is a neutral consideration that does not weigh for or against the proposal.
33. The proposal would utilise previously developed land and this is a limited benefit which counts in its favour. I agree that it would help to boost the supply of housing in line with the government's objective set out at paragraph 59 of the Framework. The site is within a relatively accessible location in a rural area as there are services and facilities within easy walking and cycling distance of the site and bus services accessing the wider area. The construction works and occupation of the proposal would have modest economic benefits. The occupants of the dwellings would help to maintain the vitality of the rural community. As such, there would be appreciable social and economic benefits associated with proposal.
34. Paragraph 11 of the Framework sets out the presumption in favour of sustainable development and defines what it means for decision-taking, as set out in sections c) and d). The WMS states that footnote 7 of the Framework will apply where the authorities in Oxfordshire cannot demonstrate a 3 year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). The Council have stated that it can demonstrate a 6.7 years supply of deliverable housing sites (HLS) and the appellant has not specifically disputed this figure. The proposal can be treated as a windfall development on a small site and even though the Council has a 6.7 HLS, the Framework does not suggest that this should be treated as a cap or an upper limit.
35. Nevertheless, the policies that are most important for determining this appeal are not out-of-date. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise, in accordance with section 38(6) of the Planning and Compulsory Purchase Act (2004).
36. Moreover, paragraph 15 of the Framework states that the planning system should be genuinely plan-led. I have found that the proposal would conflict with LP Policies H2, OS2 and EH2. The harm that would be caused leads me to conclude that the proposal would conflict with the development plan as a whole. In this case whilst there would be social and economic benefits associated with the proposal I consider that there are no material considerations of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan.

### **Conclusion**

37. Having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*D. Boffin*

INSPECTOR