

Appeal Decision

Hearing held on 30 July 2024

Site visit made on 30 July 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2024

Appeal Ref: APP/D3125/W/23/3321908

Land East of Worton Road, Middle Barton, Oxfordshire OX7 7EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mintondale Developments Ltd against the decision of West Oxfordshire District Council.
 - The application Ref is 22/02947/OUT.
 - The development proposed is 'Outline planning for development of up to 28 dwellings, vehicular access, green infrastructure including landscaping, and related drainage and other infrastructure works, (all matters reserved other than access from Worton Road)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application subject to this appeal was made in outline form with all matters reserved for future consideration other than access. A layout plan was submitted for indicative purposes only. Although there is much discussion of landscaping in both main parties' submissions, and there are some elements of landscaping proposals in the indicative plans, I will treat the appeal on the basis that landscaping remains a reserved matter and detailed proposals would come forth in a reserved matters application.
3. Prior to the hearing, the appellant drafted an unsigned planning obligation pursuant to Section 106 (S106) of the Town and Country Planning Act 1990. This contained obligations to West Oxfordshire District Council to provide 50% affordable housing on site, together with mechanisms for delivering the dwellings. Since the hearing, the obligation has been signed and returned by both parties. Additionally, financial contributions towards education, public transport, recycling and public rights of way are agreed to be made to Oxfordshire County Council. This agreement was signed prior to the hearing, and I received a copy later in the proceedings.
4. On 30 July 2024, the Government published a consultation draft of proposed reforms to the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on these proposed changes and their submissions have been considered in the determination of

this appeal. However, due to the stage of the consultation on the changes, these are worthy of limited weight overall.

Main Issues

5. The main issues are as follows:

- The effect of the proposal on the character and appearance of the area; and
- Whether the appeal site represents a suitable location for the proposal, with regard to local and national spatial planning policy.

Reasons

Character and Appearance

6. The appeal site comprises a section of a larger arable field located on the northern edge of the village of Middle Barton. The development site would be accessed from Worton Road to the west and utilise the southwest corner of the field to accommodate up to 28 dwellings. The host field is bound by a mix of mature trees and foliage to all sides, although it is not entirely screened from view. Beyond the site to the north and east there are expanses of similar large fields, while beyond Worton Road to the west lies further open countryside and some housing at the northern extent of the village. To the south there are 5 detached dwellings which extend in a linear fashion facing the road.
7. The majority of the built form of Middle Barton is to the north of North Street, which transects the village from east to west. Worton Road branches off from North Street and runs north towards the appeal site before leaving the village. Development to the west of Worton Road is a mix of linear buildings with a generally consistent setback from the road and estate type development formed around roads branching off from the road and built behind the main frontage. The extent of the projection of this built form to the west is consistent and forms a hard edge to the settlement with development of relatively dense and tight knit form.
8. Development to the east of Worton Road follows a similar pattern between the junction with North Street and the playing fields. From here, there is a distinct shift to a more sporadic and open character. Between the playing fields and the appeal site lies only the aforementioned 5 detached dwellings.
9. I have had regard to the appellant's Landscape and Visual Impact Assessment¹ (LVIA), which advises the site is located within the 'Ironstone Valleys and Ridges' landscape type identified within the West Oxfordshire Landscape Assessment (WOLA). Of relevance to this appeal is the identified characteristic intricate patchwork of fields, hedges and woodland combining to create a rich landscape pattern.
10. The WOLA also breaks down the landscape areas to a more local level, with the appeal site in the 'Semi-enclosed Limestone Wolds' character type. This is characterised by smoothly rolling farmland dominated by arable use, large scale fields bound by a mix of drystone walls, hedges and trees, and some

¹ Es Landscape Planning – October 2022, Ref: 9457L.LVIA.003

visual containment by woodland belts, amongst other things. The assessment notes that whilst not being covered by any statutory landscape designations, such as the Cotswolds Area of Outstanding Natural Beauty (AONB), this character area lies within an Area of High Landscape Value (AHLV) with a number of positive conservation features.

11. The WOLA goes on to conclude that overall, the Ironstone Valleys and Ridges have a very attractive and unspoilt rural character with few detracting influences. One principal factor which threatens the landscape quality of the area is the expansion and suburbanisation of rural settlements.
12. The proposal seeks to erect up to 28 dwellings formed around an estate road. Although the site layout plan is indicative, and layout is a reserved matter, given the number of dwellings and the size of the overall site it is reasonable to proceed with the presumption that the final layout would be of similar design with regards to its general orientation around the road. The projection of built form would go beyond the rear boundaries of the 5 dwellings to the south and out to a similar extent of the playing fields.
13. As such, I disagree with the assessment of the LVIA insofar as it is claimed that the proposed development does not give rise to the perception of the village extending out into the wider landscape. The proposal would inevitably introduce a significant increase in built form to an undeveloped arable field. This would urbanise an open and verdant location through the dwellings and estate road alongside the expected domestication of the site, including parked cars and garden paraphernalia. The built form overall would project to a significant distance into the open countryside some way beyond the extent of built development in the immediate vicinity. This would be particularly stark on this side of Worton Road given built form decreases significantly from the playing fields northwards. In that regard, the proposal would introduce an estate development and a hard edge to the northern boundary of the village where at present the site forms part of the open setting as the village transitions from urban to rural.
14. Although landscaping could be used to soften the edge of the new site boundaries to the north and east, this in itself would accentuate its incongruity within a larger field structure which is identified as a strong positive characteristic of the local and wider area.
15. The proposal would represent a significant suburban incursion into open countryside and therefore be harmful to the landscape character of the area, in particular its intricate patchwork and large-scale arable fields. This would also be incompatible with the identified threat to the landscape quality of the area insofar as the proposal would suburbanise and expand a rural settlement in a significant manner.
16. Turning to visual impacts, on my site visit I walked along the public right of way (PROW) which runs north from Holliers Crescent and past the appeal site to the east. From here the site was evident in views along much of this path with only temporary obscuring elements in the form of hedgerows. I note the visualisations in photomontage viewpoint numbers 9 and 10 in this regard which show the appeal site clearly between the boundary foliage to the right of the 5 detached dwellings to the south.

17. I found the walk along the path to be a pleasant and tranquil environment which is clearly well used given the number of passers-by I encountered even at the mid-afternoon hour. From my observations and the visualisations provided from this location, it is clear that the view here would change considerably. Over time, landscaping may soften the appearance of the estate, but this would take a substantial time. In the meantime, pedestrians, which are high sensitivity receptors, would have their enjoyment of the footpath significantly harmed. Taken together, I disagree that the magnitude of harm would be low. The LVIA methodology defines the 'high' magnitude of change as including the introduction of prominent new elements that are considered to make a major alteration to a landscape or view. Given my assessment as above, this would be a high magnitude of harm.
18. I also observed the site from Worton Road where it was inevitably visible through gaps in foliage. This is not surprising given the proximity of the site to the road, and while there is existing screening in the form of boundary trees and hedges, the dwellings would still be highly visible, particularly those on the western boundary of the site and through the vehicular access. Views from this location would also contribute to a high level of harm visually.
19. There was concern raised by interested parties and the Council at the hearing regarding the lack of winter views in the submitted visualisations in the LVIA. When questioned, the appellant was unsure as to why these were not part of the assessment. These would have demonstrated the effects of the proposal as a 'worst case scenario' given some foliage and trees may not be in leaf. As I have found the proposal to be harmful based on the effects during the summer months, it logically follows there would be equal if not more harm during the winter months when the trees are not in leaf.
20. From my observations on site, I am largely in agreement with the remaining findings of the LVIA in that the development would result in negligible adverse impacts over the much longer distant views of the appeal site. I note the majority of concern from the Council and local residents is in the visual harm locally rather than in longer range views. Views from locations other than Worton Road and the right of way to the east are likely to be fleeting and due to the distance of other viewpoints the level of harm would be minimal.
21. The Parish Council drew my attention to the buildings to the west of the appeal site entrance, which are evidently flats of mid to late 20th century origin which it considered unsightly. Be that as it may, perceived bad design does not justify allowing design that I consider to be harmful to proceed on that basis alone. While the Framework is currently undergoing consultation on proposed changes, the current iteration still seeks to create well-designed and beautiful places.
22. The appellant has stipulated that the completed development would utilise high quality materials to create the desired standard of built form. I would expect nothing less from a proposed development such as this, and while specific details relating to design could be refined through a subsequent reserved matters application, I am not satisfied at outline stage that an acceptable design has been achieved based on the evidence before me.
23. Regardless of whether the layout of the site would constitute backland development, for the reasons above the proposal would have a harmful

adverse effect on the character and appearance of the local area. It would therefore conflict with policies OS2, OS4 and H2 of the West Oxfordshire Local Plan 2031 (LP) (adopted September 2018), which seek, among other things, to ensure new development should respect the historic, architectural and landscape character of the locality, contribute to local distinctiveness and, where possible, enhance the character and quality of the surroundings. This would also conflict with paragraph 135 of the Framework which advises that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

Whether Suitable Location

Necessary to Meet Identified Housing Needs

24. Policy H2 of the LP states that new dwellings will be permitted in main service centres, rural service centres and villages in certain circumstances. Of relevance to this appeal, in villages such as Middle Barton this includes on undeveloped land adjoining the built-up area where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs. Policy H2 also specifies that development proposals will need to be in accordance with other policies in the plan, in particular the general principles in Policy OS2 which advises that villages are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities.
25. At the hearing, it was established that there was no dispute between the main parties that the appeal site adjoins the built-up area of Middle Barton. The site is clearly undeveloped and therefore the main test of policy H2 is whether there is convincing evidence to demonstrate that the proposal is necessary to meet identified housing needs.
26. The identified housing need was presented by the appellant in their written representations which were interrogated further at the hearing. The data is included in the table dated 23.11.2021 from Homeseeker Plus, a local housing provider, which identified 33 individuals with requests at that time for housing in 'the Bartons' (Middle Barton, Steeple Barton and Westcott Barton). Although the Council disputed the merit of this list, I have nothing before me to conclusively discount it. The data demonstrates the vast majority of these 33 individuals prefer Middle Barton. It also specifies other matters such as the size of property required, the ages and number of people in the household and special requirements. However, it does not detail whether prospective occupiers are looking to buy or rent properties, although the appellant stipulated at the hearing that the number looking to purchase a property on that list is 2. There was nothing to the contrary from the Council on this and I see no reason to dispute it.
27. To that end, the S106 sought to provide 50% on site affordable housing, or 14 units in total. Of these 14, the planning obligation was amended to provide 33% to be available for first time buyers and the remaining 67% as socially rented units. Given there are 14 affordable units across both tenures, in real terms this would equate to roughly 4 of these units available for first time buyers and the remaining 10 for social rent.

28. The units for social rent would contribute roughly a third of the 31 registered individuals seeking affordable rent. The units for first time buyers would exceed the registered 2 required. The S106 details that in the event that these properties are marketed for a period of 3 months and a willing purchaser who meets the local eligibility criteria has not been found, the local criteria will cease to apply, and this can then be opened up nationally for first time buyers. Nevertheless, the 14 affordable dwellings would meet an identified need overall.
29. The remaining 50% of the units would be market housing. The Statement of Common Ground (SoCG) confirmed that the main parties agreed that the Council's latest housing land supply position was 4.38 years as established in a planning appeal decision² earlier this year. This equates to a position of 2,498 homes against the 5-year requirement covering the period of 1st April 2023 to 31st March 2028 of 2,850, or a shortfall of 352 dwellings. At the hearing, the Council confirmed that meeting a district wide shortage of housing has previously been considered to constitute an identified need. This is confirmed in the supporting paragraph 5.38 of Policy H2 also. Taken together, the proposal would meet an identified need.

Accessibility and Services

30. It was established at the hearing that Middle Barton includes some local services, including the nearby sports hall and playing fields, post office, community hall, primary school and public house. I observed some of these on my site visit and the appeal site would be within a reasonable walking and cycling distance of many of these. The required financial contributions also include the provision of a new section of footway from the appeal site to improve its connectivity to the village.
31. I am informed that a bus link is in place for high school students and an emergency vehicle which can be used by locals when required, although I have no further information on that matter before me. For other requirements of day-to-day life, such as employment and buying food and goods, trips outside of the village would be required. I have had regard to the Transport Statement³ which advises that in 2011 data approximately 79% of residents in the wider area drove a private vehicle to work, with the majority travelling to Oxford and Chipping Norton. Since this data was released, a community run bus service ('Our Bus Bartons') has been established in Middle Barton and operates several routes from the village to other settlements. These depart and return to the bus stop at the playing fields which is evidently around 200m from the appeal site. Destinations served by the buses include Chipping Norton and Oxford Parkway, along with Wooton, Woodstock, Begbroke, Yarnton, Kidlington, Bicester, Deddington, Steeple Aston, Heyford station and Lower Heyford.
32. The bus service information in Table 3 of the Transport Statement demonstrates that routes to Chipping Norton are limited to Monday and Wednesday, and on both days depart and return in the morning. This arrangement is similar to Bus No. 3 to Oxford Parkway, which runs on Monday and Thursday and also departs and returns in the morning.

² APP/D3125/W/23/3331279

³ DTA – 13 October 2022, Ref SKP/JA/18282-03a

33. Evidently, a connection to another bus service would be required to make connections to Oxford and other larger towns, which would likely take significant time and effort. For those working a traditional 9-5 type job, or shift work, this is very unlikely to be suitable for regular commuting to a place of employment and the local bus service would be more likely suitable for shoppers. Routes are similarly limited to other, smaller settlements in the area. While the establishment of the local bus service is admirable, it would not be a suitable alternative for private vehicles to make the vast majority of trips. Given the number of dwellings, this would lead to a significant increase in vehicle trips required from the development site.
34. This would likely be compounded by the walking distance to the primary school from the appeal site. This is estimated at 15-20 minutes in either direction and if accompanying smaller children, this could take longer. A 30-50-minute round trip is unlikely to be the preferred option for many, particularly 5 times per week and/or in inclement weather. Although I sympathise with the comments of the headteacher of the school in their desire to increase pupil numbers at the school, the proposal would likely create additional vehicular movements to and from the school on a relatively large scale.
35. I take on board the appellant's comment that a pragmatic and practical approach should be made when dealing with rural areas. Villages invariably offer fewer transport solutions than large urban centres. However, this aligns with the spatial distribution of housing in the development plan which is expected to be concentrated in larger settlements and development is more strictly controlled in villages.
36. The services and facilities in Middle Barton would not meet the day-to-day needs of prospective future residents and given the relatively significant size of the proposal, this would lead to an exponentially significant increase in the number of trips taken in private vehicles. While this may be tempered to a small degree by hybrid working arrangements and delivery options for food and goods, the overall result of the limited available sustainable transport options would be an overreliance on private transport.

Whether Suitable Location Conclusion

37. Drawing things together, the location of the appeal site would meet an identified local housing need in terms of affordable rent and for first time buyers. It would also make a contribution to the overall shortfall of deliverable housing land of the Council, matters to which I will return in the planning balance. However, the location is not well served by sustainable transport options, which would cause a large increase in the number of journeys taken by private vehicles for activities such as employment and shopping as well as taking children to and from the primary school.
38. The proposal is therefore contrary to policies OS2, T1 and T3 of the LP. These seek, among other things, to ensure priority will be given to locating new development in areas with convenient access to a good range of services and facilities and where the need to travel by private car can be minimised. The proposal would also be contrary to the aims of the Framework, including paragraph 109 which advises significant development should be focused on locations which are or can be made sustainable, through limiting the need to

travel and offering a genuine choice of transport modes. I have already established that the proposal would harm the character and appearance of the area and as such, would not meet the requirements of policy OS2 in this regard, which is an overarching requirement of policy H2.

Other Matters

39. I note there was some disagreement as to the official stance of the Parish Council and whether they support the proposal or not. This was clarified at the hearing, and it was in a position to support the scheme. Its comments have been addressed in the relevant sections of this report.
40. I was informed of concerns from the Parish Council and in some comments from interested parties on both sides of the debate regarding existing issues with water pressure in the village, and potential harmful impacts upon this as a result of the scheme. As I am dismissing the appeal I have not considered this further, although I note this was not highlighted by the relevant water operator in the area.

Planning Balance

41. Prior to the hearing, the main parties agreed in the SoCG that the Council cannot demonstrate a 5-year supply of deliverable housing land. The figure given was 4.38 years, as concluded in a recent appeal decision⁴. I am therefore taken to paragraph 11(d)(ii) of the Framework, and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
42. The clearest benefit of the proposal is the addition of up to 28 dwellings to the Council's existing supply. Of these, 14 would be affordable housing with a mix of purchase and social rent. However, I disagree with the appellant's allocation of substantial positive weight to both the affordable and market housing supply. The local need would be demonstrably met, but as with the need for affordable housing, these are policy requirements. In this case, policy H3 states the need for a 50% contribution of affordable housing in high value zones such as Middle Barton, and as such the proposal would meet the minimum requirement. I also disagree with the Council with their assignment of modest weight to the scheme, and their application of a sliding scale of weight based on development size which does not factor in individual circumstances of proposals. In this case, based on its own merits, the supply of housing, both affordable to meet an identified local need and towards a district wide shortage, is worthy of significant weight in favour.
43. There would be ancillary benefits including jobs created during the construction period, through the investment required to deliver the scheme and the support of employment in the construction trades and supply chain. I also agree that small and medium sites can potentially be built out quicker than larger schemes, although this would also mean that any jobs created

⁴ APP/D3125/W/23/3331279

would not be as long lasting as a result. Further limited weight can therefore be given to these considerations.

44. Alongside these, there would be societal benefits through the sustaining and enhanced usage of local facilities, although as I have established these are limited and unable to cater for day-to-day needs of future residents. The additional residents to the village are worthy of moderate weight in favour of the scheme.
45. Landscaping is a reserved matter in this outline proposal, although there is significant consideration given to this by both main parties. It is asserted that through the landscaping proposed, there would also be a net gain in biodiversity through planting. I have had regard to the submitted Biodiversity Net Gain Assessment⁵, which indicates an increase of 51.9% of habitat units and 461% hedgerow increase. However, it is unclear as to what the actual net gain of biodiversity is as this metric appears to apply to a quantum of habitat units. The report also stipulates that there are limitations as it is a desktop assessment and the lack of detail at this stage. As such, while there may be a net gain, at this stage it is unclear and the weight in favour of this consideration is limited.
46. Conversely, I have concluded that the proposal would cause landscape and visual harm to the character and appearance of the area. Although the appeal site is not within a designated area of landscape protection, this does not mean the harm would be any less significant. The Framework recognises the intrinsic character and beauty of the countryside. The appeal site is within a locally designated area of high landscape value. Given the relatively large scale of the proposal on the edge of the village, the harm caused to the character and appearance would be substantial and weigh heavily against the scheme.
47. There would be further harm to the spatial strategy of the development plan area insofar as there would be a heavy reliance on private vehicles to facilitate day to day life for new residents contrary to the environmental objective of the Framework. This adds further significant weight against the scheme.
48. I understand the proposal before me is in outline form and the layout is for illustrative purposes only, but I need to be satisfied that the houses can be accommodated without harming the character and appearance of the area and I have seen no other way of achieving the number which would not be materially harmful.
49. Consequently, in this case, based on the evidence before me, the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
50. The conflict with the locational strategy of the development plan and the harm caused to the character and appearance of the area of the area brings it into fundamental conflict with the development plan as a whole. The material considerations as presented, including the Framework, would not outweigh that conflict.

⁵ Focus Environmental Consultants – Contract Ref 2707, March 2023.

Conclusion

51. For the above reasons, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR

Richborough

APPEARANCES

FOR THE APPELLANT:

Mr P Frampton – Frampton’s Town Planning Ltd

Mr R Tyers – Mintondale Development Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Wood – West Oxfordshire District Council

INTERESTED PARTIES:

Dr J McRobie – Parish Council

K Carter Windle – Parish Council

Mr L Gustafson – Local Resident

DOCUMENTS

D1 - Our Bus Bartons Routes Map

D2 - Letter of Support from Headteacher of Middle Barton Primary School