



Appeal Decisions

Site visit made on 23 January 2012

by Paul Crysell BSc (Hons) MSc MRTPI

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

Decision date: 13 February 2012

Appeal A: APP/C3105/A/11/2159035
Land off Webb's Way, Kidlington OX5 2EW

- 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 J A Pye (Oxford) Land Limited against the decision of Cherwell District Council.
 - The application Ref 11/00234/OUT, dated 14 February 2011, was refused by notice dated 10 May 2011.
 - The development proposed is the erection of 2 No. dwellings.
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Appeal B: APP/C3105/A/11/2160428
Land off Webb's Way, Kidlington OX5 2EW

- 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 J A Pye (Oxford) Land Limited against the decision of Cherwell District Council.
 - The application Ref 11/00812/OUT, dated 18 May 2011, was refused by notice dated 15 July 2011.
 - The development proposed is the erection of 1 No. dwelling.
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Decision

1. I dismiss Appeal A and Appeal B.

Procedural Matters

2. Both applications involve the same site and are in outline with only access to be determined at this stage. In order to avoid undue repetition my comments relate to both appeals unless otherwise indicated.

Main Issues

3. The main issues are the effect of the proposed development on the Kidlington Conservation Area in relation to appeal A and, common to both appeals, is whether the proposals would constitute inappropriate development in the Green Belt and, if so, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

Reasons

Effect of development on the conservation area (Appeal A)

4. The appeal site comprises open land on the edge of Kidlington and incorporates part of a field in the Oxford Green Belt. The proposed housing would be

bounded on three sides by existing dwellings with access obtained across the land in the Green Belt.

5. The area of the site proposed for housing use would be acceptable in principle because it is within the settlement boundary. It also falls within a Character Area identified in the Kidlington Conservation Areas Appraisal (CAC) as comprising large houses in an open setting with unusually spacious grounds and heavy tree cover. The Council's contention is that two dwellings would be excessive for this location and result in a cramped development which would be detrimental to the character and appearance of the Kidlington (Church Street) Conservation Area (CA).
6. It is conceivable that two dwellings could provide an effective transition between the denser development in Vicarage Road/Webb's Way and the larger properties off Mill Street. However the former is not in the CA while the appeal site, in my view, is more closely associated with the larger housing beyond it, particularly when seen from Webb's Way or the public footpath to the north east of the site. Consequently, any benefit in achieving a transition between adjacent housing areas would be at the expense of the Character Area because two smaller properties would sit uncomfortably with the scale of adjacent housing to the south west and north west and undermine the quality of this part of the CA.
7. I therefore consider that two dwellings as proposed in Appeal A would not preserve or enhance the character or appearance of the CA. Instead it would be contrary to national guidance in PPS5¹ and policy C28 of the Cherwell Local Plan (LP) to ensure layouts are sympathetic to the character of sensitive areas.
8. The Council does not pursue this argument in relation to Appeal B but the occupants of The Coach House, immediately to the south west of the appeal site, contend that the plot would be smaller than either that at The Coach House or 29 Mill Road. The new dwelling would be comparable in size to both the adjacent houses and while The Coach House occupies a substantial plot the dwelling is set close to the rear boundary, reducing the amenity space around it. In my opinion, the access and land in front of the new property would create the impression that the house was in a larger plot even though it is not intended this would form part of its curtilage. Therefore, I do not accept a single dwelling as proposed in Appeal B would be detrimental to the CA.

Green Belt

9. Both schemes involve similar access arrangements linking the new development with Webb's Way across land in the Oxford Green Belt. In either case the road would be relatively short but as an engineering operation would be inappropriate development in the Green Belt as set out in national planning guidance (PPG2)².
10. I therefore turn to consider whether other considerations apply which would outweigh the harm by reason of inappropriateness and any other harm which would be caused by allowing development in the Green Belt.
11. I agree with the appellant that in principle an access road need not detract from the openness of the Green Belt, or directly conflict with any of the

¹ Planning Policy Statement 5, *Planning for the Historic Environment* (PPS5)

² Planning Policy Guidance Note 2, *Green Belts* (PPG2)

purposes of including land within it because this point is made in PPG2. Despite this, replacing open grassland/pasture land with a physical structure, however short, would have a visual impact. This would be compounded by the introduction of fencing or other boundary treatment such as the indicative landscaping shown along the edge of the road in Appeal A. The association so engendered between the road and the proposed housing would have an urbanising effect with the road encroaching upon the countryside, contrary to the one of the purposes of including land in the Green Belt.

12. I appreciate that a similar delineation between the access and the open countryside is not shown in the layout accompanying Appeal B. The appellant says the drive would have an informal appearance which would not be read as part of the domestic curtilage. Nevertheless, I find it difficult to accept the separation of this area from part of a larger field would not necessitate some form of boundary treatment, if only to prevent the intrusion of livestock or other animals.
13. Both the appellant and the Council have submitted information from other cases to support their arguments. The former refers to an application in Wiltshire³ where a new access across Green Belt land was permitted although it appears that road safety improvements were influential in the decision making process. These are not factors material to either case before me. For its part the Council has identified a recent appeal decision in Noke⁴ involving the use of Green Belt land as domestic curtilage and a further example from Kirklees Metropolitan Borough Council⁵.
14. Each of these examples illustrates the balancing exercise which is required in judging whether the harm caused by inappropriate development is outweighed by other considerations. I recognise the proposals would make more efficient use of land and I have had regard to the more positive stance involving engineering operations in Green Belt locations contained in emerging guidance in the NPPF⁶. However, the final form of this guidance is not yet in place and I can give the draft document little weight.
15. I consider it is inevitable that a road in this location, however discreet, would have a visual impact on the landscape and encroach upon the countryside in a sensitive location on the edge of the settlement. Even though the road and the land it would cross might not form part of a domestic curtilage it would be perceived as such and have an urbanising effect. In the absence of other factors which would outweigh the harm caused to the Green Belt by inappropriate development I consider both schemes would be contrary to the provisions of national guidance and policy GB1 of the Cherwell Local Plan.
16. I have dealt with the concerns of Kidlington Parish Council and some residents in my earlier comments but other matters have been raised including the potential effect of development on wildlife, flooding, increased noise and traffic and the precedent created if either scheme were permitted. Natural England raises no objections while the appellant has undertaken a badger survey. This identified the presence of a sett on the site which would be replaced by a new one some 200m to the south east. Other wildlife interests could also be safeguarded, if required, by imposing suitable planning conditions. In relation

³ Wiltshire Council - App Ref: W/10/03336/FUL

⁴ APP/C3105/A/11/2144480

⁵ See Development Control Practice website – Kirklees MBC 9/8/88 [056-271-348](tel:056-271-348)

⁶ Draft National Planning Policy Framework, 25 July 2011 (NPPF)

to other issues I find that there is insufficient evidence to show any of these would warrant dismissing either appeal.

17. Both schemes also give rise to concerns regarding overlooking and loss of privacy, especially for residents of The Coach House. The Council does not regard these as reasons for refusing development and, in view of the potential separation distances between proposed and existing dwellings, I agree.
18. For the reasons given above and having regard to all other matters, I dismiss both appeals.

P R Crysell

INSPECTOR