



---

# Appeal Decision

Site visit made on 7 July 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 31 July 2020

---

**Appeal Ref: APP/W0340/W/19/3240289**

**The Malt Shovel Rear Car Park, Upper Lambourn, Berkshire RG17 1QH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Roger McCabe against West Berkshire Council.
  - The application Ref 19/00637/FULD, is dated 28 February 2019.
  - The development proposed is new 4 bedroom house with off street parking.
- 

## Decision

1. The appeal is dismissed and planning permission is refused.

## Background and Main Issues

2. The Council advises that, had it been in a position to determine the proposal, it would have refused permission on a number of issues. The appellant has commented on these matters.
3. Having regard to the Council's putative reasons for refusal, the main issues are therefore:
  - i) whether the appeal site is an appropriate location for housing having regard to the settlement strategy and access to facilities and services; and the effect of the proposal on:
    - ii) flood risk;
    - iii) the character and appearance of the area and the natural beauty of the North Wessex Downs Area of Outstanding Natural Beauty (AONB); and
    - iv) designated heritage assets, in particular the Malt Shovel former public house and the Upper Lambourn Conservation Area (CA).

## Reasons

### *Location*

4. The appeal site is outside of any settlement boundary identified in Policy Area Delivery Plan Policy 1 (ADPP1) of the West Berkshire Core Strategy (2006-2026) (CS) and as such is defined in that Policy as open countryside, where only appropriate limited development will be allowed, focused on addressing identified needs and maintaining a strong rural economy. CS Policy ADPP5 sets out the area delivery plan for the AONB and allows for infill development and development on previously developed land (PDL) where it conserves and enhances the special landscape qualities of the AONB. CS Policy CS1 sets out that new homes will be

- located in accordance with the settlement hierarchy outlined in the spatial strategy and area delivery plan policies.
5. Policy C1 of the Housing Site Allocations Development Plan Document (2006-2026) (HSA) sets out a presumption against new residential development outside of settlement boundaries other than in limited exceptions, including limited infill in settlements in the countryside with no defined settlement boundary. The Policy sets out that limited infill development may be considered where it meets four criteria, which I consider in turn.
  6. The appeal site is the end of the car park of the Malt Shovel, formerly a pub and now converted into 6 flats. The site and remainder of the car park are part of a single enclosure and it was being used for car parking at the time of my visit. Therefore, the site can be considered to be within the curtilage of the former pub and as such falls within the definition of previously developed land (PDL) in the National Planning Policy Framework (the Framework). The Malt Shovel and buildings opposite together form a clear end to the close-knit area of built development of the settlement, with fields and scattered developments beyond.
  7. The Malt Shovel and neighbouring cottages form a close-knit cluster of dwellings, however the retention of the car park and the sizeable gardens of the cottages would leave a considerable gap between that cluster and the proposed dwelling. Therefore, the proposed dwelling would not be within a cluster of existing dwellings or within an otherwise built-up frontage, and would extend built development significantly further along Malt Shovel Lane.
  8. Dwellings in the area vary somewhat in design and materials, but most are set close to the edge of the road and relatively close together. They generally occupy a relatively small proportion of their sizeable plots and are of simple form. The pub has a significantly larger footprint than the adjacent cottages but nevertheless sits within a spacious plot. In comparison, the appeal site would be relatively short and the proposed dwelling would occupy a considerable proportion of the plot. It would be set back from the road, leaving an open frontage with exposed car parking, which would give the site a distinctly suburban appearance, markedly different to the pattern of development locally. As such, the proposed plot size and spacing would not be similar to adjacent properties or respect the rural character and street scene of the locality.
  9. The proposed dwelling would share some features with nearby dwellings, such as the chimney and part-hipped roof. However, the number of dormer windows proposed and their different sizes and styles would create a complex roof form that would contrast harmfully with the simple, generally unbroken roofs in the surrounding area. The proposed dwelling would effectively be 1.5 storeys in height, which would give it somewhat squat proportions in contrast to the 2-storey buildings nearby. The use of several materials in horizontal bands would emphasise those proportions. Furthermore, the use of timber cladding would introduce a material traditionally found on agricultural buildings, and there is no evidence before me that it would have been used on dwellings in this area. Consequently, the scale and character of the proposed development would not be commensurate with those of existing dwellings.
  10. Accordingly, the proposal would not comply with any of the criteria of HSA Policy C1 and therefore would not constitute limited infill development. Furthermore, it would erode the clear definition between the edge of the settlement and the countryside beyond and as such, would not contribute to the character and distinctiveness of the rural area. Consequently, the proposal would conflict with HSA Policy C1 and CS Policies ADPP5 and CS1.

11. There is no substantive evidence before me that the proposal would meet an identified need or contribute to maintaining a strong rural economy. As such, it has not been demonstrated that it would be appropriate development in the countryside, and it would therefore conflict with CS Policy ADPP1.
12. Upper Lambourn has few services or facilities, so future residents of the proposed dwelling would have to travel to Lambourn or further afield to meet their day to day needs. Lambourn is defined in the CS as a Rural Service Centre and has a range of facilities and services. However, it has not been demonstrated that any are under threat or require further support, or that the location of the proposal would make any significant contribution to enhancing or maintaining the vitality of services and facilities in the neighbouring village. The proposal therefore does not benefit from the support for sustainable rural development in Framework paragraph 78.
13. Although the appellant states that there are transport links to Lambourn, I have not been provided with details of these. The services in that settlement are further from the appeal site than the 800 metres considered 'walkable' in the National Design Guide but would be within cycling distance. As such, future residents would have limited options other than the private car to access them. While the Framework acknowledges that sustainable transport options will vary between urban and rural areas, nevertheless the lack of such options weighs against the sustainability of the appeal site's location.
14. Accordingly, the appeal site is not an appropriate location for housing having regard to the settlement strategy and access to facilities and services.

*Flood risk*

15. The Framework requires that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. It sets out a sequential test, the aim of which is to steer new development to areas with the lowest risk of flooding. A further 'exception test' then applies if it is not possible for a proposed development to be located in zones with a lower risk of flooding. Framework paragraph 158 states that, "Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding". Paragraph 163 makes it clear that proposals should not increase flood risk elsewhere.
16. CS Policy CS16 requires that the sequential approach in the Framework be strictly applied across the District, and that development within areas of flood risk will only be accepted if it is demonstrated that it is appropriate at that location, and that there are no suitable and alternative available sites at a lower flood risk.
17. The appellant's flood risk assessment (FRA) identifies that the site falls within Flood Zones 2 and 3, but is not accompanied by a map showing the extent of these flood zones. The FRA states that the site is approximately 2.8m above the bed of the nearby stream, and the appellant identifies that the Malt Shovel, which is on lower ground than the appeal site, has no history of flooding. However, there are no details before me of flood levels for the stream, and the FRA does not take into account the impacts of climate change. Nor does it assess potential risks from surface water or ground water flooding. There is nothing before me to suggest that the appellant has successfully challenged the Environment Agency's flood zone classification for this site. As such I must proceed on a precautionary basis that the site is at high risk of flooding and apply the sequential test.
18. The Planning Practice Guidance (PPG) sets out that it is for local planning authorities to consider the extent to which sequential test considerations have

been satisfied and that the developer should justify with evidence what area of search has been used. The appellant has not specified a search area and no case is being made that the dwelling would meet an identified local need. Therefore, the starting point for the search area is the whole District. The CS and HSA identify various settlements and sites suitable for development in the District and as such, in all likelihood there are other sites at lower flood risk that could accommodate one dwelling. The Council advises that sufficient housing is being provided outside flood risk zones and there is no substantive evidence before me from the appellant to demonstrate otherwise. Therefore, the proposal fails the sequential test.

19. The appellant suggests that appropriate drainage can be put in place to ensure that the water discharged from the property will not increase risk of flooding elsewhere. However, the proposal does not include any measures to avoid, mitigate or compensate for any displacement of water from the flood plain. Nor does it include flood resilience or resistance measures in the property itself. As such, it has not been demonstrated that the dwelling would be safe for its lifetime without increasing flood risk elsewhere. Therefore, even if the sequential test had been met, the proposal would not pass the exception test.
20. Accordingly, it has not been demonstrated that the proposed dwelling is not at risk of flooding and would not contribute to flood risk elsewhere. As such, the proposal conflicts with CS Policy CS16 and the Framework.
21. While the appellant refers to the successful conversion of the Malt Shovel to flats, the sequential test would not have applied to conversion of an existing building and as such the circumstances are not comparable to the proposal before me. Moreover, the appellant states all measures were taken to mitigate against flooding in that scheme, which is not the case here. Consequently, the planning permission for the Malt Shovel does not justify construction of a dwelling in a flood risk area.

*Character and appearance of the area and the AONB, and designated heritage assets*

22. CS Policy ADPP5 sets out that the AONB will be managed by implementing the AONB Management Plan<sup>1</sup> (MP) and requires that development conserve and enhance the local distinctiveness, sense of place and setting of the AONB and respond positively to the local context and to the historic environment of the AONB. CS Policy CS19 seeks to ensure that the diversity and local distinctiveness of the landscape character of the District is conserved and enhanced, considering the natural, cultural and functional components of its character as a whole. The Framework requires that development should contribute to and enhance the natural and local environment including by recognising the intrinsic character and beauty of the countryside. Paragraph 172 requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.
23. The appeal site is within the Lambourn Valley landscape character area (LCA) and River Valley landscape character type (LCT) as set out in the MP. Upper Lambourn is typical of the long, linear settlements found in these valleys, and the valley sides give it an intimate and enclosed character. The siting of buildings close to the road and the prevalence of substantial boundary walls along the lanes within the settlement reinforce this character.
24. The Upper Lambourn Conservation Area (CA) encompasses part of the appeal site, the remaining car park of the Malt Shovel and the former pub itself, and most of the buildings along the lane in the lower part of the valley. It derives considerable

---

<sup>1</sup> North Wessex Downs AONB Management Plan 2019-2024

significance from the historic linear pattern of development and the historic buildings within it. The Malt Shovel is a Grade II listed building that was originally a bakery and converted to a pub in approximately 1830. In both uses it would have been an important community focus in the village. Although it has been converted to flats, externally the listed building still has the appearance of a pub and as such its historic function and relationship to the village can still be readily understood. It has a prominent position at a crossroads and the edge of the settlement, which is reinforced by the open, undeveloped land to the south and east, which allow views towards the listed building and the CA. These factors therefore make a considerable contribution to its significance and the listed building also makes a positive contribution to the significance of the CA.

25. While the appellant has submitted a heritage statement, it relates to the conversion of the Malt Shovel to flats and as such does not assess the impacts of the proposal before me. I therefore afford it minimal weight.
26. I have already found that the proposal would erode the definition between the edge of the settlement and the countryside and would not contribute to the character and distinctiveness of the rural area. Due to its siting and the gap between it and other development, the proposed dwelling would have an urbanising impact that would diminish the open, rural setting of the village and detract from the linear pattern of development. As such, it would harm characteristic features of the area and therefore would not conserve or enhance the special landscape qualities of this part of the AONB.
27. Furthermore, although set back from the road, the proposed dwelling would obscure part of the Malt Shovel from view when approaching along Malt Shovel Lane, which would diminish the prominence of the listed building. From the crossroads, the proposed dwelling would also be an obvious and incongruous feature in views between the CA and the listed building and the countryside. Consequently, it would harm the setting, and thereby the significance, of the designated heritage assets.
28. As only part of the setting of the heritage assets would be harmed, the proposal would result in less than substantial harm to the listed building, and to the CA as a whole. Having regard to the Framework, this must be weighed against the public benefits of the scheme.
29. The proposal would contribute to the supply of housing and would result in economic benefits through construction and occupation, however given the small scale of development proposed, the benefits of one additional dwelling would be very limited. The proposal would make efficient use of PDL, which is supported by national and local policy, however both also require such development to respect local character, which this proposal would not. The appellant proposes to use locally sourced, sustainable materials however I have found that the materials proposed would contribute to the harmful impact of the proposal and as such this would not be a public benefit.
30. I have a statutory duty under s66(1) and s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, and preserving or enhancing the character and appearance of the CA. The Framework also requires that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Consequently, overall, I conclude that the

limited public benefits of one proposed dwelling do not outweigh the harm to designated heritage assets.

31. Accordingly, the proposal would harm the character and appearance of the area and the natural beauty of the AONB, and would result in less than substantial harm to the significance of the Malt Shovel and the Upper Lambourn Conservation Area which is not outweighed by the public benefits of the scheme. As such, it would conflict with CS Policies ADDP5 and CS19, and with CS14, which requires new development to demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area. Furthermore, it would conflict with the policies of the MP which seek to ensure that all development in the AONB conserves or enhances the character, qualities and heritage of the landscape, and with the provisions of the Framework.

### **Other Matters**

32. There are new racing facilities on the other side of the B4000 from the appeal site which partially obscure views of the Downs beyond and are likely to generate traffic. However, they have the appearance of agricultural buildings and therefore do not appear out of context in this rural area. As such, and given the separation distance, their impact on the setting of the heritage assets and the character of the AONB is not comparable to that of the appeal proposal. Furthermore, racing is a fundamental part of the character of this area and the CS includes specific policies to allow such development in the countryside. Therefore, planning permission was granted for those developments in a different policy context to that of the proposal before me. Therefore, the impacts of those developments carry very limited weight and do not justify the harm that I have identified.
33. The proposal would not impact on the living conditions of the Malt Shovel flats or their access and would not generate significant traffic. I also note that issues relating to parking and access have been resolved to the satisfaction of the highway authority. These are however neutral matters that do not weigh in favour of the proposal.

### **Conclusion**

34. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I find that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan. The appeal is therefore dismissed and planning permission is refused.

*L McKay*

INSPECTOR