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## Appeal Decision

Site visit made on 16 January 2019

**by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS**

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

**Decision date: 25<sup>th</sup> April 2019**

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**Appeal Ref: APP/D3125/W/18/3211732**

**Land to the rear of 39 Brize Norton Road, Minster Lovell, OX29 0SF**

- 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 Mr Paul Conlon (Meadowgate Homes) against the decision of West Oxfordshire District Council.
  - The application Ref 18/00544/FUL, dated 20 February 2018, was refused by notice dated 10 July 2018.
  - The development proposed is the redevelopment of coach parking yard to residential development of 10 dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. On the 27 September 2018, after the submission of the appeal, the Council adopted the *West Oxfordshire Local Plan (2011-2031)* (WOLP). In the light of the advanced stage of its preparation, policies from this document were referred to in the reasons for refusal along with policies from the *West Oxfordshire Local Plan 2011* (adopted June 2006). The Council has confirmed that policies referred to in the reasons for refusal from the Local Plan adopted in 2006 have been superseded by the policies in the new WOLP.
3. It is clear from the appellant's evidence that they were aware of the imminent adoption of this document and the implications of these policies were addressed in their statement. I also note that Policies EH7 and EH14 of the WOLP referred to in the reasons for refusal have been renumbered as part of the adoption process and are now Policies EH9 and EH16. I have determined the appeal based on the national and local policies as adopted at the present time.

### Main Issues

4. The main issues are:
  - The effect of the proposal on the character and appearance of Minster Lovell; and,
  - Whether the proposal would result in the unnecessary loss of the employment land.

## Reasons

### *Character and appearance*

5. The appeal site is situated to the rear of 37 and 39 Brize Norton Road, which are both residential dwellings. There is also a further dwelling to the rear of No 37, which is No 39a. This dwelling shares the access into the site. The site is currently used as a coach and taxi parking yard with a small number of buildings located close to the main parking area. The appeal is predominantly surfaced with various forms of hardstanding. To the east, the land is laid to grass.
6. The village of Minster Lovell was originally a Chartist settlement called Charterville where residents would live in houses with plotlands, or smallholdings, supporting themselves. As a result, the settlement pattern of the village is an important and significant physical feature and can be seen clearly on maps of the village. The Council consider that due to its history, relative rarity and the fact that many of the undeveloped plots that show the original layout of the village remain intact; the entire settlement is a non-designated heritage asset. This is a conclusion with which I agree, the significance being derived from the features described above.
7. The bungalows fronting Brize Norton Road are accompanied by plotlands to the rear, making a significant contribution to the character and appearance of the village, and the historic significance of the non-designated heritage asset. The development to the rear, and on this plotland, would be at odds with the predominantly linear form of the village. It would erode the historic plot layout and introduce a substantial amount of inappropriately located development. As a result, the significance of the non-designated heritage asset would be harmed.
8. I have also considered the Council's argument that the current proposal would set a precedent for similar development on the plots to the rear of other houses in the village. Whilst each application and appeal must be treated on its own merits, notwithstanding the appellant's argument that the appeal site is previously developed land, I can appreciate the Council's concern that approval of this proposal could be used in support of other similar schemes. This is not a generalised fear of precedent, but a realistic and specific concern because of the number of remaining plotlands that are undeveloped. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, and their cumulative effect would exacerbate the harm to the character and appearance of the area, and the harm to the significance of the non-designated heritage asset that I have described above.
9. In its favour, the design of the individual dwellings within the proposed scheme would be sympathetic to the established local vernacular, being 1.5 storey in height and well-spaced. The mix of housing, including smaller dwellings is also a positive feature. Notwithstanding this however, the development would unacceptably harm the character and appearance of the area. This would be contrary to WOLP Policy EH9 which seeks to protect the District's historic environment and Policy EH16 which imposes a presumption in favour of the avoidance of harm or loss to non-designated heritage assets. It would also be contrary to Policies OS2 and OS4 of the WOLP which seeks development that respects the intrinsic character of the area along with high quality design, respectively. It is also contrary to Policy H2 which seeks to manage the

delivery of new homes more generally and to control development on, amongst other things, previously developed land in rural settlements.

10. I also find there would be conflict with the National Planning Policy Framework (the Framework), which sets out that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

#### *Loss of Employment Land*

11. The site is currently occupied by a business and used as employment land. Policy E1 of the WOLP states that proposals for non-employment uses on employment land will be refused unless certain exceptions are met. This is reinforced by Policy H2. These exceptions include: where it can be demonstrated that the site or employment premises are not reasonably capable of being redeveloped for continued employment purposes; where the site has amenity, environmental or highway safety problems; or where substantial community benefits would be offered by proposals.
12. There is little evidence before me that indicates that the site cannot continue to be used for employment purposes or that the current use of the site for these purposes is causing amenity, environmental or highway safety problems.
13. However, the appellant has stated that the proposal would result in substantial community benefits that would outweigh the loss of the employment land. These include economic benefits such as the New Homes Bonus, increased Council Tax revenue and economic benefits from the construction period and new occupiers. The appellant also claims environmental benefits from the creation of gardens and landscaped areas.
14. It is also argued that the proposed offsite commuted sum for sport and recreation would be a benefit of the proposal. However, despite the Heads of Terms document, no completed planning obligation is before me to secure the contributions. Moreover, as this would be used to mitigate the effect of the proposal, it would not be a benefit of the scheme.
15. Given the scale of the scheme, the benefits claimed by the appellant would be limited. I am not satisfied that they represent substantial community benefits taken individually or as a whole, especially as they would be the same as would arise from a housing scheme that did not result in the loss of employment land.
16. To that end, I consider the proposal would result in the unacceptable loss of employment land, contrary to Policies E1 and H2 of the WOLP.

#### **Other Matters**

17. Policy H3 of the WOLP requires affordable housing provision on sites for housing schemes of 11 or more units or which have a maximum combined gross floorspace of more than 1,000sqm. Whilst I note the concerns of the Council in this regard, as the scheme is for 10 houses, it is below the threshold, and so there is no policy requirement to provide affordable housing.
18. Following the recent adoption of the WOLP, I am satisfied that the Council can demonstrate a 5-year supply of housing land. Consequently, paragraph 11d of the Framework does not apply in this case.

19. Whilst the site may be previously developed land, it has an open rural character and there is little to suggest that the site has contained buildings in the past, even with the hardstanding. Therefore, despite the encouragement to reuse such land in the Framework, this aspect does not weigh in favour of the proposal.
20. The appellant has cited an appeal decision<sup>1</sup> relating to 77-78 Brize Norton Road and the Council have cited appeals<sup>2</sup> relating to land to the rear of 138 Brize Norton Road and another to the rear of 154. I do not have full details before me that led to these proposals being allowed or dismissed and I have determined this appeal on its own merits.

### **Conclusion**

21. For the reasons set out above, I conclude that the appeal should be dismissed.

*Sian Griffiths*

INSPECTOR

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<sup>1</sup> APP/D3125/W/16/3148659

<sup>2</sup> APP/D3125/A/11/2166985 and APP/D3125/A/13/2194043