

Appeal Decision

Hearing held on 9 August 2016

Site visit made on 9 August 2016

by Kenneth Stone BSc (Hons) DipTP MRTPI

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

Decision date: 21 September 2016

Appeal Ref: APP/Q3115/W/16/3146109

Land at Manor Road, Goring-on-Thames, Oxfordshire

- 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 Elegant Homes Caversham Ltd and Frenbury Developments Ltd against the decision of South Oxfordshire District Council.
 - The application Ref P15/S3483/O, dated 16 October 2015, was refused by notice dated 21 January 2016.
 - The development proposed is described as 'outline development of up to 35 dwellings with access, garages and landscaping'.
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Decision

1. The appeal is dismissed.

Procedural matters and background

2. The application as originally submitted to the Local Planning Authority was for up to 27 dwellings. During the Council's consideration of the proposal the application was amended and the description of development altered to increase the dwellings proposed to up to 35. Further information and an amended illustrative layout were provided and consultation undertaken. The Council determined the application on the basis of the amended scheme and I have also considered the appeal on the basis of the amended scheme.
 3. The proposals are seeking outline planning permission with all matters reserved for future consideration with the exception of access, which forms part of this application. This includes the access arrangements onto Manor Road and the pedestrian access onto Elmcroft. The application was supported by a plan 3298/104 Rev C entitled sight lines and access. It was confirmed at the hearing that the housing layout on this plan was for illustrative purposes only but that the plan did provide details for the access arrangements. I have considered the appeal on this basis.
 4. The Council refused the application for five reasons these being broadly related to the effect of the development on: the rural character and landscape setting of the area in the Chilterns Area of Outstanding Natural Beauty, affordable housing, local services and facilities, biodiversity and on important trees. In advance of the hearing I was provided with a statement of common ground which advised that: upon the receipt of an appropriate planning obligation, the introduction of the Council's Community Infrastructure Levy and additional information on Biodiversity and tree protection that the Council no longer wished to pursue these matters and that only the effect of the development on
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the rural character and landscape setting of the area in the Chilterns Area of Outstanding Natural Beauty remained at issue between the parties.

5. At the hearing I was provided with an executed Unilateral Undertaking which secures affordable housing, and financial contributions towards street naming and waste matters arising from the development. I will return to these matters below.
6. Third parties had raised issues on the appeal in relation to many of these matters and other issues including in particular questioning the appellant's interpretation of flood risk information and the effect of works on the highway on trees along Manor Road. These matters were discussed further at the hearing and at which point the Council, on the basis of the resident's points, expressed concerns regard flooding. Following the hearing the appellant provided a suggested condition to address flooding concerns. The Council and third parties were given an opportunity to comment on the suggestion. I have taken these further representations into account in my decision.
7. The statement of common ground also sets out that the Council accepts that it cannot demonstrate a five year supply of housing and consequently paragraphs 49 and 14 (bullet point two) of the National Planning Policy Framework (the Framework) are engaged. It is further agreed that policies for the supply of housing are to be considered out of date, which will affect the weight that I give to them. Paragraph 14 however has two limbs, the first indent requires that where relevant policies in the development plan are out of date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole and the second indent requires that I consider whether specific policies in the Framework indicate development should be restricted, this includes, at footnote 9, reference to Areas of Outstanding Natural Beauty.
8. Whilst this does not change my duty to determine the appeal in accordance with the development plan unless material considerations indicate otherwise, the Framework is a material consideration and affects the approach I adopt. In this regard with paragraph 14 engaged I will firstly consider whether the proposal should be restricted due to specific policies in the Framework, in this regard due to the location of the site within the Chilterns Area of Outstanding Natural Beauty, before I consider the first indent related to the overall balance between the adverse effects of the development and the benefits of the scheme, should that be appropriate after considering the first matter.

Main Issues

9. Following on from above the main issues are; firstly, the effect of the proposals on the rural character, landscape setting of the village and natural beauty of the Chilterns Area of Outstanding Natural Beauty (AONB), including the effect on trees; and secondly, whether the proposal would comply with national policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Character and appearance and the AONB

10. Goring is an attractive Oxfordshire village located in an attractive landscape and geological area known as the 'Goring Gap', where the Thames passes through a gap between the Chilterns and North Wessex Downs hills. Goring, and the appeal site, are within the Chilterns Area of Outstanding Natural Beauty and within the setting of the North Wessex Downs Area of Outstanding Natural Beauty. As such the wider area is a sensitive landscape of high quality.
11. The appeal site is situated to the south west of the village and is an open field some 2.67 hectares in area, with a basic L-shape; it is relatively flat with mature trees and landscaping delineating its boundaries. The site is adjacent to residential gardens towards the north and east. Manor Road is set to the west and there is open countryside to the south.
12. The appeal site is readily visible through the tree line along Manor Road and from the public footpaths that cross the open countryside to the south of the site. Views of the site are also readily available from the surrounding residential properties and from Elmcroft.
13. It was evident from my site visit that Manor Road formed a transition zone between the rural character of the open countryside and the more urban character of the village. Manor Road is characterised as a well landscaped low density neighbourhood of large properties in substantial and well landscaped plots towards the end of the road. Along with the appeal site and open land on the other side of Manor Road, the area has the feel of a semi-rural lane. This provides for a gradual and pleasing transition to the open countryside beyond. Elmcroft, on the other side of the appeal site, is of a more urban form and greater density but as a small cul-de-sac is a small element of the wider village edge. The visible roofscape and interspersed properties mark the edge of the village and the landscape boundaries provide soft termination to the built development of the village. In this regard I agree with the conclusions of a previous Inspector¹ on a recent appeal for a scheme related to a smaller section of this appeal site that there is a sense that the village has ended, and I reach a similar conclusion that this appeal site, which is of a much larger area, contributes to the open countryside setting of the village.
14. The proposal would provide for up to 35 dwellings on the appeal site contained within a portion of the site, restricted by the area that may be potentially liable to flooding, a matter I return to below. The proposed development is in outline only and the layout provided illustrative, therefore it is not fixed. However this does demonstrate an intensity of built form that would have to be accommodated on the site. The appellant has suggested that this would equate to some 25 dwellings per hectare which is in line with that anticipated in the Landscape Capacity Assessment for Sites on the Edge of Larger Villages, in reference to site GOR11A (which equates to the appeal site). However I note that the nominal density is caveated by the need for a detailed landscape and visual impact assessment and further comment that 'It is likely that a lower density will be required to retain the townscape/landscape character of this part of Goring'.

¹ APP/Q3115/A/14/2220873, paragraph 3

15. The existing characteristics of the area of large properties in substantial plots would not be achievable within the constrained developable area at the suggested number of properties if the layout were to be compatible with the character of the surrounding area. The increased intensity of development would result in a significantly more urban form that would be incompatible with the rural character of the area. The development of the pasture for a significant housing development would undoubtedly significantly change the appearance of the site. The built form of the village would be extended into the open countryside and detract from the rural character and setting of this part of the village.
16. The proposed development would be readily visible from many public locations surrounding the site and adjoining properties. This would result in significant harm in the immediate locality. The site is relatively contained by a mature tree line along Manor Road and there is mature landscaping along the southern side, however this is not so tall and the roof scape of the development would still be visible in medium views. In longer views and from the North Wessex Hills AONB the extent and intrusion would be less evident given the distance and mature landscaping in the locality.
17. As Goring is a village within the Chilterns AONB and the surrounding countryside also comprises a part of that area, development which harms the setting of the village and the immediate rural character harm that part of the AONB. The Framework, at paragraph 115 advises that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty. Paragraph 116 goes on to state that major developments in these areas should be refused except in exceptional circumstances and where it can be demonstrated they are in the public interest. I am satisfied that as a development of up to 35 dwellings, in the context of a Core Strategy requirement of some 105 dwellings, this represents a significant proportion of the total requirement that may be needed for the village and in these terms represents major development. Even with the requirement of the Core Strategy being out of date and the present indications that increases on a district wide basis would be required, the number of units proposed is likely to represent a significant proportion of any increase allocated to Goring village.
18. In terms of exceptional circumstances that appellant lists these and includes the additional housing provided in the absence of a 5 year housing land supply, the extent of the shortfall, the economic benefits and the necessity for Goring to make provision for housing to meet the overall strategic aim of directing development to larger villages, amongst other matters. These however are circumstances which would be relevant to any development in and around this location and are not exceptional circumstances. Whilst attention has been drawn to other housing sites around Goring the development plan and neighbourhood plan have not reached a stage where they can be afforded significant weight and I have no robust evidence to demonstrate the merits of one site against another in terms of the impact on the AONB in this locality.
19. The appellant has produced a tree survey and the Council and appellant have agreed that the proposed access and development would not result in significant harm to the trees on the site and as such the Council removed its objections to the scheme on this ground.

20. It appears from the papers that the appeal proposals would require the widening of Manor Road, albeit within the extent of the publicly owned highway. This area however is not part of the red line of the application and would therefore need to be secured by a Grampian condition and with the works subject to an agreement by the Highway Authority.
21. Local residents were concerned about the potential effect of the wider development on the character of Manor Road and spoke to the effect of the road works and traffic activity along Manor Road and the potential consequences for the trees along this boundary.
22. The Arboricultural Implications Assessment submitted with the application addressed the site access and development for the potential effect on trees. There does not appear to be an assessment of the potential effect of the necessary highway works that would be required to widen Manor Road and the effect this may have on trees. Indeed the Arboricultural Implications Assessment refers to the fact it is subject to Highway design considerations. The Arboricultural Implications Plan highlights a number of tree root protection areas in the vicinity of the section of highway that would require to be widened and I have no robust evidence in front of me regarding the potential implications of this in relation to these trees. The construction of a widened area of highway in close proximity to these trees could have significant implications for their health. The loss of these trees, if a result of such works, would significantly change the character of Manor Road and further adds to the harm I have previously identified in relation to the setting of the village and hence the AONB. In the absence of certainty on this matter I add this to the harm I have already identified.
23. For the reasons given above I conclude that the proposed development would result in material harm to the rural character, landscape setting of the village and therefore the natural beauty of the Chilterns Area of Outstanding Natural Beauty, including the effect on trees. Paragraph 14 of the Framework advises planning permission should be granted unless specific policies indicate development should be restricted. The proposal would conflict with specific policies in the Framework which indicate that development should be restricted, in particular those related to AONB's, and hence permission should not be granted.
24. The proposal would be contrary to policies CSR1, CSEN1 of the South Oxfordshire Core Strategy, adopted 2012 (CS) and policies G2, G4, D1 and C4 of the saved policies of the South Oxfordshire Local Plan 2011 (LP). Collectively these policies seek to protect local distinctiveness and the character and landscape setting of settlements in the district, including giving high priority to Areas of Outstanding Natural Beauty. Whilst these policies in their broadest sense are matters related to the supply of housing, they also relate to the character and appearance of the area, the AONB and general visual amenity considerations, and in this regard they are consistent with the broad approach and intent of the Framework and I therefore afford them significant weight.

Flood Risk

25. I have concluded above that the effect of the proposal in the context of harm to the AONB and the conflict with the Framework is such that planning

permission should not be granted. In this regard therefore the issue of flood risk is not determinative on my decision.

26. The matters raised by local residents concerning the interpretation of the information submitted by the appellant were not fully rebutted. They were not new issues that the appellant would not have been aware of, as much of the evidence relied upon was in the representations of the residents. The site area is in excess of 1 hectare and footnote 20 at paragraph 103 of the Framework advises that a site specific Flood Risk Assessment is required for all development over 1 hectare in Flood Zone 1. Regardless of the determination of the location of the flood zone boundaries of the site therefore I can see no good reason why the application was not supported by a full site specific Flood Risk Assessment. Whether the Council signed a statement of common ground including matters concerning flood risk does not change my view on this.
27. As to the appellant's contention that a condition could be imposed to ensure development was restricted to an area outside Flood Zone 2 this would not address the requirement for a site specific Flood Risk Assessment as noted above and this could potential reduce the developable area of the site. Given my comments above about the urbanising effect of the development on the basis of a larger developable area it follows that if this area was further restricted it would result in a more dense and more urban form which would increase the harm that would arise.
28. As a matter of clarity the comments of the EA on the necessity for an FRA on site Gor11 as raised by the residents is not a determinative consideration as this related to the wider GOR11 site which was subsequently subdivided into Gor11a and Gor11b and the appeal site related to Gor11a.

Other matters

29. The development plan is formed of the South Oxfordshire Core Strategy 2012 and the saved policies of the South Oxfordshire Local Plan 2011. The parties agree that policies for the supply of housing that are out of date include CSS1, CSH1 and CSR1 from the Core Strategy and in the Local Plan Policy H4. The statement of common ground notes that the Council can only demonstrate a 3.8 years supply and that planning permissions in the region of 1,800 dwellings are needed to get out of the deficit. On this basis there is a significant shortfall and as this proposal is for housing which could add to the reduction in the deficit I afford it significant positive weight. The lack of housing land supply also means that I reduce the weight I afford to policies which introduce restraint in the supply of housing.
30. There is an emerging Local Plan however given the stage that has reached I afford it limited weight as is suggested in the statement of common ground.
31. I note that a Neighbourhood Plan is in preparation. Whilst the designated area has been approved and a group formed to lead the process; other than an initial survey, little progress has been made and there are no substantive proposals or policies in the public domain or any form of consultation document available. Given this limited progress, whilst I understand the concerns expressed by local residents that a determination on this site could have significant implications for the plan, in following the advice in the Planning Practice Guidance (PPG) at 21b-014-20140306 I only give concerns of prematurity very limited weight.

32. In general the Core Strategy seeks to direct housing to sustainable locations the approach includes directing a proportion of the needed housing to larger villages in the district, which includes Goring. The allocation of sites for housing however has stalled with no allocations in the development plan documents or Neighbourhood Plans available for Goring. Whilst there may be some general policy support available for development at the larger villages, which includes Goring, there are no specific allocations; the development plan is silent in this regard. The Core Strategy has identified a general need for housing to be dispersed and originally identified in the region of 105 dwellings for Goring. The latest iteration of the emerging plan suggests that this figure may need to increase and that a requirement in the region of 10% of the villages may be the appropriate approach. In any case it is evident that new development will be required in the larger villages in the district and that these are appropriate locations as they are the most sustainable locations. The housing policies are out of date as there is no five year supply and therefore whilst I acknowledge that the general distribution of development towards more sustainable locations is appropriate the restraint provided by village boundaries and exclusion of development outside those areas, and therefore encroachment into the countryside, are not policies for the supply of housing to which I give significant weight. I do attribute positive weight to the general location of the development towards Goring but this is limited as the policies are out of date and the necessary level of detail is absent.
33. The Unilateral undertaking secures affordable housing in line with current policy in an area where there is a demonstrable need for affordable housing. In this regard I give positive weight to the provision of affordable housing.
34. The Undertaking also secures contributions related towards waste facilities and management and towards street naming. However as these are direct consequences of the development they address effects of the development rather than make positive contributions as such effects would not arise in the absence of the development. They are therefore not positive benefits to weigh in favour of the development.

Overall conclusions

35. I have concluded that the proposals would harm the character and appearance of the area, the village setting of Goring and hence the Chilterns AONB. Consequently the proposal conflicts with policies in the Framework that indicate development should be restricted. The proposals do not meet the requirements of sustainable development and are not afforded the presumption in favour of sustainable development in paragraph 14 of the Framework. The material harm that arises also conflicts with policies in the development plan and whilst I have reduced the weight I give to these, as they are policies that affect the supply of housing in the absence of a demonstrable five year housing land supply, I still afford them significant weight as they are consistent with the restraint policies in the Framework with regard to the AONB. The conflict with the Framework is a significant material consideration as is the effect on the AONB; and to this I add the general harm to the character of the area. The proposal is in conflict with the development plan in this regard and the material considerations add to this conclusion, the scheme is therefore unacceptable. I have afforded positive weight to the additional housing that would be provided and noted the level of shortfall in the five year housing land supply, as well as the affordable housing that would be secured through the planning obligation

but none of these are of such weight as to outweigh the harm that I have identified.

36. For the reasons given above I conclude that the appeal should be dismissed.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Shaw	David Shaw Town Planning Consultant
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FOR THE LOCAL PLANNING AUTHORITY:

Sharon Crawford	Team Leader, Development Management, South Oxfordshire District Council
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INTERESTED PERSONS:

Andrew Smith	Local Resident
Stephanie Bridle	Local Resident and Neighbourhood Plan Steering Group Member
Jack Calder	Local Resident
Derek James	Local Resident
Jack Collinge	Jack Collinge Planning Consultancy representing various local residents
David Bermingham	Local Resident
Peter Watson	Local Resident
Mary Carr	Local Resident
Catherine Hall	Local Resident, Goring Parish Councillor

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Statement submitted by Jack Calder read to the Hearing– Local resident
- 2 Unilateral Undertaking submitted by the Appellant
- 3 Statement by Stephanie Bridle read to the Hearing- Member of the Goring Neighbourhood Plan Steering Group
- 4 Statement made by Derek James read to Hearing– Local Resident