
Appeal Decision

Site visit made on 20 February 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 15th March 2017

Appeal Ref: APP/D3125/W/16/3161648

Nonsuch, Heath Farm Lane, North Leigh, Oxfordshire OX29 6RS

- 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 and Mrs F Townsend against the decision of West Oxfordshire District Council.
 - The application Ref 16/00703/FUL, dated 1 March 2016, was refused by notice dated 27 April 2016.
 - The development proposed is demolition of existing dwelling, erection of 3 dwellings with associated parking, widening and improvement of existing vehicular access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. My determination of this appeal is made against the saved policies of the West Oxfordshire Local Plan 2011 (WOLP). The Council cites two generic development management policies which set out the criteria which should be applied to proposals for new residential development. Insofar as they are relevant to the appeal scheme, these policies are consistent with the provisions of the National Planning Policy Framework (the Framework).
3. The decision notice also makes reference to a number of policies from the Emerging West Oxfordshire Local Plan 2031. Although at an advanced stage of preparation, this document has not yet completed examination. Given the uncertainties regarding the outcome of that process, I have given the emerging local plan limited weight.

Background and Main Issues

4. The Council concedes that it cannot demonstrate a five-year supply of deliverable housing sites. The Framework explains that in such circumstances policies relating to the supply of housing should not be considered up-to-date. The proposal must therefore be considered in the context of the presumption in favour of sustainable development which is set out in Paragraph 14 of the Framework. This explains that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or specific policies in the Framework indicate development should be restricted.
-

5. Taking the above as a starting point, the main issues in this case are:
 - a) the effect of the proposal on the character and appearance of the area; and
 - b) the effect on the living conditions of the occupiers of Clayfield and Linden House in Heath Farm Lane and 8 Cuckamus Lane.

Reasons

Character and appearance

6. The appeal site lies on the edge of the settlement of North Leigh. Occupied by an L-shaped bungalow, the large plot is bounded to the north and east by modern two-storey houses and to the west by collection of stone buildings formerly associated with Heath Farm. The bungalow's rear garden abuts open countryside with sweeping panoramic views towards Witney to the south-west.
7. The proposal is to replace the bungalow with a scheme of three detached houses, each with its own double or triple garage. The new dwellings would have a common design language with narrow gables, reduced height eaves and well-articulated massing. Architecturally the buildings would fit with the local vernacular and the general character of the area – significantly more so than the existing bungalow which is rather nondescript in appearance.
8. However, the proposed layout of development around a shared courtyard driveway means that the dwellings would be pushed towards the edges of the site. The units would be tightly packed and this would give the site an unduly cramped appearance. The overly-dense arrangement would be particularly apparent when viewed from neighbouring residential properties and the entrance to the development off Heath Farm Lane. Whilst I did see examples of buildings close to one another, the prevailing character is one of well-spaced dwellings in a semi-rural setting.
9. Plot 3 would be located to the south of the existing bungalow footprint and forward of the general building line of development in Cuckamus Lane. Its construction would require the removal of a number of large trees which presently help to screen the village from the A4095 and the footpath which crosses countryside to the south of the appeal site. The height, width and position of the dwelling on the plot would make it highly visible from these public vantage points. Although the development would be seen in the context of other buildings – most notably Heath Farm and Spyall Lodge which lie at the very edge of the village – it would represent an unacceptable consolidation of built form on this prominent south facing ridge to the detriment of the rural setting of the village.
10. Saved Policy BE2 of the WOLP states that development will only be permitted if it is well-designed and respects the existing scale, pattern and character of the surrounding area. Saved Policy H2 seeks to resist proposals which would erode the character and appearance of the surrounding area. In failing to have proper regard to the established form and density of development in the locality of the site, the proposal would cause material harm to the character and appearance of the area and as such it would conflict with the aforementioned development plan policies.

Living conditions

11. No 8 Cuckamus Lane lies immediately to the east of the appeal site. There is no significant planting between the properties and the boundary is defined by a close-boarded fence. Nonsuch is set well back into its plot. This provides the occupiers of No 8 with an open and unrestricted outlook from their rear patio, dining room and conservatory, and to a lesser degree their kitchen window which faces north. The appeal proposal would introduce built form close to the boundary for over half of its length. Notwithstanding its eaves height, the scale and proximity of the house on Plot 2 would make it an oppressive feature in views from the kitchen window.
12. Although its massing would be broken up and stepped away from the boundary, the house on Plot 3 would extend some 15 m beyond the rear wall of No 8. This would be overbearing for the occupiers of this property, diminishing their outlook and creating a harmful sense of enclosure. Given the positions of the dwellings in relation to one another it is also likely that there would be a loss of sunlight towards the end of the day. This is impossible to quantify in the absence of any technical evidence, but it lends further weight against the proposal.
13. The Council has also raised concerns regarding the potential impact on Clayfield and Linden House to the north of the site. The dwellings on Plots 1 and 2 would each have a first floor bedroom window facing in the direction of these properties. The plans indicate that the separation between buildings would be approximately 21 m which the parties agree is the minimum necessary to prevent overlooking. However, the short distance between the bedroom windows and the boundary would provide direct views into adjoining gardens at close range. This would result in loss of privacy and would be unacceptably intrusive for neighbours.
14. The appellants have suggested that a planning condition could be used to require the offending windows to be obscurely glazed. However, the openings would be the sole means of outlook for habitable rooms and therefore I do not consider that obscured glass would be an appropriate solution.
15. Accordingly, I conclude on this issue that the proposal would be materially harmful to the living conditions of neighbouring occupiers. As such it would conflict with saved Policies BE2 and H2 of the WOLP insofar as they seek to protect living conditions for existing residents and retain a satisfactory environment for people living in the area.

Other Matters

16. It is put to me that the proposal would make the most efficient use of the site. However, Paragraph 3.13 of the WOLP makes clear that although the local plan seeks to ensure that land is used efficiently, great care will be taken to avoid over-development which would damage the amenities of the area and adversely affect the quality of life for people in that area. Having regard to the harm identified above, the proposed housing density cannot be justified in this case.
17. Concerns have been raised regarding the effect of the proposal on highway safety. Heath Farm Lane is a single track road along most of its length. It is lightly trafficked and vehicle speeds are low. Moreover, there is adequate carriageway width to enable vehicles to pass at the corner nearest Linden House and room for pedestrians to step aside. Whilst the lane is clearly

unsuitable to accommodate any significant development the movements associated with an additional two dwellings would not give rise to an unacceptable highway safety risk.

18. I note that the application includes a proposal to widen Heath Farm Lane. Details of these works have not been provided and the land would appear to fall outside of the appellants' ownership. For the avoidance of doubt, my assessment has been made on the basis of the existing lane without alteration.
19. Residents and the parish council have raised a number of other concerns including in relation to foul and surface water drainage and protected species. I have given careful consideration to these matters but on the basis of the information before me they would not constitute reasons to dismiss the appeal.

Planning Balance and Conclusion

20. I have found that the proposal would cause material harm to the character and appearance of the area and the living conditions of adjoining residents. These adverse impacts would significantly and demonstrably outweigh the modest benefits in terms of housing delivery, employment during the construction phase and support for services and facilities in the village through increased use.
21. I therefore conclude that the proposal does not represent sustainable development in the terms of the Framework. Even taking into account the current shortfall in housing land supply within the district and the Council's acceptance in principle of a residential scheme on the appeal site, there are no material considerations that would warrant a decision other than in accordance with the development plan.
22. For the reasons given above, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR