



Appeal Decision

Site visit made on 9 January 2018

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 19th January 2018

Appeal Ref: APP/Q3115/W/17/3179636

Land at 67 Lower Icknield Way, Chinnor OX39 4EA

- 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 M A Daly Building Contractors against the decision of South Oxfordshire District Council.
 - The application Ref P16/S3471/FUL, dated 18 October 2016, was refused by notice dated 18 May 2017.
 - The development proposed is erection of two detached dwellings with access, parking and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings with access, parking and amenity space on land at 67 Lower Icknield Way, Chinnor OX39 4EA, in accordance with the terms of application Ref P16/S3471/FUL dated 18 October 2016, and in accordance with the 10 conditions in the attached Schedule.

Background and Main Issue

2. The planning history for the site indicates that planning permission¹ has been granted for 2 detached dwellings at No 67 Lower Icknield Way. One on the appeal site, and one to the north west of it, which has been constructed. The appellant is now seeking to erect 2 detached dwellings on the appeal site. Access would be from the public highway along a shared drive.
3. The main issue in this case is the effect of the proposal on the character and appearance of the area, having particular regard to layout and scale.

Reasons

4. Policy CSQ3 of the South Oxfordshire Core Strategy (CS) states that amongst other matters, planning permission will be granted for new development that is of a high quality and inclusive design that responds positively to and respects the character of the site and its surroundings, and is of a scale, type and density to the site and its setting. South Oxfordshire Local Plan (LP) saved Policies H4, G2 and D1 have similar aims, as does Policy CH C1 of the Chinnor Neighbourhood Plan (CNP). Further guidance in respect of design and character is provided in the Council's Design Guide which has been adopted as a supplementary planning document (SPD).

¹ Refs P14/S0098/O and P14/S3303/RM

5. These policies are broadly consistent with the National Planning Policy Framework (the Framework) which at paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The Planning Practice Guidance (PPG) provides further advice and states that decisions on building size and mass, and the scale of open spaces around and between them, will influence the character, functioning and efficiency of an area too much building mass compared with open space may feel overly cramped and oppressive, with access and amenity spaces being asked to do more than they feasibly can.
6. Lower Icknield Way is characterised by a dwellings of different heights and designs. Whilst the submitted location plan indicates detached dwellings fronting Lower Icknield Way, set back from the road with long rear gardens, it was clear on my site visit that there has been recent development to the rear of these dwellings within the vicinity of the appeal site, including to the rear of Nos 69-77 and to the rear of No 65. This recent development is of a higher density than the established development fronting Lower Icknield Way. It is set some distance back from the road with generously sized rear gardens to the frontage development providing a spacious, landscaped buffer between the new and established built forms. It is in this context that the appeal proposal must be considered.
7. The rear garden to No 65 (Sarsville) is significantly smaller than nearby development fronting Lower Icknield Way. Mention is made of it being 6 metres deep. This property has a 2 storey projecting extension on part of its rear elevation which appears to be closer to the rear boundary of the site than this measurement. A tall wooden fence forms the rear boundary of this dwelling with the appeal site. No 67 fronts onto the appeal site and has a single storey garage close to the northern boundary of the appeal site.
8. The new dwellings would be sited between No 65 and the recently constructed new dwelling to the north of the site, No 67. The appellant has indicated that there would be a gap of 3 metres between the side elevations of plots 1a and 1b, a gap of 5 metres between the dwelling on plot 1b and the flank wall of the garage at No 67, and a distance of 12 metres between the front elevation of this property. I observed that such separation distances would reflect recent development nearby, including the dwellings accessed off Walnut Tree Close. The new dwellings would be of a scale and height which would reflect the character and appearance of the area, as would their layout fronting the access road.
9. However, the appeal proposal would result in the dwelling on plot 1a being significantly closer to development fronting Lower Icknield Way than nearby development to the rear of this road. This relationship would not respect the spacious qualities that exist between the established development fronting Lower Icknield Way and new development to the rear.
10. In light of the above, I conclude that the proposal would be harmful to the character and appearance of the area. Whilst this harm would be localised and limited, the proposal would result in conflict with the design and character aims

of CS Policy CSQ3, LP Policies H4, G2 and D1, CNP Policy CH C1, the guidance in the SPD, the Framework and the PPG.

Other Matters

11. Both parties have pointed out the planning history of the site. Of particular relevance is the extant planning permission for a detached dwelling on the appeal site. This dwelling is shown to be located close to the rear boundary of No 65, it would be 2 storeys in height with the gable wall facing towards the rear of No 65. It could be constructed in accordance with the planning permission without further approval from the Council being sought. This is a material consideration in this case which carries significant weight.
12. The dwelling on plot 1a would be sited a similar distance from the rear boundary of No 65 as the previously approved dwelling. Although of a lesser scale, it would also be 2 storeys in height and its gable would face towards the rear elevation of No 65. Whilst of a different design to the approved dwelling, I consider that it would have a similar visual and spatial relationship to No 65. I am not therefore convinced that the appeal proposal would result in a change to the character and appearance of the area, over and above that which has previously been found to be acceptable by the Council.
13. There is no dispute between the main parties that the Council is unable to demonstrate a five year supply of deliverable housing sites. The proposal would make a contribution, albeit limited to increasing the supply of housing in the area. The new dwellings would be located close to the services and facilities that the village offers and there would be social and economic benefits associated with the proposal.
14. Although not included as a reason for refusing the planning application, concerns have been raised that the proposal would result in a loss of privacy to nearby gardens. The new dwellings' rear elevation would face towards the side boundary and rear gardens of neighbouring properties. This boundary has mature landscaping upon it. The Council has calculated that the 2 storey part of both dwellings would be 10 metres from the shared boundary with No 63. Taken with the mature vegetation along this boundary, I am satisfied that no loss of privacy would occur to the occupiers of No 63 or No 61 as a result of the proposal. In the event that the existing landscaping was removed, further landscaping could be planted to prevent overlooking of nearby gardens. This could be controlled by planning condition.
15. It is likely that glimpses of the new dwellings would be seen from the rear windows and gardens of nearby properties, including Nos 63 and 61. Such views from the rear of nearby dwellings would however be at an oblique angle. Given the set back from the shared boundary with No 63 I am satisfied that the new dwellings would not be overbearing or result in harm to nearby occupiers' living conditions in terms of outlook. This matter is not therefore a determining factor in this case.
16. The Parish Council has expressed concern that the access is unsuitable to serve the proposal considering it to be too narrow to accommodate refuse and emergency vehicles. It is also submitted that the proposal would add to the traffic problems on the B4009, although such problems are not expanded upon. I note that the Highway Authority were consulted on the planning application and it raised no objection to the proposal, suggesting a number of conditions in

terms of parking, access improvements and controlling construction traffic. In the absence of substantive evidence to demonstrate otherwise, I am not convinced that vehicles associated with the proposal would result in demonstrable harm to highway safety. It is noteworthy that the Council did not raise this matter as a reason for refusing the planning application.

17. It has been put to me that the appeal site is not designated for development within the CNP. Although this matter has not been substantiated, I note that Policy CH H1 of the CNP supports infill development within the existing built-up form of Chinnor Village, subject to a number of criteria being satisfied. The Council consider that the principle of development on the site is acceptable, being within the built-up form of Chinnor. I have no reason to disagree. No objections have been raised to the proposed parking and turning arrangements. Furthermore, I have found that the proposal would not have an adverse effect upon the living conditions of nearby occupiers or result in harm to highway safety. Accordingly, I find that the scheme would not result in conflict with the CNP in this regard.

Planning Balance

18. The proposal would result in harm to the character and appearance of the area, as a result of the proximity of the new dwelling on plot 1a to No 65 Lower Icknield Way. In this regard the proposal would not reflect nearby development and there would be conflict with both local and national planning policies and the environmental role of sustainability.
19. The harm that would be caused to the character and the appearance of the area would however be limited and localised. For the reasons set out above, it would be no greater than that associated with the previously approved dwelling on the site. There is every likelihood that this dwelling would be constructed if the appeal fails. This matter carries significant weight. Furthermore, the proposal would result in an additional dwelling being provided in a sustainable location close to the services and facilities that Chinnor offers, at a time when the Council cannot demonstrate a five year supply of deliverable housing sites. There would be social and economic benefits associated with the proposal. These matters carry moderate weight in favour of the proposal.
20. In this case, I find that the harm that would be caused to the character and appearance of the area would not be significant. The material considerations set out above outweigh this harm and justify making a decision which is not in accordance with the development plan. It is on this basis and for the reasons given above that the appeal should succeed.

Conditions

21. The Council has suggested a number of conditions that it would wish to see imposed in the event that the appeal was allowed. I have considered these against the advice on conditions in the Framework and the PPG, and have amended some of the suggested wording to reflect this.
22. A condition is necessary to ensure that the development is carried out as approved. In the interests of the character and appearance of the area conditions are necessary controlling the external materials to be used and providing details of levels. Having regard to the relationship of the new dwellings to each other and to adjoining development, in the interests of the

character and appearance of the area, a condition is necessary controlling extensions to the dwellings. In the interests of living conditions and the character and appearance of the area a condition is necessary requiring the soft and hard landscaping of the site.

23. In the interests of highway safety, conditions are necessary in respect of the provision of the road access, parking and turning and controlling construction traffic. To protect living conditions a condition requiring the obscure glazing of the window in the side elevation (en-suite) of plot 1a is necessary.
24. A condition controlling development with the curtilage of the new dwellings is not however necessary, given the size of the proposed gardens.

Conclusion

25. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

R C Kirby

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: dwg. nos. 08a; 09a; 10a; 11b and 013c.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) Prior to the commencement of development, detailed plans showing the existing and proposed ground levels of the site together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Prior to the commencement of the development a scheme for the soft and hard landscaping of the site, including the planting of trees and shrubs, the treatment of hard surfacing, and the provision of boundary treatment shall be submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, in accordance with the agreed implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) Prior to the first occupation of the dwelling, the south east facing first floor window of Plot 1a shall be glazed with obscure glass to a minimum of Level 3 obscurity and thereafter retained.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development as specified in Schedule 2, Part 1, Class A - Extensions shall be undertaken.
- 8) Prior to the commencement of development a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority. The approved CTMP shall be implemented prior to any works being carried out on site, and shall be maintained throughout the course of the development.
- 9) No development shall take place until details of the standards to which the road serving the development is to be constructed have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the road has been constructed in accordance with the approved details.

- 10) Prior to the first occupation of the development hereby approved, the parking and turning areas shall be provided in accordance with the approved plan and shall be constructed, laid out, surfaced, drained and completed to be SUDS compliant. Such areas shall be retained unobstructed except for the parking of vehicles associated with the development at all times.