



Appeal Decision

Site visit made on 9 July 2019

by Michael Wood RIBA

an Inspector appointed by the Secretary of State

Decision date: 7th November 2019

Appeal Ref: APP/Q3115/W/19/3227208

46 Elderdene, Chinnor OX39 4EJ

- 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 M Collett against South Oxfordshire District Council.
 - The application Ref P18/S3046/FUL dated 03 September 2018 was refused by notice dated 21 December 2018.
 - The development proposed is the Demolition of the existing garage and the erection of a pair of single storey two-bedroom semi-detached dwellings with access, parking and amenity space.
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Decision

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

Procedural Matters

2. The Council published, in August 2019, a Housing Land Supply Statement. The Appellant was offered the opportunity to comment but I have seen no response.

Main Issues

3. The main issues are; firstly, whether the location of the proposed development would be consistent with the strategy for development set out within the development plan; and secondly, the effect of the development on the character and appearance of the area.

Reasons

Location

4. The Appellant proposes a development, in part of the garden, that would provide two semi-detached bungalows served by a driveway constructed adjacent to the eastern boundary of the site. This would involve the demolition of an existing garage at the side of the existing house. The garden extends well beyond those of most nearby properties and wraps around the rear garden of number 47 Elderdene. The position of the bungalows at the end of the garden would allow the existing house to retain a garden of approximately 30m in length. The development would be located beyond the buildings forming the settlement and project prominently into an area with agricultural land on three sides. The development would be visible from a nearby local public footpath crossing the fields.
5. Chinnor is described as a large village in the South Oxfordshire Core Strategy

of 2012 (the Core Strategy). Policy CSR1 sets out where housing will be acceptable in rural communities and this is part of the wider overall strategy set out in policy CSS1 of the Core Strategy. Within large villages policy CSR1 states housing will be allowed through allocations, infill, a rural exception site or potentially a redevelopment. The explanatory text for policy CSR1 defines infill as “the filling of a small gap in an otherwise built-up frontage or, on other sites within settlements, where the site is closely surrounded by buildings”. Policy CSR1 is consistent with the objectives of the National Planning Policy Framework (the Framework) in so far as it seeks to control the level of growth at settlements commensurate with the services and facilities they provide.

6. The Chinnor Neighbourhood Plan of 2017 (the Neighbourhood Plan) was made in October 2017 and recognises the need to boost the supply of housing land. The Neighbourhood Plan notes the significant amount of new residential development permitted since 2015 and the potential for further development and does not indicate a need to allocate sites. Policy CH H1 of the Neighbourhood Plan states that infill development within the existing built up form of Chinnor will be supported subject to a range of criteria which includes an appropriate location in relation to the built-up settlement. The policy does not define infill development.
7. The parties do not agree on whether the proposal is infill. The proposed site is not filling a small gap in a built-up frontage and is not closely surrounded by buildings and is therefore not infill development. There is no defined settlement boundary other than the existing built form and the development would be prominent at the back of existing housing and adjacent to open fields. I conclude that the proposal for 2 dwellings in this location would not be infill within the built-up form of the village but would represent an extension of the built-up limits of the settlement. It would conflict with policy CH H1 of the Neighbourhood Plan and would be contrary to policy CSR1 of the Core Strategy.
8. For the reasons set out above I conclude that the location of the proposed development would not be consistent with the strategy for development set out within the development plan. It would conflict with policy CH H1 of the Neighbourhood Plan which is a relevant development plan policy for the purposes of paragraph 11 of the Framework. Policy CH H1, although providing for infill within the built-up settlement, does not lend support for development outside the built-up settlement. The proposal does not fall within any category of acceptable development in the context of policies CSS1 and CSR1 of the Core Strategy and is contrary to the housing distribution strategy set out in policy CSH1 of the Core Strategy. In addition, as the proposal is not located within a built-up area of a large village, it would not be supported by saved policies G2 or G4 of the South Oxfordshire Local Plan of 2011 (the Local Plan). This is a fundamental conflict with the development plan and its housing strategy for rural communities.

Character and appearance of the area

9. There are no landscape designations that apply to the application site. As noted above, the site is part of an extensive garden predominantly undeveloped and is bounded by mature hedges and trees. The proposed semi-detached dwellings would be single storey with pitched roofs. Although relatively low in height they would have a long footprint with the side elevations in close

proximity to the side boundaries of the site. Even on previously developed land it should not be assumed that all the curtilage could be developed and I note much of the remainder of the appeal site would be taken up with the extensive hard surfacing of the access; turning areas and parking for six vehicles. The available space for retained or new hedges and trees would be relatively limited. As a result, the proposal would have an urbanising effect that would be detrimental to the character and appearance of the area.

10. For the above reasons I conclude that the proposed development would have a harmful effect on the character and appearance of the area. Accordingly, it would conflict with Policies CSQ3 and CSR1 of the Core Strategy, and Policies G2, G4, C4 and D1 of the Local Plan which collectively seek, amongst other things, to ensure that new development responds positively to and respects the character of the site and its surroundings. Furthermore, the proposal would not accord with chapter twelve of the Framework which seeks well designed places and to deliver good design that is sympathetic to the local character of the area.

Other matters

11. In 2018, the applicant obtained a Certificate of Proposed Lawful Use or Development (the Lawful Use Certificate) demonstrating that a sizeable swimming pool building, similar in scale to the building form now proposed, could be erected under permitted development rights, without the need for planning permission. It seems unlikely that the extent of hard surfacing proposed would be constructed without the proposed dwellings whether or not such an extent could be constructed as permitted development. The Appellant argues that the Lawful Use Certificate supports the case for allowing the appeal. I find that a swimming pool is a domestic facility found within gardens. Two houses would have a significant urbanising effect on a wider area. Consequently, I find that the consideration of the Lawful Use Certificate has limited relevance to the appeal.
12. I have considered other decisions and appeals which have been brought to my attention and are in respect of other sites in Chinnor. Some of these decisions have been made before the Neighbourhood Plan became part of the development plan and some are from a time when it was argued that a five year Housing Land supply could not be demonstrated. In each case circumstances differed from those in this appeal. In a nearby appeal Ref 17/3192374, development on land to the rear of 59-63 Lower Icknield Way, which is adjacent to part of Elderdene, was allowed in September 2018. The proposal included a row of houses alongside 46 and 47 Elderdene which was closely related to the position and setting of the existing houses and which did not extend the new development behind the limit of existing built development at that point.

Planning Balance and Conclusion

13. Planning applications and appeals should be determined in accordance with the development plan, unless material considerations (including the Framework) indicate otherwise. The Neighbourhood Plan is the most up to date part of the development plan. The Framework at paragraph 12 states that if a proposal conflicts with an up to date development plan, including any neighbourhood plan, planning permission should not usually be granted. The development plan, as a whole, provides a clear strategy for housing in Chinnor. The issue of whether to allocate housing land in Chinnor has been addressed by the Neighbourhood Plan and I find that the proposed development is contrary to

the development plan strategy. I give significant weight to the identified conflict with development plan policies, both with regard to the location of housing and to the character of the area. I find that there are no overriding considerations that lead me to conclude that the development proposed should be allowed and I conclude that the development would be contrary to policy CH H1 of the Neighbourhood Plan, and G2 G4, C4 and D1 of the Local Plan and policy CSR1 of the Core Strategy.

14. As set out in the Housing Land Supply Statement the Council considers there is well in excess of a five year supply of deliverable housing land and I have no substantive evidence before me to doubt this or to demonstrate that the policies most important for determining the appeal are out-of-date. Accordingly, paragraph 11(d) of the Framework is not engaged in this case. Even if I am wrong, and paragraph 11(d) of the Framework is engaged, I consider the adverse impacts of the effect on the character and appearance of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
15. I have taken into account the potential benefit of constructing two new houses in the locality, both in economic and social terms. I acknowledge that there are potential values to the Appellant but I consider that these benefits carry limited weight in the planning balance. There are no material considerations, either individually or in combination, of sufficient weight to outweigh the conflict with the development plan, nor do they indicate that the proposal should be determined other than in accordance with the development plan.
16. For the reasons given above, I conclude that the appeal should be dismissed.

Michael Wood

INSPECTOR