
Appeal Decision

Hearing Held on 29 October 2019

Site visit made on 29 October 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Appeal Ref: APP/C3105/W/19/3233293

Land to the West of Northampton Road, Weston-on-the-Green OX25 3RQ

- 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 Greystoke Land Limited against the decision of Cherwell District Council.
 - The application Ref 19/00596/OUT, dated 14 March 2019, was refused by notice dated 21 June 2019.
 - The development proposed is described as for residential development of up to 18 dwellings with associated access, internal roads, car parking, public open space, landscaping, drainage and other associated infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the appeal, the Appellant sought to make an amendment to the proposed development with the intention that the amended proposal be considered and determined on the basis of 100% affordable housing provision. At the Hearing the main parties were given the opportunity to provide final verbal submissions in respect of the proposed amendment.
3. In deciding whether to accept the proposed amendment to the appeal scheme, I am mindful of the principles of *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37] and the guidance contained within the Planning Appeals: Procedural Guide. In this instance I have concluded that, by reason of the nature of the proposed amendment, the amended proposal would be so changed, that to make my decision on that basis would deprive those who should have been consulted the opportunity of such consultation. Consequently, this appeal has been determined on the basis of the original application and submissions.
4. Following the submission of the planning application and appeal in relation to this matter, the Weston-on-the-Green Neighbourhood Plan (the WNP) has been submitted for, and has progressed through, the examination process. I have considered the Report of the Examination as provided within the appeal submissions and, by reason of its advanced stage, I have given substantial weight to the WNP in the determination of this appeal.
5. Outline planning permission is sought with all matters reserved. The details submitted with the application include reference to layout. Whilst not formally part of the scheme and provided for illustrative purposes, I have nevertheless

treated these details as a useful guide as to how the site might be developed. I have determined the appeal on this basis.

6. At the Hearing, the Council confirmed that it has withdrawn its objections in relation to the effect of the proposed development on the existing drainage network and the potential for flooding in the surrounding area. The Appellant has been made aware of this change to the reasons for refusal and has had the opportunity to comment. However, at the Hearing interested parties raised further concerns regarding the potential for flooding and, consequently, whilst I have not considered this matter to form part of the main issues in this appeal, I will return to this subject within the Other Matters section provided below.

Main Issues

7. The main issues in this appeal are:

- Whether the proposal would constitute an appropriate form of development with particular regard to the provisions of local and national policy in respect of the location of the development and the effect of the proposal on the character and appearance of the surrounding area;
- Whether the proposed development is in a suitable location for housing with particular reference to the accessibility of services and facilities; and,
- Whether the proposed development makes adequate provision for any additional need for infrastructure, services and facilities arising from the development.

Reasons

Principle of development

8. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the development plan comprises the Cherwell Local Plan 2011-2031 Part 1¹ (the CLPP1) and the saved policies of the Cherwell Local Plan (1996) (the CLP).
9. Policy Villages 1 of the CLPP1 confirms that Weston-on-the-Green is a Category A village. Whilst I acknowledge the Council's comments regarding the variety of sizes and populations for Category A villages within the District, in the context of the development plan, Category A villages are considered to be the most sustainable rural settlements in the district.
10. Policy Villages 2 of the CLPP1 concerns the distribution of growth across rural areas within the district and provides that "a total of 750 homes will be delivered at Category A villages", in addition to rural allowance for small site windfalls and planning permissions for ten or more dwellings as at 31 March 2014. This policy further confirms that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable and through the determination of planning permission applications.

¹ Adopted July 2015

11. It is agreed between the main parties that the 750 homes figure provided under Policy Villages 2 of the CLPP1, is not a cap or ceiling and therefore does not represent a maximum number of homes to be delivered. It has been put to me by the Council that, as of the date of the Hearing, planning permission for a total of 750 homes have been granted since April 2014 under the provisions of Policy Villages 2 of the CLPP1 and that approximately 271 homes have been completed.
12. As such, the Council contends that if planning permission were to be granted then the 750 homes figure for dwellings at Category A Villages would be exceeded well in advance of the end of the plan period. The Council maintains that by exceeding this figure, the proposed development would undermine the District's aim to focus growth at the larger settlements of Banbury and Bicester, and would make it more difficult for other Category A Villages within the District to meet their potential housing needs later on during the plan period.
13. The main parties have cited a number of previous appeal decisions in support of their submissions, which include a previous appeal decision which relates to this appeal site² (the previous appeal decision). In this regard, several of the referenced appeal decisions concerned development proposals where the 750 homes figure had not been exceeded. However, the recent decision in relation to a site located at Ambrosden³ (the Ambrosden Appeal) concerned development where, as in this present case, it was shown that the number of homes delivered during the relevant period, in combination with planning permissions that had been granted, had reached the 750 homes figure.
14. In this regard, whilst I acknowledge the Council's submissions in relation to this proposal, I concur with the Inspector's findings in the Ambrosden Appeal in that such proposals will not harm the strategy of concentrating development in Bicester and Banbury and, furthermore, that development at Category A Villages which exceeds the 750 homes figure need not place any undue constraint on other villages to meet any specific or identified housing needs, as other policies contained within the development plan, for example Policy Villages 1 and Policy Villages 3 of the CLPP1, would be relevant considerations to cater for any such needs.
15. Indeed, as noted above, the WNP is at an advanced stage and recognises that additional housing, and specifically affordable housing, is needed in Weston-on-the-Green. Whilst there is disagreement between the main parties regarding the total number of houses that will now be required to meet the aims and objectives of the WNP and further disagreement regarding the availability of alternative suitable sites within the village to meet any such needs, it is clear that in order to meet these objectives it will necessitate exceeding the already reached goal of providing 750 homes in Category A Villages within the District.
16. In summary of the above, I consider the proposed scheme would not necessarily undermine the District's housing strategy nor place any undue constraint on other villages to meet any specific or identified housing needs during the relevant plan period. Furthermore, I acknowledge that the scheme

² Appeal Reference: APP/C3105/W/16/3158925

³ Appeal Reference: APP/C3105/W/19/3228169

would provide some affordable housing units which would assist in meeting the objectives of the WNP.

17. However, I accept that notwithstanding the above finding, other forms of harm may arise for example in respect of the effect of the scheme on the character and appearance of the surrounding area or in respect of the location of the site with regards to access to services and facilities. These are matters which I shall now turn to as below.

Character and appearance

18. The appeal site comprises part of a substantial and relatively flat parcel of open land which has been divided into a number of separate paddocks. The site is located outside of the village and adjacent to land which has been granted permission for a scheme of up to twenty dwellings⁴.
19. I acknowledge that existing hedgerows and vegetation would partially screen the site from views from the surrounding locality and, consistent with the findings of the Inspector in the previous appeal decision, I acknowledge the conclusions of the Landscape and Visual Impact Appraisal that the effect on the wider landscape would be limited.
20. However, and notwithstanding the above, whilst the proposed scheme would reduce the total number of dwellings to be provided at this site when compared to the scheme considered under the previous appeal decision, the appeal proposal would still alter the agricultural appearance of the site to that of a domestic residential one and, consequently, would have an urbanising effect on this countryside location. As stated by the Appellant, the proposal would create a new settlement edge and, consequently, the scheme would appear as an encroachment into the open countryside. In my view, this would represent an undue visual intrusion into the open countryside and would thereby detract from the rural character of the surrounding area.
21. Further to the above, the proposed scheme would appear as a modern estate which would not reflect the mixture of older and newer housing that can be found throughout Weston-on-the-Green and, consequently, the proposed scheme would be harmful to the character and setting of this village.
22. For the above reasons, the proposed development would conflict with Policies Villages 2, ESD13 and ESD15 of the CLPP1 which, amongst other matters, seek to ensure that development contributes positively to the character of the area and does not cause an undue visual intrusion into the open countryside. Furthermore, the proposal would not accord with those parts of the National Planning Policy Framework (the NPPF) which seek to protect the countryside from inappropriate development. Saved Policy C28 of the CLP concerns layout, design and external appearance and as the planning application is in outline with all matters reserved, no assessment of the proposal in light of this policy is required.

Access to services and facilities

23. As highlighted by the Inspector in relation to the previous appeal decision, Weston-on-the-Green contains a basic core of services which includes access to

⁴ Council Reference: 13/01796/OUT

a Post Office, a general store, public houses, a church and village hall. The appeal site would be within reasonable walking distance of these facilities for most people and, whilst I acknowledge the concerns of interested parties with regards to the safety of pedestrians entering the centre of the village along the B340 road, I am satisfied that the provision of the proposed footpath would be sufficient to allow for safe access to the village.

24. However, as noted by the Inspector in the previous appeal decision at this site, while there would be access to some basic core services and facilities within Weston-on-the-Green, these services are limited and consequently potential future residents would have to travel further afield to access facilities which are likely to be required on a day to day basis, for example schooling, healthcare, shopping and leisure.
25. The Appellant has put it to me that access to a wider range of services could be achieved other than by means of private motor vehicle. In this regard, the Appellant maintains that children would have access to free transport to the nearest available schools and that there are alternative community services, such as the Oxfordshire Comet bookable transport service, which would provide choice for future residents.
26. However, I would again concur with the findings of the Inspector in the previous appeal decision, in that as residents would have no real choice of transport other than by private vehicle or community transport this would bring into question the sustainability of the village and the proposed development itself. This position would not be changed by the introduction of additional train services from Oxford Parkway station into Oxford.
27. Furthermore, whilst I acknowledge the proposed contribution towards new bus services and acknowledge the Appellant's submissions regarding the need to provide housing in order to maintain a suitable level of local employees with respect to employment opportunities within Weston-on-the-Green, the evidence before me indicates that the financial contribution would be insufficient to secure the long term viability of any new bus service. Additionally, there is no evidence before me which demonstrates that there are insufficient potential employees currently residing within the village to meet the needs of local businesses.
28. In my view, it is therefore likely that future occupants of the proposed scheme would be reliant on private motor vehicles in order to access day to day services such as schools, medical facilities or wider transport links. Whilst dependence on private vehicles may be expected in rural locations, the proposal would only exacerbate this level of reliance. It would contribute to a pattern of development that would be likely to cause environmental harm as a result of increased car journeys and hence carbon emissions.
29. For the above reasons, the proposed development would conflict with Policies Villages 2, ESD1 and SLE4 of the CLPP1 and would not accord with those provisions of the NPPF which, amongst other things, requires that development should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling.

Planning Obligations

30. At the Hearing, the Appellant confirmed that it was their intention to provide deeds pursuant to Section 106 of the Town and Country Planning Act 1990 which would secure any planning obligations that were necessary to make the appeal proposal acceptable in planning terms. It was put to me that the details of such obligations had been agreed in principle with the Council and that the relevant deeds were in the process of being executed. Consequently, it was agreed that further time would be provided in order that the said obligations could be completed. However, at the date upon which this appeal has been determined, no such completed obligations have been provided.
31. Paragraph 56 of the NPPF explains that planning obligations must only be sought where they meet all of the following tests as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations (CIL Regs) 2010, as amended: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.
32. Policies BSC10 and BSC11 of the CLPP1 require the provision of open space to support new housing growth in accordance with Table 7: Local Standards of Provision. Policy BSC3 of the CLPP1 requires the provision of 35% Affordable Housing as part of the proposed development. The Developer Contributions SPD (2018) requires financial contributions towards provision of refuse/recycling bins for the development, as well as contributions towards improvements to off-site sports facilities and new community facilities or the improvement of any such existing facilities.
33. Policy INF1 of the CLPP1 provides that development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities. The evidence before me indicates and confirms that financial contributions towards education provision, specifically in relation to the expansion of Chesterton Primary School are required in respect of the appeal scheme.
34. On the basis of the evidence submitted in relation to this appeal, I am satisfied that it has been demonstrated that the above contributions are reasonable and necessary. As noted above, no legal agreement has been submitted as part of this appeal and, consequently, in the absence of any legal agreements which secure the above requirements, the proposal would conflict with Policies BSC3, BSC10, BSC11 and INF1 of the CLPP1. Furthermore, the appeal scheme would not accord with the provisions of the NPPF.

Other Matters

35. Interested parties raise several additional objections to the proposal including the effect of the proposal on highway safety, residential amenity, ecology and, as noted above, in relation to its effect on drainage and flood risk. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issues, these are not matters which have been critical to my decision and consequently require no further consideration or assessment in relation to this appeal.

Planning Balance

36. The NPPF provides that the concept of sustainable development comprises three mutually dependent dimensions – being the economic, social and environmental elements of the proposal. Paragraph 11 of the NPPF confirms that proposed development that accords with an up to date development plan should be approved without delay. In this respect, the evidence before me indicates that the development plan is up to date and it is agreed that the Council can currently demonstrate a five year supply of deliverable housing sites.
37. However, the proposal would provide social benefits in terms of contribution towards housing supply, comprising a mixture of housing types including affordable housing. I acknowledge that the provision of such housing may result in the improvement of living conditions for those, especially children, who currently reside in unsatisfactory housing and consequently I attach substantial weight to these benefits in the determination of this appeal.
38. The appeal scheme would further provide economic benefits in terms of employment opportunities during the construction phase and I accept that housing at this location may help maintain the vitality of Weston-on-the-Green and other nearby settlements. I attach moderate weight to these considerations in the determination of this appeal.
39. It has been further put to me by the Appellant that the appeal scheme would provide benefits in terms of financial contributions towards a new bus service. However, for the reasons given above, there is doubt as to whether the level of financial contribution towards a new bus service would be sufficient to ensure its long term viability and, consequently, I attached very limited weight to this consideration in the determination of this appeal.
40. In terms of environmental benefits, I accept that additional planting and landscaping may result in biodiversity enhancement, but I attach only limited weight to this consideration in the determination of this appeal by reason of the scale of the development.
41. Set against the potential benefits of the appeal scheme as described above, the development plan conflict in relation to the effect of the proposal on the character and appearance of the area and the setting of Weston-on-the-Green, and the conflict in relation to the appeal site's location with regards to access to services and facilities by means other than by private motor vehicle, weighs significantly against the proposal. Furthermore, I recognise that the WNP provides that twenty additional houses are sufficient at present, and that as the proposal would be for housing in excess of this, the appeal scheme would not accord with the aims and objectives of the WNP.
42. Whilst I acknowledge the suggestion by the Appellant that the Planning Obligation could be secured by means of a Grampian condition, most of the contributions secured by such documents would carry neutral weight in the planning balance as they are designed to make the development acceptable. The proposal would secure affordable housing which would have positive weight. However, this would still not be of sufficient weight to outweigh the harm identified above. Accordingly, I find that, in the event that planning obligations were secured, this would not alter the outcome of this decision in the overall planning balance.

43. In summary of the above, the proposal's conflict with the development plan when taken as a whole, and the environmental harm that would arise due to the likely reliance of future residents on use of private vehicles, weighs significantly against the appeal scheme. For the reasons given, I conclude that the potential benefits described above, either individually or in combination, would not outweigh the harm identified in relation to the development plan conflict. Consequently, the appeal scheme would not accord with the aims and objectives of the NPPF with regards to sustainable development.

Conclusion

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

A Spencer-Peet

INSPECTOR

APPEARANCES

FOR THE APPELLANT

A Crean	Greystoke Land Limited
D Hutchison	Pegasus Planning Group Limited

FOR THE LOCAL AUTHORITY

N Stock	Cherwell District Council
M Chadwick	Cherwell District Council
T Plant	Cherwell District Council
C Cherry	Cherwell District Council

INTERESTED PERSONS

1. D Bohm
2. E Bohm
3. R Oliver
4. L Ricketts

DOCUMENTS SUBMITTED AT HEARING

1. Letters of Notification dated 8 October 2019.
2. Draft Statement of Common Ground with Appendices dated 18 October 2019.
3. Local Planning Authority's Revised Suggested Draft Conditions Document.
4. Appellant's Draft Conditions Document
5. Copy of Planning Inspectorate Appeal Decision Reference: APP/C3105/W/19/3228169.
6. Report of the Examination into the Weston-on-the-Green Neighbourhood Plan 2018-2031 with copy Cherwell District Council Executive Consideration of the Examiner's Report for the Weston-on-the-Green Neighbourhood Plan.