



Appeal Decision

Site visit made on 21 January 2020

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2020

Appeal Ref: APP/C3105/W/19/3239267

The Junction of Spring Lane, Land and Buildings, Chapel Lane, Little Bourton, OX17 1RH

- 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 Mr M Banks against the decision of Cherwell District Council.
 - The application Ref: 19/00301/OUT, dated 16 February 2019, was refused by notice dated 16 April 2019.
 - The development proposed is described as proposed outline application for new dwellings, garaging, access and external works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application is submitted in outline for 4 no. dwellings with all detailed matters reserved for subsequent reserved matters applications. I have therefore taken the submitted plan/drawing nos. P19/026/001 (Location, Block and Site Plan), P19/026/002 (Site Plan), P19/026/003 (Site Plan), P19/026/004 (Proposed Plans), P19/026/005 (Proposed Plans), P19/026/006 (Proposed Plans) to be indicative only.

Main Issues

3. The main issues are:
 - whether the proposed development would be in a suitable location, with particular reference to local plan policies concerned with housing in rural areas;
 - the effect of the proposed development upon the character and appearance of the area; and,
 - whether the proposed development would provide a safe and suitable access.

Reasons

Housing policies

4. The appeal site is part of an overgrown paddock with a small amount of informal storage on part of its south side. The paddock is bound by Spring

Lane to its east and Chapel Lane to the south. Fronting the east of Spring Lane and south of Chapel Lane are dwellings in a linear arrangement fronting the public highway and looking across the paddock. Public footpath 138/7/10 runs almost diagonally across the paddock tapering across close to the north west of the appeal site. Adjoining the south of the site is a small commercial yard and buildings. To the west the paddock is bound by the A423 (Southam Road) and a public house, beyond which to the north and west is an extensive open agricultural landscape.

5. Policy Villages 1 of the Cherwell Local Plan 2011 – 2031: Part 1 (July 2015) (the Part 1 Local Plan) sets out a hierarchy for the development of villages. It seeks to ensure development is of an appropriate scale, supported by services and facilities, and does not unnecessarily exacerbate unsustainable travel patterns. Little Bourton is classed as a 'category C' village, deemed the least suitable for additional growth. Proposals for residential development within the built-up limits will only be permitted for infilling or conversions.
6. Along Spring Lane the built-up limits of the village appear clearly defined by the existing linear residential development to the east and the commercial premises on the corner of the paddock. The modest single storey shed and garage north of the appeal site are on narrow verdant plots. Even if I were to class these as within the built-up limits, the appeal site is perceived in a rural context due to its seemingly undeveloped nature, unbound by development on its western side and the contiguous relationship with the remainder of the paddock and countryside beyond.
7. I cannot agree that footpath 138/7/10 creates the defined edge to the built-up limits. Whilst it is a legally defined right of way, it comprises an undeveloped grassed path that forms part of the paddock and open countryside. Therefore, it does not provide a western built-up limit to the village. Accordingly, the appeal site is viewed as being part of the countryside beyond Little Bourton. I have been offered no evidence that demonstrates the development is essential for agriculture or other existing undertakings, as required by Policy H18 of the Cherwell Local Plan 1996 (the CLP).
8. Paragraph C.264 of the Part 1 Local Plan defines infilling as development of a small gap in an otherwise continuous built-up frontage. The small garage and shed north of the appeal site are set in verdant plots of which the buildings occupy only a limited proportion. These do not appear as a continuous built-up frontage. The appeal site has an undeveloped frontage of some 40m. By reason of the frontage length and in the context of this part of Spring Lane running north-south, the undeveloped frontage of the appeal site does not form a small gap.
9. The appellant has suggested the proposals represent 'back land' development, on previously developed land. However, based upon my site visit and the evidence before me, the appeal site does not appear to comprise previously developed land, and the proposals before me do not appear to comprise back land development. Even if they did, this in itself would not justify allowing the development.
10. The appellant suggests this proposal is similar to a two dwelling scheme approved to the south of the paddock adjoining Chapel Lane under ref 08/02613/F. Being some 10 years old, pre-dating the current Framework and the Part 1 Local Plan, there were different planning policies considered in

reaching that decision. That scheme was markedly smaller, narrower and set within a more comprehensively developed frontage (between the pub and commercial premises). This led a previous Inspector (dismissing an appeal for development of 12 dwellings (Ref: 00/00329/OUT)) to have suggested it might be reasoned in support for development on the southern frontage, but not the appeal site as a whole. Therefore, the proposals before me are markedly different to the 2008 development, and approval of that development, does not justify approval of the scheme before me.

11. For the reasons set out above, the development would conflict with Policy H18 of the CLP, which states that permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements when they are essential for agriculture or other existing undertakings. The development would also conflict with Policy ESD1 and Policy Villages 1 of the Part 1 Local Plan. In combination and amongst other things, these policies seek to distribute residential development to the most sustainable locations and restrict development within category C villages for infilling or conversions.

Character and appearance

12. The appeal site contributes to the character and appearance of the countryside through its rural undeveloped and verdant character and mature hedgerow forming its eastern boundary. It also provides an undeveloped setting to the built form of the village. The verdant character of the appeal site can be appreciated through occasional filtered views from parts of Spring Lane and the Southam Road. In particular, it is appreciable in close proximity from footpath 138/7/10.
13. The proposed development would result in a significant extension of this small settlement. The introduction of new dwellings, garages, driveways and domestic paraphernalia, would result in a significant encroachment of development into the countryside and have a harmful urbanising effect, reducing the openness of the countryside in this location. Although most of the paddock would remain undeveloped retaining a gap to the A423, it would still result in an urbanising encroachment that would be highly visible and harmful to the character and appearance of the area. There is no evidence before me that satisfies me that the harm could be adequately overcome at the reserve matters stage through for example, appropriate landscaping, materials, design, architectural features.
14. For the reasons set out above, the development would conflict with Policies CS28 and CS30 of the CLP and Policies ESD13 and ESD15 of the Part 1 Local Plan. In combination and amongst other things these policies require all new development is sympathetic to its rural and landscape context and is compatible with and enhances the character and appearance of the area. It would also conflict with paragraph 127 of the National Planning Policy Framework (2019) (the Framework) which amongst other things requires development is sympathetic to local character and the landscape setting.

Highway access

15. The Highway Authority (HA) objected to the development because the red line on the plans doesn't extend to the highway. Therefore, if approved, the proposals would be effectively marooned from the highway with no possible access. Occupiers would have to walk through a verge to access their

properties (if they had a right of access). The appeal site boundary and the carriageway are separated by a verge of approximately 4m in depth. I have not been provided with the ownership of this land or the boundary of the public highway. Therefore, based upon the information before me I cannot be sure vehicular access can be gained to the site.

16. If vehicular access could not be gained to the dwellings, any cars would have to be parked on the carriageway. In the vicinity of the appeal site on Spring Lane and Chapel Lane, there appeared to several dwellings which do not benefit from off-street parking. This resulted in a number of cars being parked on the narrow carriageways, which would be likely to increase at evenings and weekends (e.g. when people return from work and/or have visitors). The occupiers of four dwellings collectively would be likely to have a number of vehicles. Without suitable access to the dwellings, there would be a significant increase in on-street parking in the vicinity of the appeal site. This would result in an increase in the amount of on-street parking that would be significantly harmful to highway safety.
17. The appellant suggests that matters such as adequate access visibility and specification, parking, and manoeuvring space can be provided at the reserved matters stage to be fully compliant with HA requirements. Even, if I were to agree that these could all be satisfactorily dealt with at the reserved matters stage, this does not resolve the significant concern relating to the gap between the appeal site and carriageway.
18. Therefore, based upon the evidence before me, I cannot be satisfied that a suitable access could be gained to the site. Therefore, I am unable to confirm that the concerns raised and the conflict with Policy ESD15 of the Part 1 Local Plan and paragraph 108 of the Framework, could be resolved.

Other Matters

19. The Council advised that the site is not a rural exception site under Policy Villages 3 of the Part 1 Local Plan, which seeks to secure small scale affordable housing schemes. The appellant has stated in the planning application form the development is for market housing and suggested on a plan that the dwellings would be low-cost family homes. However, the appellant has not stated the dwellings would constitute defined affordable or social housing, and not provided or offered any means, such as a planning obligation, that would secure this.
20. It is noted that the occupiers of neighbouring properties, the Parish Council and the Council's public rights of way advice raises no objection to the proposals. The appellant has also suggested a number of matters could be addressed by various suitably worded planning conditions which the appellant has provided me with. The appellant has also set out written specifications for matters including drainage, tree protection, surfacing, internal space and access to dwellings. However, the lack of objections, proposed specifications, or the imposition of the suggested conditions does not alleviate or mitigate the harm I have found above.

Planning Balance

21. The Council suggests that it can demonstrate a 5.4 year housing land supply for 2018-2023. The appellant believes the proposals are a sustainable form of

development and the Council has not met its housing requirement for rural areas. The provision of four new dwellings would contribute to the objective of supporting strong, vibrant and healthy communities. It would result in a small temporary economic benefit during construction, and a small sustained benefit to the local economy through on-going spend once the dwellings are occupied. Both of these benefits attract modest weight. Compliance with drainage, tree protection, surfacing, internal space and access requirements, are neutral factors in the balance.

22. On the other hand, there would be adverse impacts from the development in respect of undermining the planned approach to the distribution of housing, harm to the character and appearance of the area, and I am not satisfied the development could provide a suitable access from and to the public highway. This harm attracts significant weight, such that it significantly and demonstrably outweighs the benefits of the development when assessed against the policies in the Framework as a whole. Therefore, the proposal does not constitute a sustainable development.

Conclusion

23. The proposed development would be contrary to the development plan and the National Planning Policy Framework and there are no other considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR