



Appeal Decision

Site visit made on 20 July 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2020

Appeal Ref: APP/Q3115/W/20/3248420

Land West of Fairfield, Roke, Wallingford, Oxfordshire OX10 6JD

- 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 Wenman against the decision of South Oxfordshire District Council.
 - The application Ref P19/S0703/FUL, dated 1 March 2019, was refused by notice dated 16 September 2019.
 - The development proposed is the erection of a detached two storey 4-bedroom dwelling, detached garage and retrospective close boarded timber fence, entrance gates and brick piers.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Berrick Salome Neighbourhood Plan (NP) was made in December 2019. This was therefore after the Council determined the application the subject of this appeal. Planning Policy Guidance (PPG) states that a Neighbourhood Plan comes into force as part of the statutory development plan once it has been approved at referendum and has been made by the Local Planning Authority. This is therefore irrespective of a decision statement being published by the Council. The Council identified that the proposal would be in conflict with a number of policies within this plan. I have attributed full weight to the NP as this now forms part of the Development Plan.
3. The Emerging South Oxfordshire Local Plan 2011-2034 (ELP) has been submitted for examination, having had its holding direction recently removed. Therefore, in accordance with paragraph 48 of the National Planning Policy Framework (The Framework), whilst I have had regard to these policies, I have attached limited weight to them as they may be subject to modification.
4. The address on the decision notice and appeal form is a simplified version of that used on the appellant's application form. I have used the revised version which I find more clearly describes the location of the site.
5. Refusal reason two partly relates to the impact of the proposed development on the trees adjacent to the site. In receipt of the appellant's evidence, the Council has now determined that it no longer has any concerns in this regard, subject to the imposition of appropriate conditions. I shall therefore no longer consider the effect of the proposal on trees to be in dispute between parties.

6. The proposed rear, side and front boundaries, entrance gates and piers have already been erected. Furthermore, the front fence has been recently reduced in height. I shall take this into account in the appeal.

Main Issues

7. The main issues are:

- whether the appeal site offers a suitable location for new housing development having regard to local and national policies concerned with the location of new development and its accessibility to goods and services,
- The effect of the proposal on the character and appearance of the local area, and
- whether the proposal would comply with local and national policies which seek to steer new development away from areas at the highest risk of flooding.

Reasons

Locational suitability

8. The development plan for the district includes the South Oxfordshire Core Strategy (CS)(2012) and the saved policies of the South Oxfordshire Local Plan (LP)(2006). Policy CSS1 of the CS establishes the Council's strategic approach to the distribution of development. This seeks to focus major new development in Didcot with a support role provided by Henley, Thame and Wallingford. It also seeks to support growth within an identified list of larger villages and allows limited housing and employment for the other villages in the district. Outside towns and villages development would need to relate to very specific needs only. This approach is consistent with the Framework in seeking to place areas of growth in locations that would be well located and supported by the necessary infrastructure and facilities. Policy STRAT1 of the ELP also includes a similar focus that would primarily direct growth towards main towns and larger villages and allow only limited development in smaller and other villages.
9. The CS identifies the settlement of Roke as an 'other village'. Policy CSR1 explains that other villages would be suitable for infill development on sites of up to 0.1ha. Paragraph 13.10 defines infill development, 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. Furthermore, policy BER1 of the NP explains that development will only be supported within the defined settlement boundary. The accompanying plan within the NP shows that the site is beyond this defined boundary. The proposal would therefore not accord with this policy.
10. Development plan policies within the LP and CS require protection of the countryside and landscape character. Saved Policy G2 of the LP requires protection from adverse development and does not necessarily restrict all development in the countryside. Policy CSEN1 of the CS seeks the protection of the district's distinct landscape character against inappropriate development. These policies are generally consistent with the Framework that require proposals to recognise the intrinsic character and beauty of the countryside.

11. The pattern of local development of Roke takes the form of a ribbon development opposite and to the east of the appeal site. There is a field and access track to the rear and side of the site. A public right of way also runs alongside the opposite side of the site. Various residential plots are further to the northeast. The small stable building, beyond the right of way, is a discrete structure that has a limited effect on the open character of that plot. As such, although partly previously developed land, the paddock and appeal site convey a positive contribution towards the open character of the area. These plots are viewed in the surrounding context of woodland and fields beyond. Accordingly, the site would be beyond the built-up limits of Roke, with open land to three sides. As a consequence, the site would not constitute infill development within the meaning of the Council's policy.
12. The Framework supports rural housing that would enhance and maintain the vitality of rural communities through supporting local services. The site is outside the defined and observed limits of Roke. However, it is not isolated. It is close to and opposite other dwellings, that are within the village limits. The settlement only offers residents limited services beyond a public house. Furthermore, the proposal would deliver a windfall housing plot that would provide only a limited contribution towards this and other local services.
13. As the village would provide only a limited range of services, future occupiers would need to travel to local settlements such as Benson for many basic needs. The Framework requires decision makers to acknowledge that access to sustainable transport solutions would vary in rural locations. Nevertheless, the adjacent highway has an absence of street-lights or a footway. These factors when combined would reduce the likelihood of future occupiers walking to the limited local services or cycling to Benson. As a result, future occupiers would be largely reliant on the private car to access goods and services. The site is therefore in a location with poor accessibility. As such, the proposal would not accord with the sustainable pattern of growth envisaged by the Framework. Consequently, the site would not offer a suitable location for new housing development having regard to the local and national policies concerned with the location of new development and its accessibility to goods and services.
14. Accordingly, the proposal would therefore fail to comply with policy CSS1 of the CS and saved policy G2 of the LP. The proposal would also fail to accord with policy BER1 of the NP which seeks to only support development outside the settlement boundary if it would accord with policies that manage restricted development in the countryside.
15. Policy CSR1 of the CS allows for infill development within 'other' villages such as Roke. Furthermore, saved policies H4 of the LP seeks to allow development within the built-up limits of villages subject to set criteria. However, as I have found that the appeal site is outside of the village, other than defining 'infilling' these policies are not directly germane to the case. Furthermore, saved Policy G4 seeks to protect the countryside for its own sake. This is inconsistent with the Framework which instead seeks to allow limited development in rural areas in accordance with paragraphs 77 to 79 of the Framework, and I have therefore paid it limited regard.

Character and appearance

16. Existing dwellings within the village consist of a range of styles. Many of these have gaps to their sides resulting in a sense of spaciousness around the built

form. These are largely two-storey with a traditional village vernacular. Front gardens are a combination of 'open plan' frontages, planted or low-level front boundaries. The site itself includes some mature trees located to the side of the site. It contains a mobile home, a parking area and some small ancillary buildings but is mostly open with views of a woodland beyond its rear. The site therefore makes a positive contribution to the character of the surrounding open countryside.

17. During my visit I observed that several nearby dwellings included front projecting gables and detached garages in front gardens. The proposed dwelling would include a detached garage block within its frontage. It would also retain reasonable gaps to both sides. Accordingly, the scale and design of the proposed dwelling would be in keeping with the general scale and design of local dwellings. However, the proposal would introduce a substantial structure into a currently open and undeveloped plot in the countryside. This would be an overt intrusion into the existing rural setting of the site.
18. The proposed front boundary fence would accord with the form of enclosure of several local examples. This could be further softened with new landscaping, secured by planning condition, if I was minded to allow the appeal. However, the gates and adjacent piers would be obtrusive and incongruous additions within the local area. Furthermore, a condition requiring them to be reduced in height would not address the wider harm identified and would evolve the proposal which is discouraged by the PPG. The proposal would therefore have a harmful visual impact on the character and appearance of the local area.
19. As a consequence, the proposal would not accord with policies CSEN1 and CSQ3 of the CS which seek to protect the district's landscape character and for development to respond positively to the site and its surroundings. Also, the proposal would not satisfy saved policies C4, D1 and G2 of the LP. These seek development that would protect the landscape setting of a settlement, would respect the character of a settlement and protect settlements from adverse development. Moreover, the proposal would also fail to comply with policy BER2 of the NP which seeks development that builds on local character.
20. However, Policy C9 of the LP seeks to prevent the loss of landscape features. The proposal therefore would satisfy this requirement through the retention of the trees on and adjacent to the site.

Flooding issues

21. The site is partly within flood zones 2 and 3. Paragraph 155, of the Framework, states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. It also states that where it is necessary, development should be made safe for its lifetime without increasing risk elsewhere. Paragraph 163 and footnote 50 of the Framework, require a Flood Risk Assessment (FRA) for all development in flood zones 2 and 3. The PPG requires an FRA to be credible, fit for purpose, proportionate to the degree of flood risk and appropriate to the scale, nature and location of development.
22. Being for a dwellinghouse the proposal would be 'more vulnerable' to flooding and it would have a 'high' probability of flooding being partially in flood zone 3.

In such circumstances, Table 3¹ of the PPG explains that development would require an exception test if within zone 3a and should not be permitted if within zone 3b. I have noted that the submitted photographic evidence, from interested parties, illustrates the significant flood levels have previously been evident on the highway and the public footpath to the side of the site.

23. The Environment Agency (EA) identified that part of the site lies within flood zone 3b using its Flood Map for Planning. It was unconvinced that the appellant's 'Map4 model' would be an acceptable flood model. Full model outputs and supporting data were requested by EA to enable a detailed review of the fitness of this modelling. EA also considered that the employed associated software was inappropriate as it is only used to give a broad scale assessment of flood risk. I am equally unconvinced that the appellant's model is credible or fit for purpose. As such, although a detailed model may demand further expenditure this would not be adequate reasoning to evade the clarity required by the Framework. Accordingly, the appellant's evidence is insufficient to show that the site is outside flood zone 3b.
24. Paragraph 158 of the Framework states that the aim of the sequential test is to steer development to areas with the lowest risk of flooding. The PPG indicates that a pragmatic approach should be applied to the availability of alternative sites and that the developer should satisfy the Local Planning Authority with respect to their chosen search area. The sequential test undertaken considered sites within the wards of Chalgrove and Benson and Crowmarsh. This found that the identified sites were either too large, too high a yield or not within a lower flood risk area. However, this is a constrained search area and fails to show a robust assessment of available sites. Furthermore, an exemption test should only then be undertaken once it has been shown that it is not possible to locate development in lower risk areas of flooding.
25. The appellant refers to other sites where Map4 outputs were supported by EA. However, I cannot be satisfied that views taken on other sites were subject to the same flood environment, topography or policy context. In any event, each case must be considered on its own merits. Furthermore, the appellant refers to the Council's approval on a nearby site for a replacement dwelling in 2015. However, this included significant betterment and gained the support of the Council's drainage engineer. Therefore, that proposal related to substantially different material considerations.
26. I am therefore unconvinced that the FRA or sequential test adequately illustrate that the site would be safe for its lifetime or prevent flood risk elsewhere. Therefore, in accordance with the risk-based approach of the Framework the proposal would be likely to be at substantial risk of flooding. Consequently, the proposal would not comply with local or national policies that seek to steer new development away from areas at the highest risk of flooding.
27. Accordingly, the proposal would fail to satisfy Policy BER10 of the NP which supports development provided that it would not increase flood risk. Furthermore, the proposal would be contrary to the Framework that seeks to steer development away from areas that are at the highest risk of flooding.

¹ Planning Policy Guidance: Paragraph 067 Reference ID: 7-067-20140306

Other matters

28. An interested party has commented that the proposal would be a visual improvement to the former builder's yard on site. However, the former appearance of the site is not in evidence and can only be afforded limited weight in favour of the proposal.

Planning balance and conclusion

29. I have found that the proposal would not complement the character and appearance of the area and would be at substantial risk of flooding. Furthermore, the harm found to the Council spatial housing policies would be substantial.
30. There is dispute between parties whether the Council's policies most related to its spatial housing policy are out of date, due to the plan period of the LP having been exceeded. The Council accepts that the housing figures within the LP are out of date. However, my attention has been drawn to various appeal decisions made in regard to this matter in evidence, finding its spatial housing policies to not be out of date. I too have found the Council's most relevant housing policies to be in accordance with the Framework requirement that new housing should be located where supported by infrastructure and facilities.
31. Furthermore, the Council has indicated in its current Housing Statement² that it has a 5-year housing land supply of 9.75 years. Moreover, the latest Housing Delivery Test illustrates that delivery performance in the district is good and no action is required to improve this. Consequently, I do not find that the tilted balance of the Framework is engaged.
32. Even if I am wrong and the tilted balance were engaged, I find one dwelling on the edge of this small settlement would be of negligible benefit to local housing delivery and would not outweigh the conflicts identified.
33. I therefore conclude that the proposal would conflict with the development plan when taken as a whole and does not represent the sustainable development for which the Framework advocates a presumption in favour. There are no other material considerations, including the Framework, that outweigh this conflict.
34. For the reasons given above I conclude that the appeal should be dismissed.

Ben Plenty

INSPECTOR

² Housing Land Supply Statement for South Oxfordshire District Council June 2019