



Appeal Decision

Site visit made on 19 April 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Appeal Ref: APP/C3105/W/21/3285306

Land Adjacent To College Farm, Duns Tew Road, Hempton OX15 0QZ

- 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 JA Calcutt against the decision of Cherwell District Council.
 - The application Ref 21/00824/OUT, dated 8 March 2021, was refused by notice dated 30 July 2021.
 - The development proposed is described as outline application for the erection of a detached dwelling (3-bed) and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached dwelling (3-bed) and associated works at land adjacent to College Farm, Duns Tew Road, Hempton OX15 0QZ in accordance with the terms of the application, Ref 21/00824/OUT, dated 8 March 2021, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs has been made by JA Calcutt against Cherwell District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development in the header above is taken from the application form. In my decision I have omitted the "outline application" element as this does not describe an act of development and so is superfluous.
4. The planning application seeks outline planning permission as well as approval of details of access and layout. An "outline plan" has been provided which in simple form shows the site of the proposed dwelling towards the eastern half of the plot. Also, the submitted Planning, Design and Access Statement explains that access to the development would be via the existing driveway onto the site from Duns Tew Road. These details form the basis of my assessment.

Main Issue

5. The main issue is whether the development would be in a suitable location having regard to development plan policies, the provisions of the National Planning Policy Framework (the Framework) and accessibility to services.

Reasons

6. Policy BSC1 of the Cherwell Local Plan Part 1 adopted 2015 (LP Pt1) sets out the Council's aims in terms of the distribution of new housing. It looks to

provide the majority of new residential development at Bicester and Banbury, although a significant proportion of the planned houses is earmarked for the rest of the Cherwell District.

7. Following on from this broad distribution strategy, Policy Villages 1 of the LP Pt1 identifies service villages, satellite villages and other villages where minor residential development within built-up limits would be suitable. Hempton is identified as a satellite village and there is no dispute between the parties that the proposal would represent a minor residential development. As such, the scheme would be in a suitable location in terms of the aforementioned LP Pt1 policies if found to be within the built-up limits of the village. Also, the development would accord with policy H18 of the Cherwell Local Plan 1996 (LP) if found to be within the extent of the built-up area as this policy only restricts new dwellings beyond settlements.
8. Neither the LP nor the LP Pt1 define the extent of villages. As such, the issue as to whether the development would lie in the built-up area is a matter of planning judgment, having regard to the situation on the ground.
9. The proposed dwelling would be seen over the adjacent allotments when approaching along the road from the south. It would be near to and amongst the houses and associated outbuildings to the north (Woolgrove House and The Shippon) and the large barns to the south. Given its close relationship to these other buildings, the dwelling would be perceived as lying within a built-up area.
10. When seen through the access gate from the road and from the public right of way along the driveway, the house would be viewed as having a closer relationship to the barns rather than the existing dwellings. Nonetheless, it would still be seen as lying between other buildings rather than an extension of development beyond the existing extent of built up area. Also, the houses on the opposite side of the road extend further to the south than the appeal site. Consequently, when approaching from the east along the public footpath, the proposed dwelling would be seen with the existing houses in the background.
11. The Council suggest the public right of way marks the edge of Hempton although there is limited justification for such a claim in the absence of any formal designation of village boundaries in the LP or LP Pt1. Also, there is no indication within Policy Villages 1 of the LP Pt1 or LP policy H18 that agricultural buildings cannot lie in the built-up limits of settlements. The exclusion of agricultural buildings from the Framework's definition of previously developed land provides no sound basis to consider the barns as falling outside the extent of Hempton's built up area. Moreover, the barns appear to be of permanent construction.
12. Instead, I find the agricultural buildings next to the site are in the built-up area due to their strong visual and close positional relationship with Woolgrove House and The Shippon. As such, the proposed development would lie in the built-up part of the village as it would be between the barns and the dwellings.
13. Hempton includes very few facilities and services that would help meet the day-to-day needs of future occupiers of the proposed house. However, the explanatory text to Policy Villages 1 recognises that some villages do not have many services but are close to settlements that do, hence the designation of satellite villages. This policy is consistent with the Framework which recognises

that where there are groups of smaller settlements, development in one village may support services in a village nearby.

14. In this case, Deddington would be a short drive from the development and it is designated a service village in the LP Pt1 as it contains a range of facilities. Also, a dedicated walkway and cycleway lies alongside the road between Hempton and Deddington. This may encourage some walking or cycling trips from the development to the nearest facilities, albeit the separation distance may make this an unattractive travel option for some journeys.
15. LP Pt1 policy ESD1 seeks to ensure development reduces the need to travel and encourages sustainable travel options in order to mitigate the impact of development on climate change. Future occupiers of the house would be reliant on the private car to a significant degree and so in these regards the development would not fully follow the aims of policy ESD1. However, at the same time, the policy looks to distribute growth to the most sustainable locations as defined in the LP Pt1. Hempton is identified as such a location, albeit as a satellite rather than a service village. In light of this designation as well as the short driving distances and the potential walking and cycle route to Deddington, I find the development would be in a suitable location in respect of access to services. In arriving at this view, I have taken account of the Framework's advice that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
16. For the above reasons, I conclude the development would be in a suitable location having regard to the policies of the LP and LP Pt1, the Framework and accessibility to services. As such, there is no need to consider whether the development would fall within any of the exceptions included in LP policy H18.

Other Matters

17. Other concerns have been raised. The dwelling would be positioned off the driveway and so it would not obstruct the public right of way. It would be mainly seen from the footpath against the background of the large barns and so it would not block attractive views.
18. There is little evidence to substantiate concerns that noise, smoke and traffic movements associated with the barns or the allotments would cause significant nuisance to occupiers of the dwelling. My visit can only provide a snapshot in time but the local environment was generally tranquil and there is no indication that residents of nearby dwellings have unacceptable living conditions. It would be reasonable to impose a planning condition in relation to drainage to ensure the development does not cause flood risk to other properties.
19. The dwelling would be set back from the road similar to the barns and Woolgrove House and so it would follow the existing pattern of development. I understand trees that previously existed on the site have already been removed but this does not influence my assessment of the appeal scheme. None of the concerns raised fail to justify dismissing the appeal and so they do not affect my overall conclusion.

Conditions

20. I have considered the conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have made revisions for precision reasons and to avoid unnecessary pre-commencement conditions.

21. The first 3 conditions are required by law. As approval is now sought for details of access and layout, these have not been listed as reserved matters. However, in the interests of certainty I have included a condition that requires the proposed access to be as described in the Planning, Design and Access Statement and the development to be laid out as shown on the appeal drawing.
22. To ensure surface water from the development is dealt with appropriately, it is reasonable to attach a drainage condition. To secure biodiversity net gain, a condition is imposed that relates to wildlife enhancement measures. A condition regarding parking and turning facilities is included in the interests of highway safety. To promote the use of sustainable and environmentally friendly transport, conditions are needed in respect of cycle parking facilities and electric vehicle charging points. A condition is imposed in respect of water efficiency measures so as to ensure the development does not unduly exacerbate existing water stress issues.
23. On my visit I saw no trees on the site and so the suggested conditions requiring an arboricultural survey and method statement are unnecessary. The development would be served by the existing drive and no particular shortcomings in terms of its design or visibility splays have been identified. As such, the suggested condition requiring approval of the position, layout, construction and drainage of the access is not needed. Moreover, there is no substantive evidence that indicates the site may be the subject to any ground contamination and so the suggested condition in this respect is not required.

Conclusion

24. The development would accord with the development plan policies when read as a whole. As such, I conclude that the appeal should succeed.

Jonathan Edwards

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall be begun either before: (i) the expiration of five years from the date of this permission, or (ii) before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The access to the development hereby approved shall be accommodated via the existing driveway to the north of the site as described at paragraph 3.4 of the JPPC Planning, Design and Access Statement dated February 2021. The dwelling hereby approved shall be positioned as shown in pink on the unnumbered outline plan dated Feb 21.

- 5) No construction works above slab level shall be carried out on the development hereby approved until details of a surface water drainage scheme to serve the development has been submitted to and approved in writing by the local planning authority. The details shall include a management plan for the drainage scheme as well as an implementation plan. The drainage scheme shall be provided and managed in accordance with the approved details.
- 6) The development hereby approved shall not be first occupied or used until a scheme for enhancing biodiversity on the site so that an overall net gain is achieved has been submitted to and approved in writing by the local planning authority. This shall also include a timetable for provision of measures. Thereafter, the biodiversity enhancement scheme shall be carried out and retained in accordance with the approved details.
- 7) The development hereby approved shall not be first occupied or used until a plan detailing vehicular parking and turning areas to serve the development has been submitted to and approved in writing by the local planning authority. The plan shall include details of surfacing. Parking and turning areas shall be laid out in accordance with the approved details before the house hereby approved is first occupied and the areas shall be retained for parking and turning of vehicles at all times thereafter.
- 8) The development hereby approved shall not be first occupied or used until details of covered cycle parking facilities to serve the development have been submitted to and approved in writing by the local planning authority. The covered cycle parking facilities shall be provided in accordance with the approved details before the house hereby approved is first occupied and shall be retained for cycle storage at all times thereafter.
- 9) The development hereby approved shall not be first occupied or used until details of electric vehicle charging points to serve the development have been submitted to and approved in writing by the local planning authority. The electric vehicle charging points shall be provided in accordance with the approved details before the house hereby approved is first occupied and shall be retained at all times thereafter.
- 10) The development hereby approved shall not be first occupied or used until details of water efficiency measures to ensure the development achieves a water efficiency limit of 110 litres/person/day have been submitted to and approved in writing by the local planning authority. Water efficiency measures shall be provided in accordance with the approved details before the house hereby approved is first occupied and shall be retained at all times thereafter.