



Appeal Decision

Site visit made on 19 July 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th August 2022

Appeal Ref: APP/C3105/W/22/3293736

17 Twyford Gardens, Twyford, Adderbury, Banbury, Oxfordshire OX17 3JA

- 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 Matthew Wise against the decision of Cherwell District Council.
 - The application Ref 21/02884/F, dated 16 August 2021, was refused by notice dated 2 February 2022.
 - The development proposed is new house.
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Decision

1. The appeal is allowed and planning permission is granted for new house at 17 Twyford Gardens, Adderbury, Banbury, Oxfordshire OX17 3JA in accordance with the terms of the application, Ref 21/02884/F, dated 16 August 2021, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is whether the proposal for a single dwelling on the site makes an efficient use of land in accordance with the development plan and the National Planning Policy Framework (the Framework).

Reasons

3. The site comprises garden land to the rear of Nos 16, 17 and 18 Twyford Gardens. These properties front onto Banbury Road and have long gardens. The proposed dwelling would occupy a parcel of under-utilised land furthest from the houses. The development would be accessed from Twyford Grove using a narrow track which runs between Claire House and Field Close.
4. The Council is content that the site is a sustainable and suitable location for new housing but considers that the proposal fails to make effective and efficient use of the site in line with Policies ESD15 and BSC2 of the Cherwell Local Plan 2011-2031 (CLP). The latter policy states that new housing should be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development. The appeal scheme would represent a density of 10 dwellings per hectare and it is therefore argued that the site should be developed for a greater number of homes. Although the minimum policy density would equate to 3 dwellings, the Council suggests that 2 dwellings would be more appropriate.
5. Whilst I have no doubt that it would be possible to design a scheme for 2 dwellings on the site, the individual plot sizes would be significantly smaller

than those surrounding and the buildings would be closer to the boundaries with adjacent gardens. This would increase the impact on neighbours, as would the additional comings and goings along the track adjoining the rear gardens of Claire House and Field Close. In light of this, I do not consider that it would be prudent to develop the site at an increased density.

6. The Framework states that where, as in this case, there is a shortage of land for meeting identified housing needs, it is especially important to avoid homes being built at low densities. However, Framework paragraph 124 stipulates that decision-makers should take into account a number of considerations, including the desirability of maintaining an area's prevailing character and setting (including residential gardens). The residential curtilage of the new dwelling would be comparable in size to that of Claire House and other properties in Twyford Grove and to properties in Rawlins Close. Furthermore, the proposed layout would provide the space to landscape the boundaries with trees and shrubs. This would ensure privacy for the occupants of neighbouring homes and it would assimilate the development into its wider surroundings.
7. I therefore conclude that there are justifiable planning reasons for lower density development in this location. There are no conflicts with CLP Policies ESD15 and BSC2 or with national policy set out in the Framework. The proposal for a single dwelling on the site would maintain the area's prevailing character and provide acceptable living conditions for surrounding properties. These considerations outweigh the modest benefits of delivering an additional home on the site under the Council's preferred alternative scheme, even taking account of the current shortfall in housing land supply¹.

Other Matters

8. A resident of Field Close has raised concerns over the implications for their rights of access along the access track. This has no bearing on the planning application and is a private matter to be resolved between the relevant parties.
9. The officer report suggests that the appellant may have acquired additional land from surrounding properties and that this could be incorporated into any development of the site. However, the Council confirms that this did not form a basis for refusal. I have determined the appeal on its merits.

Conditions

10. I have considered the Council's suggested conditions against the tests set out in paragraph 56 of the Framework and the Planning Practice Guidance. Where necessary I have amended the wording to improve precision.
11. I have attached a condition specifying the approved plans to provide certainty. To protect the character and appearance of the area conditions are necessary to secure details of materials and landscaping. Conditions are also needed in relation to foul and surface water drainage and the design of the access, in the interests of preventing flooding and highway safety respectively.
12. To prevent harm to nesting birds it is reasonable to attach a condition relating to the timing of site clearance. Additionally, to ensure compliance with the Council's planning policies I have attached a condition on water efficiency.

¹ The Cherwell Annual Monitoring Report 2021 indicates that the District has a 3.8 year housing land supply for the period 2021-2026 and a 3.5 year housing land supply for the period 2022-2027 (commencing 1 April 2022).

13. The Council has requested a number of other conditions. Given that there is no evidence to suggest that the site is likely to be contaminated, a condition on remediation is unnecessary. The site is not visible from the public realm and therefore it is unreasonable to seek to control the siting and appearance of utility meter housings. The Council does not articulate the harm that may arise from the future use of permitted development rights and therefore conditions removing such rights do not pass the tests of reasonableness or necessity.

Conclusion

14. The proposal would comply with the development plan taken as a whole. There are no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme. Notwithstanding the housing land supply position, there are no material considerations to indicate a decision otherwise than in accordance with the development plan.
15. For the reasons given above I conclude that the appeal should succeed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing nos. 782 MATT/DAWN (Site Location and Block Plan), 782 MATT/DAWN (East and West Elevations), 782 MATT/DAWN (North and South Elevations) and 782 MATT/DAWN (Floor Plans – Option 7).
- 3) No development shall take place above ground floor slab level until a schedule of the materials and finishes to be used in the construction of the external walls and roof of the dwelling have been submitted to and approved in writing by the local planning authority. The development shall thereafter be completed in accordance with the approved details.
- 4) No development shall take place above ground level until a scheme for the provision and implementation of foul and surface water drainage has been submitted to and approved in writing by the local planning authority. The drainage works shall be constructed and completed in accordance with the approved details before the first occupation of the dwelling hereby approved.
- 5) The dwelling hereby permitted shall not be occupied until full details of the means of access to the public highway, including provisions for surfacing, drainage and vision splays, have been submitted to and approved in writing by the local planning authority. The access shall be constructed in accordance with the approved details prior to the first occupation of the development and it shall be retained thereafter.
- 6) The dwelling hereby permitted shall not be occupied until there has been submitted to and approved in writing by the local planning authority a scheme for landscaping the site. The submitted details shall include:
 - a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment - e.g. depth of topsoil, mulch, etc);
 - b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation; and
 - c) details of any hard landscaping such as paths, patios and steps.The landscaping shall be implemented by the end of the first planting season following the first occupation of the dwelling, or in accordance with an alternative programme to be first agreed in writing by the local planning authority.

- 7) The dwelling hereby permitted shall not be occupied until details of how the development has incorporated measures to achieve a water efficiency limit of 110 litres/person/day have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) All site clearance (including the removal of any vegetation or works to hedgerows) shall be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless alternative provisions have been previously agreed in writing by the local planning authority.

*** END ***