



Appeal Decision

Site visit made on 17 January 2023

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2023

Appeal Ref: APP/Q3115/W/22/3303180

Land adjacent to Mulberry House, Caps Lane, Cholsey OX10 9HE

- 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 and Mrs J Allen against the decision of South Oxfordshire District Council.
 - The application Ref P22/S1086/O, dated 17 March 2022, was refused by notice dated 12 May 2022.
 - The development proposed is for the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above is taken directly from the Council's Decision Notice. This is a more accurate description of the location than that set out on the planning application form.
3. Outline planning permission is sought but with only access to be considered at this stage. I have determined the appeal on this basis.

Main Issues

4. This main issues are: -
 - Whether the proposed development would provide a suitable location for housing, with regard to the Council's settlement strategy and accessibility.
 - The effect of the proposed development on the character and appearance of the area.
 - The effect of the proposed development ecology and biodiversity.

Reasons

Location of housing

5. The appeal site forms land to the west of Mulberry House. It would be accessed via an existing track, which currently provides vehicle access to Mulberry House. The site is near to, but outside of the defined built-up area boundary of the village of Cholsey.
6. Policy STRAT1 of the South Oxfordshire Local Plan 2020 (LP) provides an overall strategy for new development. It focuses on directing development to towns, local service centres and villages. Policy H1 of the South LP sets out those

circumstances where residential development will be permitted on sites not allocated in the local and neighbourhood development plans. This includes but is not limited to, housing within the defined settlement hierarchy, infilling and brownfield sites within and adjacent to towns and villages, specific exceptions set out in Neighbourhood Plans, bringing a redundant or disused building into residential use and the design is of exceptional quality.

7. Policy CNP STRAT1 of the Cholsey Neighbourhood Plan 2019 (NP) encourages housing development within the village of Cholsey but restricts inappropriate development in the countryside beyond the village built up boundary. Policy CNP H2 of the NP states permission will be supported for new homes on infill¹ sites which lie within the village Built-up Area Boundary subject to certain criteria. Also, proposals for development outside the built-up area will only be supported if they are appropriate to a countryside location and are otherwise consistent with development plan policies.
8. The appellant does contend that the proposal is for an infill development as it is a site that is surrounded by buildings. However, the site lies outside of and not adjacent to the Built-up Area Boundary identified on the proposals map in the NP. Furthermore, the gap between the buildings is large and does not form a continuous frontage and is not surrounded by buildings. There is no evidence with the appeal to suggest that the site is allocated, or it is one of the exceptions set out within Policy H1 of the LP. As such, the proposed development for a market dwelling, outside of the built-up area boundary of Cholsey, would not comply with the Council's development strategy and settlement hierarchy aims and objectives. Thus, the proposed development would represent an unjustified form of residential development outside of the defined built-up area boundary of Cholsey.
9. Paragraph 80 of the National Planning Policy Framework (the Framework) permits isolated homes in the countryside in certain circumstances. This includes rural worker dwellings, securing a use for a heritage asset and enabling development, conversions of redundant buildings, subdivision of residential buildings and designs of exceptional quality. However, the site is not a remote location, and is not 'isolated' for the purposes of paragraph 80 of the Framework. In any event, even if it was 'isolated', none of the exceptions set out in Paragraph 80 would apply in this instance.
10. Policy H5 of the NP, amongst other matters, also requires new housing proposals to be well and safely connected with the village and surrounding countryside for pedestrians and cyclists, having good access to effective public transport services and ensure all types of housing are well integrated.
11. To access services and facilities, along with public transport, the future occupants of the proposed dwelling would have no choice other than to walk or cycle along Caps Lane to access public transport and a pedestrian footway. Although it is a relatively short distance to Wallingford Road, the lack of pedestrian footways and lighting means that the possible routes to the dwelling would not be a safe on foot or by bicycle. Whilst I appreciate that the lack of footways and lighting would not deter all persons, it would still be a hindrance and discouraging to most occupants, especially during the winter and periods of darkness. This issue would be exacerbated if the future occupants were a

¹ Infill defined in the Neighbourhood Plan 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.'

- vulnerable person. Therefore, future residents would not be safely connected with the village, making the location for housing not suitable.
12. Paragraph 79 of the Framework aims to promote sustainable development in rural areas. However, limited evidence has been provided with the appeal to demonstrate how the proposed scheme would enhance and maintain the vitality of the rural community by supporting local services. The proposal is of a small scale and is in a location where support to local services in the rural areas would be limited.
 13. I acknowledge the appellant's contention that the site would have a similar level of accessibility to services and facilities as the nearby housing and the site is just outside the plan defining the built-up boundary of the village. However, the LP and NP are the adopted plans, which contain a settlement hierarchy that was soundly based on an assessment of the size and function of settlements as well as the facilities they contain. Accordingly, whilst accessibility would be material in the determination, it does not outweigh the harm the proposed development would do to undermine the Council's strategy for housing, which directs residential development to settlements that have sufficient physical form and capacity for growth.
 14. I, therefore, conclude that the site is not a suitable location for housing, with specific regard to accessibility and Council's settlement strategy. The scheme would be contrary to Policies STRAT1 and H1 of the LP and Policies CNP STRAT1, CNP H2 and CNP E1 of the NP. These policies, amongst other matters, limit development in countryside locations to certain accepted criteria to protect the countryside, and direct development to settlements and accessible locations, which minimises the distance people need to travel to services and facilities, as well as providing opportunities for reducing the need to travel, particularly by private car.
 15. The proposed development would also be contrary to the policies in section 5 and 9 of the Framework. The Framework does not support isolated housing in the countryside other than defined exceptions. Also, it promotes market housing, provided it is in accessible locations with safe and suitable access for all users or where it assists in maintaining the vitality of a rural community.

Character and Appearance

16. Caps Lane is a narrow road with no footways or lighting with a sporadic pattern of development along its length. Although there is mix of bungalows and two storey dwellings in the immediate vicinity, there is no dominant style of property. However, most are large single dwellings within defined, spacious, and spaced-out plots. This provides a distinctive character and appearance to the area, which is enhanced by the sporadic pattern of development, the spacing in-between and the verdant setting. The appeal site is an undeveloped field, which would be accessed off Caps Lane, between Mulberry House and some agricultural buildings. The land is flat and situated to the rear of a group of deciduous trees. The trees, undeveloped field and the spacing between Mulberry House and the agricultural buildings positively contributes to the distinctive character and appearance along Caps Lane.
17. The proposed development is in outline, with all matters reserved other than access. The position of the proposed dwelling, its orientation, design and scale are not detailed.

18. Based on the limited information available, it is difficult to conclusively determine that the plot size for a single dwelling would be cramped or overdeveloped, particularly when considering the size of the plot and the varied scale, size and style of dwellings in the vicinity. The appellant contends that this is an 'infill' plot and would not appear as a visual intrusion into the countryside due to the location of adjacent buildings. However, as indicated previously, although the proposed development would be positioned in a gap, this space is generous and could not be described as having a continuous frontage, or as being surrounded by buildings.
19. Accordingly, it does not follow that the proposed development would appear as a natural infill. On the contrary, the introduction of the residential building would have an urbanising effect, consolidating the sporadic and loose-knit pattern of housing on this part of Caps Lane. Furthermore, its siting means the dwelling would be visible from the Lane, diminishing the space between Mulberry House and the agricultural buildings as well as eroding the undeveloped character of the site. The lack of longer distance views into the site means that the visual impacts would be localised to Caps Lane and from glimpses on the adjacent Ilges Lane. Nevertheless, the proposal would reduce the appreciable spacing between the built form and erodes the verdant setting, which adds value to the character and appearance of the area.
20. Accordingly, the proposed development would adversely impact upon on the character and appearance of the area. The proposal would conflict with the aims of Policies STRAT1, H1, ENV1, DES1 and DES2 of the LP and Policies CNP STRAT1 and CNP E1 of the NP, which among other things, seek to protect the countryside and rural areas against inappropriate development and requires new development to be of a high-quality design which reflects the positive features that make up the character of the local area.

Ecology and Biodiversity

21. Where there is a reasonable likelihood of a protected species being present, it is essential that the presence of protected species, and the extent to which they would be affected by the development, is established prior to planning permission being granted. Based on the evidence before me, and my site visit, I am of the view that due to undeveloped nature of the land together with the potential impact on trees near to the access, there is a reasonable likelihood of a protected species being present and effected by the development. This is also confirmed by the Council Countryside Officer who sets out that the vicinity has known habitats for Great Crested Newts.
22. No Ecological Survey has been submitted with the appeal. This survey would have demonstrated if there are any protected habitats and species on the site, or if there are appropriate conditions for protected species to use the site. A preliminary ecology survey would also determine whether there is a need for any further surveys. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be carried out in exceptional circumstances. No exceptional circumstances have been outlined within the evidence before me.
23. I have had regard to evidence submitted, which refers to an Ecological Survey carried out on a nearby site for the conversion of barns. Although its proximity means it could have information that would be relevant to the appeal, I do not have the full details of this survey, what was considered in full or the age of the

report. As such, this information cannot be relied upon to determine the extent that protected species and habitat sites would be affected by the proposed development. Accordingly, in the absence of an ecological assessment of the appeal site, it is not possible to ascertain the effect the proposed development would have on protected species or habitats. Furthermore, in the absence of the ecological information, no biodiversity enhancements have been proposed.

24. Therefore, the application would be contrary to Policies ENV2 and ENV3 of the LP, which indicate development likely to result, either directly or indirectly to the loss, deterioration or harm to for priority habitats and legally protected species will only be permitted if the need and benefits of the development outweigh the adverse interests, it cannot be located on alternative site; and measures will be provided that would avoid, mitigate or as a last resort, compensate for the adverse effects. All development should provide a net gain in biodiversity where possible, but as a minimum, there should be no net loss of biodiversity.
25. The proposal would, therefore, fail to comply with paragraph 180 of the Framework, which states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other Matters

26. My attention has been drawn to other developments in the immediate area, which have been granted permission. In particular, the conversion of a barns in 2019 at Blackhalls House², and the approval of 73 dwellings on allocated land to the south of the appeal site. The two sites are within proximity of the site, but I have not been provided with the full details that would have been available to the previous decision makers when determining these cases.
27. Nevertheless, both sites are closer to the built-up village of Cholsey and the conversion of redundant barns and the development of allocated sites for residential development are proposals that would accord with the exceptions for housing set out in the adopted development plan. As such, the examples provided are materially different and not comparable to the scheme before me.

Planning Balance and Conclusion

28. There is a dispute between the two parties with regard to whether the 5-year housing land supply is being met by the Council, and consequently whether Paragraph 11d is engaged or not.
29. Notwithstanding the positions set out in the evidence before me, in the case where the housing land supply was in deficit, the benefit a single residential unit would make towards the uplift in the supply of housing would be small. The resultant social and economic benefits from the construction of the dwelling would also be short and temporary. The social and economic benefits from future occupiers would be limited given the scale of the proposals. I give these benefits limited weight. In this instance, the harm identified to the Council's development strategy, as well as the impact upon the character and appearance of the area and ecology and biodiversity would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework.

² Council reference P19/S0004/FUL

30. For the reasons given above, the proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, I conclude that the appeal is dismissed.

M. P. Howell

INSPECTOR