



Appeal Decision

Site visit made on 24 January 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th March 2023

Appeal Ref: APP/Q3115/W/22/3292619

Land to the East of B481, Rotherfield Peppard, Henley-on-Thames RG9 5LD

- 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 Neville of Bishopswood Pavilion Ltd and Elegant PPM Ltd against the decision of South Oxfordshire District Council.
 - The application Ref P21/S2588/O, dated 4 June 2021, was refused by notice dated 8 November 2021.
 - The development proposed is demolition of existing pavilion and erection of 4 detached dwellings with associated garaging, access arrangements and amenity, and provision of playing field land for Peppard C of E Primary School.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline permission, with all matters reserved except for access. I have considered the appeal on this basis and have treated any plans in relation to all other matters as illustrative.
3. The appeal is accompanied by a Unilateral Undertaking, dated 4th June 2021 (the UU). I have had regard for this document in determining the appeal.

Main Issues

4. The main issues are:
 - Whether the site would provide a suitable location for housing, with regard to the Council's housing strategy and accessibility to services and facilities;
 - The effect of the proposal on the provision of recreational facilities, and;
 - The effect of the proposal on the character and appearance of the area, including the Chilterns Area of Outstanding Natural Beauty (AONB).

Reasons

Location for Housing

5. The South Oxfordshire Local Plan 2020 (the LP) seeks to build upon an existing settlement hierarchy and create a sustainable pattern of development through the use of site allocations and through focusing growth in locations that help to reduce the need to travel, with a focus on towns and larger villages.

6. The appeal site lies to the north of Rotherfield Peppard, which is identified as a Smaller Village by the LP, where limited amounts of housing and employment will be supported. The LP does not, however, define the settlement boundaries of Rotherfield Peppard, and this falls to be a matter of judgement.
7. The appeal site is not allocated for development in the Development Plan. Policy H1, part 3, of the LP provides criteria where development on non-allocated sites will be permitted. This includes at part 3 iv) infilling and brownfield sites within Smaller Villages and, at part 4, residential development of previously developed land within and adjacent to the existing built-up areas of Smaller Villages.
8. The Council rely on the definition of previously developed land provided by the National Planning Policy Framework (the Framework) and acknowledge the site formerly provided a playing field. While the appellant notes the stable and marquee storage unit may be temporary, based on the evidence, the hard surfaced area and wooden pavilion date back to 1982. Despite being a timber construction, the evidence would suggest the pavilion is permanent. As such, and in considering the rest of the site as the curtilage of the developed land I find the site to be previously developed land for the purposes of Policy H1.
9. I shall therefore consider below whether the proposal falls under parts 3iv) or part 4 of Policy H1, in assessing whether the site is within the village, or adjacent to the existing built-up area of the village.

Whether in the Village

10. The village of Rotherfield Peppard includes a number of open spaces which form an integral part of its character, including the triangular 'common' spaces to the south, around which the village is focused. When travelling north out of the village, there is a frontage of houses on both sides of the B481, albeit within more generous plots and with greater set backs on the western side of the road. At the point where Dog Lane joins the B481, the building frontages on the eastern side of the road cease and the slight bend in the road allows glimpses into the field to the south of the appeal site and views of the tree belts that surround those parcels of land. In addition, at this point, a more continuous frontage of hedgerow and planting begin to form the predominant boundary treatments to the road. Together these features mark a change from the village to a more rural, open and verdant character. Consequently, I consider this marks the edge of the village.
11. The appeal site lies beyond this point, and comprises predominantly open grassland. The land to the south, set closer to the edge of the village, has planning permission for a school¹. However, at this time that site similarly comprises grassland, but with an area of hard surfacing and modest size pavilion. Due to the scale and siting of that building, I do not consider that it forms a part of the village.
12. Manor Farm lies on the opposite side of the B481, which comprises a group of light industrial and commercial uses which are set back from the road and form a relatively contained feature in the landscape. A group of secluded homes set in generous plots adjoins the appeal site to the north. Given their distance from the nearest homes on the eastern side of the road, and their separation by

¹ Oxfordshire County Council ref R3.0065/11, South Oxfordshire District Council ref P11/E0838/CC and P14/S2233/CC.

open grassland and tree belts, these also appear visually distinct from the village to the south. By reason of their generous plot sizes, set backs from the road and the presence of mature landscaping between the road and the properties, neither do these read as part of a linear development extending from the village. Instead, they appear as sporadic development which nestles into the surrounding rural setting. For the reasons given, I do not find that these nearby developments form a part of the village.

13. The grass verge and tracks within it, which run alongside the B481, provide some links for pedestrians to travel towards the village. However, when viewed in combination with the above features, the presence of the path does not amount to these nearby developments B481 falling within the village.
14. For these reasons, I do not consider the appeal site to form a part of the village. As a consequence the proposal would not conform to part 3iv) of Policy H1. In turn, it is not necessary to assess whether it would constitute infill development.

Whether adjacent to the existing built-up area of the Village

15. The appeal site is currently separated from the edge of the village by the open field to the south, which is largely undeveloped and contains a small timber clad building and hard surfaced area, set among grassland. Based on the evidence, the permission for the school has been implemented, but works associated with the school building itself have not commenced. Should the school be built out, this would be likely to extend the perceived boundaries of the settlement further north. However, the Council report that there is doubt as to whether the school would be constructed in full in light of comments from the County Council. While the change in the land use may have occurred through implementation of the permission, the existing circumstances nonetheless comprise predominantly open grassland.
16. In light of the existing character of that site, and the doubt surrounding the completion of the school, I consider that site does not currently lie within the built-up area. Instead, it displays characteristics typical of the surrounding rural area. Consequently, as the appeal site is separated from the existing built-up area by that land, the appeal site is not adjacent to the village.
17. While the village of Rotherfield Peppard has some services and facilities, including an ongoing bus link, the proposed development would be poorly connected to the village by reason of its separation and the absence of a linking footpath. While there is currently a pathway on the grass verge, this is narrow and is unlikely to be attractive to pedestrians on a regular basis, particularly those with mobility issues or with children. For these reasons the site would not be well connected to the village and future occupants would be more likely to rely on the private car, and travel further afield, to meet their day to day needs.
18. Consequently, the proposal would conflict with Policy H1 of the LP and would be at odds with the Council's spatial strategy set out in Policy STRAT1 insofar as it seeks to support Smaller and Other Villages by allowing for limited amounts of housing. It would also conflict with the Framework, where paragraph 79 states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

Recreational Facilities

19. Policy CF4 of the LP seeks to protect, maintain and where possible enhance existing open space, sport and recreation, play facilities and land including playing fields, to ensure their continued contribution to the health and well being and visitors. It gives criteria where the loss of such facilities will be permitted. This broadly aligns with the objectives of the Framework which states, at paragraph 99 that existing open space, sports and recreational building and land including playing fields, should not be built on, unless one of three criteria apply.
20. The parties agree the previous use of the land was as a recreation ground, however it has not been used as such since 2012. The appellant states that the landowner is not incentivised to bring the land back into use as a playing field, despite having identified a need for such a facility. Be that as it may, that is the lawful use of the land and, based on the evidence, the reasons for the land not being used for this purpose would appear to be personal to the appellant. There is not substantive evidence of reasons why it could not reasonably be reinstated and I am not satisfied that the use of the site for recreational purposes in the future is inherently dependant on the delivery of the appeal scheme.
21. The evidence would suggest there is an identified need for new sports pitches both locally and regionally, and the proposal would reinstate a pitch where none is currently laid. The pitch would be accessible through the approved school site, and would rely on the facilities within the school, including parking and changing rooms. The supporting UU would ensure that the land in question was transferred to the school at the request of the school's governors. However, in the event that the school were not delivered, there is no such mechanism suggested to ensure the pitch was delivered for the intended purpose, and the site would not have access to associated facilities including changing rooms and parking.
22. The site layout could reasonably be amended to include an access to the pitch, parking and changing facilities, allowing the facility to operate independently of the school if necessary. This has been suggested by the appellant. However, the Framework at paragraph 99 states the replacement should be equivalent or better in terms of both quantity and quality, and it would remain the case that the quantity would be substantially reduced. I also note the objection from Sport England which states it does not accept qualitative improvements as mitigation for the loss of a playing field or former playing field land. The appellant states that the local football club vacated the site in 2012 and that the size of the appeal site was a contributing factor, which was too small to host a village football team. This adds further to my concerns relating to the reduction in the size of the facility.
23. Even if the proposed reduction in the size of the recreational facility were to be acceptable, while matters of layout and appearance would form reserved matters, I do not consider it would be reasonable to rely on submission of details at a later stage to demonstrate that the facility would be equivalent or better quality, and this matter is integral to the acceptability of the appeal scheme. As such the proposal would fail to meet the requirements of paragraph 99b) of the Framework.

24. In light of the above concerns relating to the quality of the facility, it similarly cannot be concluded that the benefits of an alternative sports or recreational provision clearly outweigh the loss of the current or former use. Therefore the proposal would not conform to paragraph 99c) of the Framework.
25. For the reasons given, the proposal would result in the unacceptable loss of land used for sports and recreation. In turn the proposal would conflict with policies CF1 and CF4 of the LP, which relate to the protection of community and sports facilities to ensure, among other things, their contribution to the health and well-being of visitors and residents. It would also conflict with the objectives of the Framework regarding recreation and as described above.
26. The proposal would conflict with the Sport England: Playing Fields Policy and Guidance 2018 and the South Oxfordshire Playing Pitch Strategy 2017, which together seek to ensure appropriate protection and delivery of sports facilities.
27. Insofar as this main issue is concerned, I do not find conflict with policies STRAT1, which relates to other matters, nor CF2 or CF3, which relate to new or extended community and sports facilities, which I do not find to be the case here.

Character and Appearance

28. The appeal site is predominantly flat and bound by dense hedgerows and trees to its northern and western boundaries, which restrict visibility of the site itself. A public footpath exists along the eastern boundary, and allows visibility over the appeal site. The proposals would entail the creep of residential development beyond the existing village and into the surrounding countryside. I have described the characteristics of the immediate area above, and note this to include clusters of development within the rural setting. These developments form a part of the established landscape character within this part of the Chilterns AONB. Based on the evidence, I do not consider the site to form a gap or break which is of particular local importance, particularly as visibility into the site from the road is restricted by the existing hedgerow.
29. The effects created by the proposal would not only include the proposed houses themselves, but also the access, parking areas and residential paraphernalia as required by future occupants. However, given the width of the frontage of the site, together with its scale and the quantum of housing proposed, there is the potential for development on the site to be set back from the frontage and for the features which contribute positively to the character of the area, including the hedgerow, to be maintained. Together with the other examples of housing in a rural setting further to the north, I do not find that the erection of housing on the site would necessarily cause visual harm to the character and appearance of the area or the landscape setting.
30. There may be certain forms of development on the appeal site which could be harmful to the local character, for example through its scale, height and positioning. However, I do not consider this matter to be insurmountable and a solution appropriate to the character and appearance of the area could be achieved through subsequent reserved matters submissions if the appeal scheme were otherwise acceptable.
31. For these reasons, I do not find conflict with policies STRAT1 or ENV1 of the LP relating to protection and enhancement of the countryside, nor with the

objectives of the Framework insofar as they relate to design and the protection and enhancement of AONBs.

Other Matters

32. The appellant suggests a fall back position whereby the lawful use of the land would be lost. This would entail the use of the pavilion for storage or keeping horses on the land for a period of 10 years. However, I do not have evidence of the likelihood of this and note that the associated timescales are long. The existence of other options of this nature, including neglecting the lawful use, does not provide justification for the loss of the existing use, which would conflict with the development plan. As such I give this fallback position little weight.
33. The appeal site is included in the Council's Strategic Housing and Economic Land Availability Assessment 2019 (SHELAA). I do not have detailed evidence relating to this assessment of the site, however the evidence suggests the document identifies the site as being 'suitable for further consideration'. This does not provide reason to alter my judgement above.
34. The proposal would cause harm to the supply of land for recreational and sports facilities, and would cause conflict with the Council's housing strategy and settlement hierarchy. These harms would be significant and long lasting, and would present conflict with the Framework. As such, I ascribe those harms substantial weight.
35. In terms of benefits, the development would deliver four new homes, which would contribute to the national objective to boost the supply of homes. This would be on previously developed land and on a small sized site, which the Framework recognises as one that can make an important contribution to meeting the housing requirement of an area. The proposal would deliver economic benefits both through the construction process and from on going expenditure by future occupants. Taken together, these factors attract moderate weight, given the scale of the proposal.
36. The supporting plans annotate improvements to the path along the B481 to provide improved access to the village. However, as this falls outside the appeal site, and in the absence of a mechanism to secure those works, I can ascribe this only little weight as a benefit. The proposal has the ability to deliver a development of high quality design, and measures could be secured to promote sustainable transport. However, as those details are not before me, and would form part of a reserved matters submission, they are neutral matters and do not weigh in favour of the proposal.
37. There is dispute between the parties regarding the Council's housing land supply. However, even if I were to find there is no five year land supply, and the provisions of paragraph 11d) of the Framework were applicable, for the above reasons, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

38. For the reasons given, there are no material considerations, including the approach of the Framework, that are worthy of sufficient weight that would

indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

C Shearing

INSPECTOR