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# Appeal Decision

Site visit made on 24 May 2023

**by Rachel Hall BSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 July 2023**

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**Appeal Ref: APP/Q3115/W/22/3312652**

**Land north of B4009, Britwell Salome, Oxon**

- 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 Rectory Homes Ltd and Orchestra (Turners Green) Ltd against the decision of South Oxfordshire District Council.
  - The application Ref P22/S1433/FUL, dated 8 April 2022, was refused by notice dated 3 November 2022.
  - The development proposed is erection of 10 no. two storey dwelling houses including affordable housing together with the construction of a new access off the B4009, parking and garaging, landscaping and all enabling works.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for an award of costs was made by Rectory Homes Ltd against the Council. This is the subject of a separate decision.

## Main Issues

3. The main issues are:
  - whether the appeal site would provide a suitable location for the proposed development, having regard to the accessibility of services and facilities;
  - the effect of the proposal on agricultural land;
  - whether the proposal would achieve an appropriate housing mix; and
  - whether the proposal makes adequate provision for affordable housing, landscaping and associated infrastructure;

## Reasons

### *Location of development*

4. The site is located on land adjoining Britwell Salome which is classified as a smaller village in the South Oxfordshire Local Plan 2011-2035 (December 2020) (Local Plan). As such, it is not a matter in dispute between the main parties that the location of the proposal conflicts with Policy H1 of the Local Plan, not meeting any of the criteria under which housing development would be accepted on sites that are not allocated. It is also not in dispute that the proposal would conflict with Policy H16 of the Local Plan, not comprising infill development or redevelopment of previously developed land.

5. Policy STRAT1 part viii of the Local Plan allows for limited housing development that helps secure and retain services in smaller villages. Paragraph 79 of the Framework similarly supports policies that identify opportunities for villages to grow and thrive, especially where this will support local services. The addition of ten dwellings could help secure and maintain demand for the small range of existing facilities in the village, including the farm shop, pub, church, village hall and outdoor recreation facilities. However, that those facilities require support from additional local residents has not been robustly demonstrated. In any event, given the scale of the proposal the benefit to such facilities would be very limited.
6. The bus service is said to operate infrequently from Wallingford to Watlington. Consequently, opportunities for future occupants to travel by bus would be highly limited. Moreover the addition of ten dwellings would be unlikely to make a meaningful difference to securing or maintaining demand for that service. The site is said to be within cycling distance of Watlington and Benson where a wider range of services and facilities are available, including schools in Watlington. Nevertheless, the schools and other nearby settlements are unlikely to be regularly accessed on bicycles given that the route is without dedicated cycle lanes and on rural roads.
7. Therefore I conclude that the appeal site would not provide a suitable location for the proposed development, having regard to the accessibility of services and facilities. For the reasons given it would conflict with Policies H1, H16 and STRAT1 of the Local Plan. It would also conflict with Policy TRANS5 of the Local Plan which generally seeks to promote accessibility by sustainable transport modes. In addition, whilst acknowledging that opportunities for sustainable transport will vary between urban and rural areas, the proposal would not encourage public transport use or facilitate access to sufficient goods and services by pedestrian or cycle routes, contrary to paragraph 112 of the Framework.

#### *Agricultural land*

8. It is not a matter in dispute between the main parties that the proposal would result in the loss of grade 3 agricultural land. Policy DES7 of the Local Plan seeks to ensure developments make efficient use of land and protect natural resources where applicable. This includes a requirement to avoid the development of best and most versatile agricultural land, except where it is shown to be the most sustainable option from reasonable alternatives, by first using poorer quality land (criterion vii).
9. In addition, paragraph 174.b) of the Framework requires that planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land. Annex 2 of the Framework defines best and most versatile agricultural land as land in grades 1, 2, and 3a of the Agricultural Land Classification.
10. The appellant does not dispute that the site would potentially result in the loss of best and most versatile agricultural land. Furthermore, although the appellant considers that other land within the vicinity is of equal or better agricultural quality, that conclusion is not supported by substantive evidence submitted with the appeal, with reference to the location and quality of any

potential alternative sites. In addition, no assessment is provided to consider alternative locations for the development on poorer quality agricultural land within the District. Although the site is relatively modest in scale and the remainder of the agricultural field would be undeveloped, I cannot conclude otherwise than that criterion vii of Policy DES7 has not been satisfied.

11. Therefore, on the evidence before me it is reasonably likely that the proposal would result in an unacceptable loss of the best and most versatile agricultural land and would conflict with Policy DES7 of the Local Plan. It would also conflict with paragraph 174.b) of the Framework which seeks to ensure proposals recognise the wider benefits of the best and most versatile agricultural land.

#### *Housing Mix*

12. Policy H11 of the Local Plan requires that proposals provide a mix of dwelling types and sizes to address the needs of current and future households (part 1). It also requires that the mix should have regard to the Council's latest evidence (part 5). In respect of the latter, the Council refers to the Oxfordshire Strategic Housing Market Assessment (2014) (SHMA), according to which the proposal should provide only one 4-bed dwelling, as well as two 2-bed dwellings and three 3-bed dwellings. Reference is also made to the Authority Monitoring Report March 2023 which indicates that there was a notable under provision of 3-bed homes permitted in the District during 2021/22.
13. I acknowledge the comments of the Inspector in respect of the Moreton appeal (Ref APP/Q3115/W/22/3296061) (the Moreton appeal) however in that instance the proposal was found to comprise five large homes, capable of being used as 4- and 5-bedroom properties. That scheme did not include any smaller housing. Although the market housing proposed here would not accord strictly with the housing mix envisaged in the SHMA, it would nonetheless comprise a mix of 3-, 4- and 5-bed market houses. The proposal also includes 2- and 3-bed affordable homes.
14. Therefore in the circumstances of this case I find that the proposed housing mix would provide a suitable range of dwelling types and sizes to address current and future household needs, in accordance with Policy H11 of the Local Plan. As such, with respect to this main issue it would also comply with the requirement in Policy STRAT5 of the Local Plan for proposals to achieve a suitable housing mix.

#### *Planning obligation*

15. A signed section 106 planning obligation was submitted during the course of the appeal. Paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 set out three tests that planning obligations must meet. First, they must be necessary to make the development acceptable in planning terms. Second, they must be directly related to the development. And third, they must be fairly and reasonably related in scale and kind to the development.
16. The submitted planning obligation commits to the construction of the agreed affordable housing units, in compliance with Policy H9 of the Local Plan. It also includes a commitment to pay a recycling and refuse contribution and street naming contribution amounting to £1,860 and £229 respectively. This will ensure the proposal is provided with suitable waste collection facilities as

required by Policy EP3 of the Local Plan. The street naming contribution is consistent with the requirements of the South Oxfordshire Developer Contributions SPD (January 2023) (paragraph 4.89). In addition it commits to submission and approval of a landscaping scheme for the public open space and arrangements for its future maintenance by a management company. This would help ensure the proposal's compliance with Policy DES1 of the Local Plan relating to delivery of high quality design that respects existing landscape character.

17. In the event that the appeal were allowed, these contributions and obligations would be necessary to make the proposed development acceptable in planning terms. I consider that these are directly related to the appeal scheme and fairly and reasonably related to the proposal in scale and kind. For the above reasons, I am satisfied that the planning obligation would meet the requirements of the Framework and the CIL Regulations. I can therefore take it into account in determining this appeal.

### **Other Matters**

#### *Other planning decisions*

18. The appellant has submitted examples of other schemes for a similar scale of development that the Council permitted in other settlements where the sustainability of the settlement was a key consideration. With respect to the proposed development at Cuddesdon (Ref P17/S4413/FUL and P17/S4414/LB), that was considered in the context of an extant planning permission for a similar form of development. In addition, the proposal was found to fund important and necessary repairs to a listed building. Therefore, whilst its sustainability may have been scored lower than Britwell Salome, there are important differences to the planning context such that it is not directly comparable to the circumstances of this appeal.
19. In relation to the proposal for eight dwellings at Great Milton (Ref P17/S4227/O), I note that the settlement was given a considerably lower sustainability score than Britwell Salome in the Council's Settlement Assessment Background Paper (2018). That proposal was considered under the relevant policy at the time, being CSR1 of the former South Oxfordshire Core Strategy. Under that policy, unlike this appeal scheme, the proposal was considered to be infill development and therefore the location of the proposal was acceptable in principle. Whilst it exceeded the CSR1 policy threshold of 2-3 dwellings, loss of best and most versatile agricultural land also does not appear to have been an issue. Therefore, there are notable differences in the circumstances of that scheme such that it does not alter my reasoning here.
20. Reference is also made to a scheme for eight dwellings at Beech Farm in Postcombe (Ref P17/S2527/FUL) that was granted by the Council in an 'other village' location and therefore lower in the settlement hierarchy than this appeal site. However in that case the Council considered that it could demonstrate approximately a 4.1 year housing land supply and consequently, although a slightly smaller scheme, it is likely that the Council would have applied greater weight to the housing contribution of the scheme. Moreover, the stated 4.1 year supply is considerably lower than the 5.2 year supply that the Council now considers can be justified. It is also lower than the appellant's latest position for this appeal of a 4.72 year supply.

21. I note that a further proposal for eight dwellings at Postcombe (Ref P17/S1884/O) was originally recommended for approval by the Council, despite its location outside the built up limits of an 'other village'. However, like the Beech Farm scheme, the Council considered that it could demonstrate only a 4.1 year supply at that time. This would have placed greater weight on its contribution to housing delivery than in circumstances where the supply is found to be 4.72 years. In any event, I must consider the appeal scheme on its own merits. Moreover, the cumulative effect of multiple similar schemes located outside of settlement boundaries, would significantly erode the development plan strategy as a whole.

*Planning balance*

22. There remains disagreement between the main parties in relation to the Council's five year housing land supply position. The Council considers that it can demonstrate at least a 5.2 year housing land supply. The appellant, on the other hand, considered that the Council could only demonstrate a 4.36 year housing land supply, amounting to a shortfall of 748 homes. I note that the appellant has updated their position in light of the Moreton appeal decision and, taking into account lapsed permissions since that decision, considers that the Council can demonstrate a 4.72 year supply, with a shortfall of 329 homes. I have also had regard to a number of appeal decisions in which the local housing land supply position was considered<sup>1</sup>.
23. If I were to accept the appellant's position, then paragraph 11 of the Framework would apply. This states that where the development plan is out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or there are specific policies in the Framework which indicate that development should be restricted. In this case, from the evidence before me, there are no specific policies in the Framework which indicate that development should be restricted. Therefore paragraph 11.d)ii would be engaged.
24. The proposed ten new houses would make a moderate contribution to the supply of housing and provide an acceptable housing mix helping to address the stated shortfall. The policy compliant addition of four affordable homes would also be a social benefit to which I afford moderate weight. Small sites can be built out relatively quickly. The proposal would provide a limited amount of short-term employment through the construction of the development and some further limited benefits would result from the additional support to the vitality of the local community from the future occupants of the ten houses. I have also taken into account the proposed sustainable energy, biodiversity net gain and landscaping measures as well as the proposal to improve access to a nearby public right of way, which, given the modest scale of the proposal, I have given moderate weight.
25. Nevertheless, the proposal would be contrary to the development plan strategy of focusing housing on sustainable settlements. The absence of a five year supply would reduce the weight to be afforded to such policy conflict. Nevertheless, given the limited facilities in the locality and constraints to travel by sustainable transport modes here, there would be considerable and

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<sup>1</sup> Ref APP/Q3115/W/20/3265861; APP/Q3115/W/22/3296061; APP/Q3115/W/22/3297007; APP/Q3115/W/22/3297026; APP/Q3115/W/21/3272377.

enduring harm from the likely reliance on travel by private car, contrary to the approach in the Framework. Also, it would result in the loss of best and most versatile agricultural land. Taking into account the scale of the proposal and the economic and other benefits of such land, I afford moderate weight to this harm. An absence of harm in relation to matters such as highway safety, drainage, heritage, design and residential amenity are neutral considerations. Evidence that the proposal would improve the appearance of the western edge of the village is not sufficiently persuasive.

26. Therefore, even if I were to conclude there is a shortfall in the five year housing land supply of the scale suggested by the appellant, the nature and scale of the adverse impacts of granting permission would significantly and demonstrably outweigh the combination of its benefits. Consequently, the proposal would not represent sustainable development. Therefore it has not been necessary to reach a definitive view on the Council's five year housing land supply position. Furthermore, neither the support for new housing to meet the needs of the community in the development plan or the Framework is at the expense of ensuring that development is appropriately located.
27. In the context of the development plan I have found that the proposal would be contrary to policies H1, H16, STRAT1, TRANS5 and DES7 of the Local Plan. For this appeal, I have found these policies to be generally consistent with the relevant aims of the Framework. For the reasons given, the location of the proposal is contrary to the development plan strategy. The proposal would make a modest contribution to the Council's housing requirement, and the market and affordable housing need more generally, and I have found some areas of compliance with the Local Plan including in respect of matters such as housing mix and biodiversity. However, as reasoned above, the proposal would not accord with the development plan when considered as a whole.

## **Conclusion**

28. Therefore, having taken all other relevant matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. Consequently, the appeal should be dismissed.

*Rachel Hall*

INSPECTOR