



Appeal Decision

Hearing held on 6 & 22 February 2024

Site visit made on 6 February 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th May 2024

Appeal Ref: APP/C3105/W/23/3326858

Land to the north of Burycroft Road, Hook Norton, Oxfordshire

Ordnance Survey Grid Reference 435413:232851

- 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 and Mrs Paul Reynolds against the decision of Cherwell District Council.
 - The application Ref is 22/03626/F.
 - The development proposed is erection of a single detached dwelling, associated garage, access and new landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the Appellant against Cherwell District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Council has confirmed that the reason for refusal should refer to Policy Villages 1, not Policy Villages 2. It is common ground between the main parties that Villages 1 is the relevant policy and I have therefore had regard to it in reaching my decision.
4. The Council is in the early stages of reviewing its Local Plan. Both parties agreed at the Hearing that the emerging Local Plan carries limited weight and I have considered the appeal on that basis. Following publication of a revised National Planning Policy Framework (the Framework) and Housing Delivery Test results in December 2023, the parties were invited to comment on whether either update is relevant to their cases, and I have taken comments received into account.
5. Prior to the Hearing, my attention was drawn to three recent appeal decisions¹ pertaining to housing land supply issues and I have had regard to their contents where relevant. In response to my Pre-Hearing Note, both parties provided updated evidence on the deliverability of sites included in the Council's latest published five-year housing land supply evidence. At my request, the Council also provided additional details of development phasing on

¹ Appeals Ref: APP/C3105/W/22/3309489, APP/C3105/W/23/3324704 & APP/C3105/W/23/3325113

a large site at Heyford Park, and the Appellant has had the opportunity to comment on this evidence.

6. A signed Statement of Common Ground was provided shortly before the Hearing and hard copies were made available at the event. The Council also provided copies of an updated Housing Land Supply Position Statement published January 2024, and a legal opinion regarding the status of the Council's emerging Local Plan Policies Map. The Appellant provided a copy of a different legal opinion on the same matter. The main parties and those present at the Hearing were given an opportunity to read and comment on the above documents. I have taken this additional evidence into account as necessary, and I am satisfied that no prejudice would occur to any party as a result.
7. On 5 March 2024, an appeal was allowed on land at Heyford Park². Its contents include consideration of the Council's housing land supply. Both main parties have had the opportunity to comment on this recent appeal decision and I have taken their comments into account.

Main Issues

8. The main issues are:

- whether the proposed development would provide a suitable location for housing, having regard to the Council's spatial strategy and accessibility to services and facilities, and
- whether any harm would be outweighed by other material considerations, having regard to the Council's housing land supply position and the benefits of the proposed development.

Reasons

Suitability of Location

Development Plan

9. The Cherwell Local Plan 2011-2031 (CLP), adopted 2015, sets out the Council's spatial strategy for housing in the rural areas, in Policies Villages 1 (PV1) and Villages 2 (PV2). Policy PV1 categorises villages according to their scale, services and facilities and accessibility by means other than the private car. Hook Norton is a Category A village, being a larger and more accessible rural settlement where Policy PV1 allows for minor development, infilling and conversions within the built-up limits of the village.
10. Beyond built-up limits, saved Policy H18 of the Cherwell Local Plan 1996 restricts the development of housing other than in certain limited circumstances. However, the more recently adopted Policy PV2 sets out a strategy for growth in the rural areas, including residential site allocations outside the built-up limits of Category A villages. The supporting text confirms that those allocations would be for sites of 10 dwellings or more. Although this threshold is not clearly articulated in Policy PV2 itself, it is clear when reading the development plan as a whole that Policies PV1 and PV2 are intended to work together. This provides a plan-led approach to development which

² Appeal Ref: APP/C3105/W/23/3326761 OS Parcel 1570 Adjoining and West Of Chilgrove Drive, and Adjoining and North Of Camp Road, Heyford Park, OX25 5LX

encompasses smaller sites within Category A villages and sites of 10 dwellings or more beyond their existing built-up limits.

11. In the Hook Norton Neighbourhood Plan 2014-2031 (HNNP), made 2015, Policy HN-H1 echoes Policy PV1 by allowing for housing by means of minor development, infilling and conversions. Policy HN-H2 provides criteria for assessing the suitability of locations for additional housing. Neither policy in the HNNP explicitly precludes housing outside the built-up limits. However, both seek compliance with all other relevant policies in the HNNP, which would include HN-CC1 regarding character, and the supporting text to Policy HN-H1 acknowledges the need to respect the character of the area.
12. The Framework directs housing in rural areas towards locations where it will enhance or maintain the vitality of rural communities, supporting local services and identifying opportunities for villages to grow and thrive. While Policies PV1 and H18 take a restrictive approach beyond existing built-up limits, the overall spatial strategy within the development plan is consistent with the Framework.
13. While I have noted that the Adderbury appeal decision³ gave Policies H18 and PV1 less weight, based on their consistency with the Framework, there is no reference to Policy PV2 in that decision. Having considered the interaction between Policies PV1, PV2 and H18 and having regard to the HNNP, I have reached a different view based on the evidence before me.

Relationship with Built-up Limits

14. The appeal site is rough pasture enclosed by trees and hedges, sloping down to a stream. It has a similar character, albeit at a smaller scale, to the patchwork of fields further along Croft's Lane. The existing housing on Burycroft Road adjacent to the appeal site is relatively low lying and near to the frontage, following a similar building line. Just beyond the end of the built development, a public right of way (PROW) connects Burycroft Road with Netting Street, passing through the appeal site and an adjacent field. To the north of the appeal site is a further expanse of open land rising up from the stream.
15. The appeal site has the character of countryside and is part of the undulating open land which links the village to its rural context. The PROW creates a demarcation between the properties facing Burycroft Road and the distinctly separate character of the open rural fields and green spaces around the built-up parts of the village, including the appeal site. The open, undeveloped nature of the appeal site and its relationship to the countryside surrounding the village can clearly be appreciated by those using the footpath. From the PROW, almost all of the existing built development lies to the east and north, with much more limited development to the west and south. Consequently, the appeal site lies beyond the built-up limits of the settlement, sitting firmly within the landscape setting of Hook Norton.
16. Consultation responses during preparation of the HNNP, summarised in the supporting text to Policy HN-H2, identify Burycroft Road/Croft's Lane and the fields either side of the stream as being unsuitable locations for housing growth. While this text does not have the force of policy, these responses are consistent with my conclusion that the appeal site is beyond the built-up limits of the village.

³ Appeal Ref: APP/C3105/W/16/3158760

17. I accept that part of the site boundary adjoins the ribbon of built development along Burycroft Road, but this connection is weak and would remain so given the design of the development. The proposed dwelling would stand in a spacious plot, separated from the nearby housing by its garden and the open land to be retained alongside the PROW.
18. There have been changes to the character of Burycroft Road because of development broadly opposite the appeal site. Still, the appeal site's relationship with the PROW and frontage development adjacent to it is such that development on the opposite side of the road does not change my conclusions with regard to the location of the built-up limits for the purposes of this appeal.
19. The Council has not alleged any harm to the character and appearance of the area, based on the design approach adopted, but the encroachment of development beyond the built-up limits, into an area which forms part of the surrounding countryside, would be harmful in principle, notwithstanding the quality of the design approach.

Access to Services and Facilities

20. The Council classifies Hook Norton as one of its most sustainable rural settlements and it is common ground between the parties that future occupiers would have access to a wide range of services and facilities in the village. However, both the Council and interested parties highlighted factors which could inhibit access by means other than the private car.
21. While the appeal site is within walking distance of local services and bus stops, it is in a peripheral location, where the road network lacks pavements or street lighting. Much of the lane has the character of a relatively quiet village street, where short journeys on foot or by cycle could feasibly be undertaken. Grass verges allow pedestrians to avoid oncoming vehicles and interested parties allude to pedestrian use of Burycroft Road and Croft's Lane for exercise, dog walking and access to the allotments. Nevertheless, the characteristics of the lane would to some extent deter occupiers from walking or cycling, particularly after dark.
22. There are also some steep gradients between the appeal site and the village centre, as is the case in several locations within the village. The topography is not so extreme as to rule out walking or cycling. However, it could be problematic for those with impaired mobility, carrying heavy shopping or accompanying small children. The proposed dwelling would also be set well back on the plot, adding to the length of the journey to the village by bike or on foot. Therefore, while future occupiers would have the option of using local village services, in practice this is less likely given the site circumstances and the likelihood that the development would support local services and facilities would also be more limited.
23. Other parts of the village lack street lighting, and this does not, of itself, prevent Hook Norton from functioning as a Category A settlement. Nevertheless, the site's peripheral location and the particular characteristics of the surrounding road network could discourage walking and cycling in practice. The underlying purposes of Policies PV1 and PV2 include supporting walking and cycling, as well as managing travel by car. Therefore, the site's somewhat

compromised accessibility weighs against the advantages of its relationship with a Category A village.

Conclusion on Suitability of Location

24. The proposed dwelling would not be isolated for purposes of Framework paragraph 84. However, as a result of the site's location outside the built-up limits of Hook Norton, the encroachment of development into the surrounding countryside and the relationship of the site to local services and facilities, I conclude that the proposal would conflict with the spatial strategy as articulated in Policies H18, PV1 and PV2 and in HNNP Policies HN-N1 and HN-N2.
25. Consequently, the proposed development would not provide a suitable location for housing, having regard to the Council's spatial strategy and accessibility to services and facilities. Having concluded that the Council's spatial strategy is consistent with the Framework's approach to rural housing, the conflict with the development plan and the related harm is a matter to which I give significant weight.

Housing Land Supply

26. There is no dispute between the parties that the District's housing land supply should be measured against Local Housing Need (LHN), in line with paragraph 77 of the Framework. Nor is there any dispute regarding the calculation of LHN or that the assessment of housing land supply should be based on the period detailed in the Council's December 2023 Authority Monitoring Report (AMR). In January 2024, the Council published an updated Housing Land Supply Position Statement, reflecting changes in the December 2023 Framework. Since the Council is no longer required to provide a 5% buffer, this states that the Council's housing land supply stands at 5.8 years, based on the sites listed as deliverable in the AMR.
27. The Appellant contests the Council's housing land supply position in two respects: that several of the sites listed in the AMR are not deliverable as defined in the Framework and Planning Practice Guidance (PPG), and that housing land supply should be monitored against a single requirement, taking account of Oxford's unmet needs. Planned development to address Oxford's unmet needs is the subject of a Partial Review of the CLP⁴. It is monitored separately from housing to meet the needs of Cherwell District and is therefore not reflected in the Council's figure of 5.8 years.
28. Prior to the Hearing, based on an assessment of site deliverability, the Appellant proposed a housing land supply figure of around 4.3 years, even if Oxford's unmet needs were excluded from the assessment. The deliverability of several additional sites was challenged during the Hearing, following the Council's response to my Pre-Hearing Note. After the Hearing, my attention was drawn to the recent appeal decision at Heyford Park, which concluded that the Council's housing land supply was less than 4 years, based on a single housing requirement incorporating Oxford's unmet needs. However, the Council has made clear that it disagrees with the Inspector's conclusions in that case.
29. Even if I were to conclude that there is a shortfall in housing land supply on the scale suggested by the Appellant and/or the Heyford Park decision, paragraph

⁴ Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford's Unmet Housing Need, adopted September 2020

11d in the Framework requires consideration of whether 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. I return to this matter in the planning balance below.

Benefits

30. The proposal would deliver one dwelling, contributing to housing land supply and supporting the Government's objective of boosting the supply of homes. There would also be some economic benefit arising from the construction process, Council income linked to new development and expenditure by future occupiers. The latter has been quantified by the Appellant but there is limited guarantee of the extent to which it would be directed to local businesses or services. There is also little substantive evidence that a single new dwelling would materially contribute to the vitality of what is already a sizable rural community or to the economic viability of any particular local services.
31. Based on proposed habitat enhancements, biodiversity net gain (BNG) of over 120% is claimed, along with over 60% net gain in hedgerow units. This has not been disputed by the Council, although interested parties question the methodology and ecological baseline adopted.
32. The proposed BNG relies largely on establishment of a lowland meadow in the lower-lying part of the site, next to the stream. The Preliminary Ecological Appraisal (PEA) sets out the 30-year management regime which would be required to achieve the calculated net gain. This would require a long-term commitment to regular hay cropping, clearance of pioneer species of succession and avoidance of chemical interventions. The area in question lies outside the proposed garden and there is little evidence as to the proposed long-term management arrangements.
33. While the main parties indicated that this matter could be secured through a condition requiring approval of a management plan, I am not persuaded that this would be reasonable or realistically enforceable, given the required 30-year management period. I have therefore given little positive weight to the proposed BNG, since I am not satisfied that it could be effectively secured.
34. The appeal site is over one hectare in area and therefore does not clearly contribute to housing delivery on small and medium sized sites, as supported in Framework paragraph 70a. The same paragraph expressly refers to suitable windfall sites within existing settlements, whereas I have concluded the appeal site is beyond the built-up limits of Hook Norton. While the proposed single dwelling may nevertheless be delivered relatively quickly, this is not guaranteed, noting that diversion of the PROW would be required in advance of the development.
35. Given that the site adjoins a Conservation Area, the quality of the proposed design would not exceed relevant policy requirements. Nor is there any clear evidence that the proposed high level of energy efficiency would be beyond policy requirements, since the CLP seeks energy efficient development over and above the minimum secured through Building Regulations. These are therefore neutral factors which weigh neither for nor against the proposal.
36. While the trees around the site boundaries may benefit from management and maintenance, the existing vegetation is broadly consistent with the appearance

of field boundaries in the surrounding countryside. Therefore, the proposed landscaping measures would not deliver any benefits over and above the normal expectations for soft landscaping of new development.

37. Diversion of the PROW is not a matter which is before me. Any such diversion would have to be considered through a separate process before the development could proceed. There is no guarantee that the outcome of that process would correspond with the details outlined in the application and therefore I have given no positive weight to any potential enhancements to public accessibility.

Other Matters

38. There are a number of listed buildings on Netting Street, near the appeal site, along the ridge on the opposite side of the stream. They include several dwellings and a Baptist Church, all listed at Grade II. In addition, the tower of the Grade I listed parish church is a prominent feature on the skyline. In view of these heritage assets, I am mindful of my obligation under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings, their settings, or any features of special architectural or historic interest which they possess.
39. The Grade I listed church has Saxon origins. It is a distinctive feature in the centre of the village and the church tower can be seen from a considerable distance, rising above the surrounding buildings. The building's significance derives from its exceptional age, retained architectural features dating back to the 12th century and its historic and continued role as a focus for worship and community gatherings. Its immediate setting includes the churchyard and the historic buildings which are grouped around it in the village centre, and its historic and architectural features are best viewed from the adjoining street. The proposed development would not intrude into this area.
40. Longer views of the church tower reveal its prominent position in the heart of the village. However, the tower is only intermittently visible from Burycroft Road and Croft's Lane, since visibility is obstructed by existing dwellings and hedgerows. The highway boundary would continue to be screened by vegetation, and the proposed dwelling would present as single storey to the road. Accordingly, the proposed development would not materially affect existing views of the tower from the road and views would continue to be available from the PROW even if diverted. I therefore conclude that the proposal would preserve the immediate and wider setting of the Grade I listed building and the features of special architectural or historic interest which it possesses.
41. The significance of the Grade II listed buildings includes their 17th or 18th century origins, and the survival of vernacular building materials and detailing of that period. The Conservation Area Appraisal⁵ (CAA) notes their dominance in the street scene along Netting Street and that several of the dwellings stand in their own spacious grounds. As such, both the built-up street frontage and the more spacious areas of open land to the rear contribute to their setting.
42. The proposed dwelling would be visible from some of the listed buildings, but it would neither intrude into, nor materially enclose, the grounds within which

⁵ Hook Norton Conservation Area Appraisal May 2007

they sit. Nor would it prevent an appreciation of their vernacular architecture, which is mainly understood at closer quarters within the street frontage. The outlook from the buildings already includes modern housing along Burycroft Road and Croft's Lane. As such, the introduction of one more dwelling in its own spacious grounds would preserve the setting of the listed buildings on Netting Street and their significance as heritage assets.

43. There is no evidence that any historic landscape features within the site have been identified by the Council as non-designated heritage assets or otherwise formally recognised for their heritage value. The site lies outside the Conservation Area boundary and the proposed development would not encroach into the Green Fields character area, which lies to the other side of the stream. The Council did not allege any harm to the character and appearance of the Conservation Area itself. Since I am dismissing the appeal for other reasons, it is not necessary for me to give further consideration to the effect on its setting.
44. The proposal was subject to pre-application discussions and the Council acknowledged at the Hearing that a positive officer recommendation may have been made, had its housing land supply position not improved shortly before the application was determined. Nevertheless, I have considered the proposal on its merits, based on the evidence before me.

Planning Balance

45. The benefits of the proposal amount to contribution of a single dwelling to the supply of housing and some modest economic benefit. I have given the proposed BNG little weight for the reasons given. I have concluded that other benefits proposed by the Appellant are neutral factors which do not carry positive weight.
46. While the delivery of any new housing is inherently valuable in the context of the Framework's focus on significantly boosting the supply of housing, the scale and suitability of the housing in question remain relevant to the planning balance in each individual case. Based on the circumstances of this particular case, the social and economic benefits associated with the single additional dwelling would be limited and I have accordingly given them modest weight. Even if there is a shortfall against the required housing land supply, such that paragraph 11d of the Framework is engaged, these limited benefits would still carry no more than moderate weight.
47. Set against the benefits are the conflict with the development plan, the harm arising from encroachment into the countryside and the site's somewhat compromised access to services and facilities. I recognise that neither the CLP nor the Framework impose a ceiling on housing delivery in rural areas and that appeal decisions⁶ cited by the Appellant concur that no upper limit should be imposed. Nevertheless, having found based on the circumstances of this particular case that the Council's spatial strategy is consistent with the Framework's approach to rural housing, I give significant weight to the conflict with the development plan and the associated harm.
48. Even if I were to find that the Council's housing land supply is at the lower end of the figures presented to me, and paragraph 11d of the Framework were

⁶ Appeal Refs: APP/C3105/W/17/3188671 & Appeal Ref: APP/H1840/W/15/3005494

engaged, I conclude that 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 as set out in paragraph 11d)ii. Nor would it comply with the similar requirements in Policy PSD1 of the CLP.

49. That being the case, while I have had close regard to the evidence provided by both parties, it is not necessary for me to reach a firm conclusion on the level of housing land supply in this case. Similarly, while I have had regard to arguments presented by both parties as to whether a 4 or 5 year housing land supply is required, and the appropriate approach to Oxford's unmet needs, it is not necessary for me to consider these matters further, since the outcome would be the same.

Conclusion

50. The proposed development would conflict with the development plan. No other material considerations, including the Framework's provisions with regard to housing land supply, indicate that a decision should be made other than in accordance with the plan. I therefore conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dan Roycroft BA (Hons) MA MRTPI	Director, Atlas Planning Group
Rebecca Davis BSc (Hons) MSc MRTPI	Associate, Atlas Planning Group
Zoe Wilkinson BSc (Hons) MSc MRTPI	Associate, Atlas Planning Group

FOR THE LOCAL PLANNING AUTHORITY:

Nathanael Stock BA(Hons) DipTP MRTPI	Development Management Team Leader
Lewis Knox	Senior Planning Officer

INTERESTED PARTIES:

Helen Foster	Local resident
Neil England	Local resident

HEARING DOCUMENTS

1. Signed Statement of Common Ground dated 5 February 2024
2. Cherwell District Council Housing Land Supply Position Statement (Updated) published January 2024

3. Legal Opinion dated 30 January 2023 (should read 2024): National Planning Policy Framework 2023, Emerging Cherwell Local Plan Review 2040
4. Legal Opinion dated 11 January 2024: Land at Heyford Park
5. Cherwell District Council breakdown of deliverable supply at Heyford Park (email dated 16 February 2024)

DOCUMENTS PROVIDED AFTER HEARING

1. Email from Appellant dated 29 February 2024, in response to Council's breakdown of deliverable supply at Heyford Park
2. Email from Appellant dated 5 March 2024, with copy of Appeal Decision Ref APP/C3105/W/23/3326761, dated 5 March 2024
3. Letter from Cherwell District Council dated 13 March 2024, commenting on Appeal Decision APP/C3105/W/23/3326761
4. Email from Appellant dated 21 March 2024, responding to Council's comments on Appeal Decision APP/C3105/W/23/3326761