



Appeal Decision

Hearing held on 18 June 2024

Site visit made on 19 June 2024

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2024

Appeal Ref: APP/C3105/W/24/3339728

Land off Lince Lane, Kirtlington, Oxfordshire OX5 3HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Moore of Manorwood Consultancy Ltd against the decision of Cherwell District Council.
 - The application Ref is 23/02338/OUT.
 - The development proposed is erection of 15 detached and semi-detached single and two-storey dwellings (including affordable housing) together with access, parking, amenity space and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application seeks outline planning permission including access. Layout was also a matter proposed for consideration at application stage but this and the proposed layout plans were withdrawn prior to determination of the application. As such, I have dealt with the proposal on the basis that all matters except access are reserved for future consideration. Alternative layouts were shown within the appellant's 'Landscape Statement for Appeal Hearing', which I have treated as indicative.

Planning Obligation

3. The second reason for refusal refers to the absence of a mechanism to secure infrastructure contributions necessary as part of the proposal. These relate to affordable housing, public transport, highway matters, off-site sports and recreation provision, household waste recycling, education, a play area, informal open space, hedgerow maintenance and a monitoring fee.
4. A draft S106 legal agreement was provided to me before the Hearing. The Council and the appellant confirmed that, if typographical errors were resolved and the agreement was executed, it would adequately secure the necessary measures. With my agreement, after the close of the Hearing, an executed and corrected version of the S106 agreement was submitted. I am satisfied that it overcomes the second refusal reason and so I shall not consider this further.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

Settlement Pattern

6. The site consists of open countryside on the edge of the village of Kirtlington. The land is currently in agricultural use. Despite the presence of farm buildings, it has an attractive green and rural appearance. Forming one side of the site are the rear gardens and elevations of dwellings on Oxford Close and Lince Lane. A Public Right of Way (PROW) runs close to this edge, being accessed from Lince Lane and Hatch Way.
7. The Mid Cherwell Neighbourhood Plan (NP), made May 2019, includes a Heritage and Character Assessment¹ (HCA). It identifies Kirtlington as a settlement with a linear pattern, which follows a ridgeline and now the route of the A4095. Historic development is to the east of the village, including the church and Kirtlington Park. The village has expanded over time, including some recent cul-de-sac development, for example Woodbank and Roman Close. Nevertheless, it still retains a linear form.
8. Some of the dwellings adjacent to the site are positioned in a planned, angled arrangement. As a result, they and their rear outbuildings provide a somewhat ragged layout. Nevertheless, the position of their rear boundary walls, fences and hedges provide a straight edge to the village hereabouts. This also forms the limit of the settlement area, as defined in the NP. As such, there is a clear edge to the west side of the village here.
9. Policy PD5 of the NP requires that new development should respond to the distinctive character of the settlement and reflect the recommendations of the HCA. Relevant to the proposal, the HCA identifies the distinct linear edge to the west of the village. To protect this and the rural farmland setting, it recommends (page 76) that new development should not extend further west.
10. The proposal seeks to divide the site from the existing fields and to erect 15 detached and semi-detached single and two-storey dwellings. They would be accessed via a new vehicular entrance off Lince Lane. Based on the indicative plans, the proposal would have a cul-de-sac layout, reflective of others in the village. It would also create a new, softer edge to the settlement.
11. Nevertheless, the proposal would extend the village to the west and the shape of the proposal would not reflect any natural or physical features of the site. Instead, it would represent an arbitrary protrusion into the open countryside, failing to reflect the linear form of the settlement. For these reasons, it would not accord with the recommendation of the HCA to resist further development in this direction, and so would conflict with NP Policy PD5.

Landscape

12. NP Policy PD4 requires proposals to demonstrate sensitivity towards important views and vistas. Page 43 of the HCA identifies the views and vistas relevant to the proposal. These are rural views across farmland approaching the village on the A4095 from the south, and attractive views out across the wooded Cherwell Valley from the PROW. These views are reflected in Viewpoints 1, 2 and 3 within the Landscape and Visual Impact Assessment (LVIA).

¹ at NP Appendix K.

13. There was discussion at the Hearing about whether the PROW follows the route of historic Woodstock Way, or whether it has been realigned, for example when the dwellings at Oxford Close were built. Public use of the PROW may be limited. However, even if the current alignment of the PROW does not precisely match Woodstock Way, Policy PD4 identifies views from it as important.
14. The extent of the proposal to the north would allow for some views from the PROW and additional views may be available from the proposed footpath within the site. The proposal would have a narrow frontage at its access point off Lince Lane, and views of the site are already influenced by the existing dwellings and power lines. Nevertheless, the proposal would introduce significant additional built development in the form of dwellings, garages, hard surfacing and residential paraphernalia. This would significantly urbanise the site and undermine views of the landscape both from Lince Lane and the PROW.
15. The LVIA finds that the proposal would have effects of moderate significance when seen from Lince Lane (Viewpoint 1). From Viewpoints 2 and 3, the LVIA identifies effects of major/moderate significance. The LVIA concludes that the proposal would result in substantial change from Viewpoints 2 and 3, but only a moderate visual impact and a minor/negligible character impact at residual stage. The indicative plans show soft landscaping on the site boundaries, which would filter views of the proposal. However, landscaping cannot be relied upon in the long term, particularly in winter months when foliage is reduced.
16. Accordingly, in my view, the scale and extent of the proposal would be particularly conspicuous from Viewpoints 1, 2 and 3. As such, the LVIA underplays the magnitude of the proposal from these viewpoints by describing their visual impact as noticeable/medium, whereas they would be large/prominent, thus having major visual effects. As a result, the proposal would have an urbanising effect on the rural character of the area, significantly harming the views identified by the HCA and NP Policy PD4. The policy requires the balancing of such harm with the benefits of the proposal. I shall undertake this in the Planning Balance section, below.
17. Nevertheless, for the reasons given above, I conclude that the proposal would fail to respond to the distinctive character and pattern of the settlement and would detract from the landscape. It would therefore have a harmful effect on the character and appearance of the area. It follows that the proposal would conflict with NP Policy PD5, policies ESD13 and ESD15 of the Cherwell Local Plan Part 1 (CPP1), adopted July 2015, and Policy C28 of the Cherwell Local Plan (CLP), adopted November 1996. These require respect for local landscape character and views, and a positive contribution to character and identity, avoiding undue visual intrusion.
18. NP Policy PD1 is supportive of around 17 new dwellings within or adjacent to the settlement area of Kirtlington, but only where the landscape would be conserved. I have found that this would not be the case, and so the proposal would also conflict with this policy.
19. These policies are broadly consistent with the requirements of the National Planning Policy Framework (the Framework), in particular Paragraphs 131 and 180. These require development to be sympathetic to the local built environment and landscape setting, recognising the intrinsic character and

beauty of the countryside, with which the proposal would also conflict. I therefore give this conflict substantial negative weight.

20. At the Hearing, the Council confirmed that the proposal would not amount to 'sporadic' development and so would not conflict with CLP Policy C8. It also confirmed that CLP Policy C30 relates to detailed matters not relevant to this outline application. I see no reason to disagree, and so find no conflict with CLP policies C8 and C30.

Other Considerations

21. The parties dispute whether the Council can demonstrate an adequate supply of housing land. The Council and the appellant have agreed a Housing Land Supply Statement of Common Ground (HLSocG), confirming matters of disagreement. One matter of dispute is whether the Council needs to demonstrate four or five-years' of housing land supply, having regard to Framework Paragraph 226.
22. Another area of dispute is whether there should be single or separate calculations for housing land supply for the District, reflecting Oxford's unmet needs as set out in the Cherwell Local Plan Partial Review, adopted September 2020. Also disputed is the relevance of housing delivery and past shortfall, and whether specific sites included in the Council's projected supply are deliverable, as defined by the Framework.
23. From the HLSocG², the Council considers that it can demonstrate a housing land supply of 5.72 years (4,038 dwellings), amounting to an over-supply of 1,214 dwellings. However, the appellant maintains³ that the Council can only demonstrate a supply of 2.18 years, with a shortfall of -3,576 dwellings. Based on the appellant's evidence, I have considered whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits inherent in providing additional dwellings to assist in addressing any undersupply, as set out in Paragraph 11 of the Framework (the tilted balance).
24. I have found conflict with Development Plan policies, specifically NP Policy PD1 and PD5, CPP1 policies ESD13 and ESD15 and CLP Policy C28. I therefore find that the proposal would conflict with the Development Plan as a whole. Against that, as a separate consideration from the application of the tilted balance, the proposal would contribute to reducing the shortfall of housing against the targets in the Development Plan. This is agreed in the HLSocG⁴ to be -1,392 dwellings, or -2,072 dwellings if Oxford's unmet needs are included. Nevertheless, in the context of the shortfall, the proposed 15 new dwellings would represent only a relatively small number of additional units. I therefore give this moderate positive weight.
25. The proposal would deliver affordable housing, which I understand would be somewhat in excess of that required by planning policy. It may also provide accommodation for those locally seeking to downsize. However, I have little evidence as to the affordable housing needs of the area. Consequently, I give this only limited additional positive weight.

² Table 3.1

³ HLSocG Paragraph 3.7

⁴ Table 2.3

26. The proposal would result in the efficient use of land in a location close to a Category A village. It would bring social and economic benefits, including from the contribution of its occupiers to local services and facilities, and provide employment during construction. It would also deliver ecological benefits, such as native tree planting, management of grassland, bird and bat boxes. Together, I give these benefits limited positive weight.

Planning Balance and Conclusion

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
28. Given the harm that I have identified, for the reasons given above, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. For the same reasons, I find that the benefits of the proposal would not outweigh the significant harm caused to the identified views, and so it would conflict with NP Policy PD4.
29. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case, including the Framework, do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jake Collinge	JCPC
Jeff Richards	Turley
Colin Barnes	Barnes Walker
Damien Ford	TPA
John-Paul Friend	LVIA Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Sophie Brown	Principal Planning Officer, Cherwell District Council
John Goodall	DLP Planning

INTERESTED PARTIES:

Councillor David Richardson
Briony Enser
Martin Lipson
Helen MacBeth
Christine Marsh

PLANS HANDED IN DURING THE HEARING

1. Large-scale versions of maps/illustrations provided within Mr Barnes' statement.
2. Overlay of Kirtlington historic map.
3. Comparison maps/images of Kirtlington in 1750, 1805 and 2024.
4. Diagram showing extract of the site and surroundings from MAGIC map.
5. Maps of footway connections and observation points for the Inspector's visit.