



Appeal Decision

Site visit made on 16 July 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2024

Appeal Ref: APP/Q3115/W/24/3339044

81 Lower Icknield Way, Chinnor, Oxfordshire OX39 4EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr B Heenan (BHK Construction) against the decision of South Oxfordshire District Council.
 - The application Ref is P23/S0565/FUL.
 - The development proposed is the demolition of 1 dwellinghouse and erection of 10 new dwelling houses.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development provided in the application form in the banner heading above. However, I have removed reference to the site address which is not in itself development.
3. The third reason for refusal relates to the provision of a biodiversity net gain. Subsequently, the appellant has demonstrated that the purchase of biodiversity credits is a suitable alternative to on-site habitat creation and the Council is satisfied that this matter can be secured by condition. As such, the Council has confirmed that it no longer wishes to pursue this reason for refusal. On this basis, I have not considered this matter any further.
4. The Council's forth reason for refusal relates to the absence of a planning obligation to secure a contribution towards the infrastructure necessary to meet the needs of the development. A completed S106 Obligation by Agreement (S106) has been submitted during the appeal process. I shall return to this matter later.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the living conditions of the adjoining neighbours at 85 Icknield Way, with particular regard to outlook; and
 - whether the proposal would be in a suitable location for housing taking account of local policy.

Reasons

Living conditions

6. Plot 10 would be adjacent to the rear garden of No 85 Lower Icknield Way (No 85). It would sit in a similar location to an existing garage and sheds, which are present on the outlook from No 85's rear garden. Nevertheless, these are single storey structures that do not appear conspicuous from No 85's garden. Although the garage section of Plot 10 would be lower in height and its roof would slope away from the common boundary with No 85, the northern portion of the house would have a two-storey gable detail which would appear as a significant structure when viewed from the rear garden of this property. The dwelling would be broken up in separate elements, but due to its depth, height, bulk and siting close to the common boundary with No 85, it would nevertheless loom large in views from the rear garden of No 85 and appear intrusive.
7. Whilst relatively good sized, No 85's residential garden area is not particularly large. Importantly, the effect of the proposed dwelling would be exacerbated by its proximity to No 85, sitting directly adjacent to the garden boundary. As such, due to the Plot 10's substantial bulk and mass, the outlook of No 85's rear garden would fundamentally change from an open, suburban garden to a more built-up urban form as a result of the proposal.
8. I note the existing trees on No 85 close to the common boundary with Plot 10 and some new planting would be provided. However, owing to the scale of the proposed dwelling, I do not find that planting would be sufficient to soften the proposed built form.
9. In light of the above, the proposal would be harmful to the living conditions of the adjoining neighbours at No 85, with particular regard to outlook. As such, the proposal would be contrary to Policy DES6 of the South Oxfordshire Local Plan 2035 (SOLP). This policy seeks to protect the amenity of neighbouring uses in relation to dominance or visual intrusion.

Suitable location

10. The appeal site lies within the Chinnor Village Development Boundary as defined by Policy CH H7 of the Chinnor Neighbourhood Plan 2011-2034 (NP). It is a parcel of garden land that is not allocated for residential development within the NP. Chinnor is identified within the SOLP as a Larger Village.
11. There is a paddock to the north and Walnut Tree Close, a residential development, lies immediately to the west of the site. A recent housing development has been constructed on land to the north-east of the site and the site abuts residential gardens to the east. The surrounding area is characterised by ribbon development with a few small roads branching off Lower Icknield Way to small back-land housing sites.

Infill

12. SOLP Policy H16 supports infill development, as does NP Policy CH H1 within the development boundary of Chinnor, both subject to certain criteria. SOLP Policy H16 defines infill development as the filling of a small gap in an otherwise continuous built-up frontage or on other sites within settlements where the site is closely surrounded by buildings. The NP does not offer a

definition of what is meant by infill, so it relies on that provided by SOLP Policy H16.

13. Despite having a relatively narrow section between buildings towards Lower Icknield Way, the site widens out such that most of the proposed development would be within the rear area. Although the site's western and southern boundaries abut residential development, the northern boundary is with a paddock and the eastern boundary is with undeveloped rear gardens, so only two sides of the site are closely surrounded by buildings. Accordingly, I do not find that the proposal would represent infilling and therefore NP Policy CH H1 and the infill element of SOLP Policy H16 are not applicable.
14. I have been supplied with several examples which have considered whether a development would constitute infill. It is clear from these that such an assessment is a matter of judgement based on the specific circumstances of each case. Nevertheless, I note that in the case of the appeal decision relating to 17 and 19 Greenwood Avenue¹, the Inspector concludes that the site is surrounded on all four sides by existing and approved development being built out. As such, this example would not be directly comparable with the scheme before me.

Back-land

15. However, SOLP Policy H16 also supports the residential development of land behind an existing frontage or placing of further dwellings behind existing dwellings within the existing site, provided that the privacy of existing and future residents would be protected, means of access would be appropriately secured, and development would not extend beyond the built limits of the settlement. The proposal would introduce residential development on land behind the existing frontage development. Therefore, the scheme would fall under the definition of back-land development in accordance with SOLP Policy H16.
16. The appeal submission demonstrates that the proposal would respect the privacy of existing and future residents, through appropriate separation distances between dwellings and the use of obscure glazed windows where needed. The evidence shows that the proposed access would be safe for both vehicles and pedestrians, subject to conditions that could be imposed were I minded allowing the appeal. The development would not extend the built limits of Chinnor, and the village provides a good range of services and facilities. In addition, the proposal would not detract from the surrounding pattern of development where back-land housing is established. On this basis, the proposal would accord with SOLP Policy H16 insofar as it relates to back-land development.

Allocations

17. SOLP Policy H1 identifies the circumstances that must apply for residential development to be permitted on sites not allocated in the development plan. One such circumstance is the development within the existing built-up areas of Larger Villages, provided an important open space of public, environmental, historical or ecological value is not lost, nor an important public view harmed. The appellant asserts that the proposal would not result in the loss of an

¹ APP/Q3115/W/17/3187058 / APP/Q3115/W/17/3187059, dated 24 December 2018.

important open space of environmental, historical or ecological value, nor would it harm an important public view. In the absence of compelling evidence to demonstrate otherwise, I find that the proposal would accord with SOLP Policy H1.

Housing targets

18. The Council also refer to SOLP Policy H4 which, in its accompanying table, shows that the housing targets for Chinnor have been exceeded through existing commitments. However, the housing figures are minimums and the SOLP explains that the Council's supply of housing includes a significant proportion of smaller housing sites, such as windfall development across the settlements. Although the NP identifies the consequences of exceeding housing growth, I have not been directed to any NP policy that precludes new housing within the settlement boundary because of the capacity of existing services and infrastructure. Further, the NP provides a supportive policy context to address the identified pressures. On this basis, I find that the proposal would be successfully accommodated within Chinnor.

Overall

19. In summary, I find that NP Policy CH H1 is not applicable, as the proposal would not constitute infill. It is also, therefore, not applicable to the living conditions issue above. Although the housing targets for Chinnor in accordance with SOLP Policy H4 have been exceeded and the site is not allocated for housing within NP Policy CH H6, overall, I find that the back-land development of the site within the settlement boundary would be consistent with SOLP Policies H1 and H16.
20. As such, the proposal would be in a suitable location for housing, in accordance with SOLP Policies H1 and H16. These policies support back-land development on sites within settlement boundaries. Further, the site is easily accessible by public transport and the proposal would accord with NP Policy CH H7, which supports development proposals inside the development boundary of Chinnor where they constitute sustainable development and are consistent with development plan policies.

Other Matter

21. The Council states it can demonstrate 4.2 years supply of housing land, in accordance with its Housing Land Supply Statement dated September 2023. However, the Council also provides a copy of an appeal decision from November 2023² in which the Inspector noted that figure, but considered 3.49 years to be more accurate. This is consistent with another appeal decision³ from April 2024 supplied by the appellant, in which the Inspector also considered the supply of housing to be 3.49 years. I have no more recent information before me to suggest a different figure.

Planning Balance

22. The Council, together with the Vale of White Horse District Council, undertook its consultation on preferred options for a Joint Local Plan (JLP) in January 2024. In line with paragraph 226 of the National Planning Policy Framework

² APP/Q3115/W/23/3323268, dated November 2023

³ APP/Q3115/W/22/3297026, dated 29 April 2024

(the Framework), the Council would be required to demonstrate a four-year supply of deliverable sites other than the minimum of five as set out in paragraph 77 of the Framework. Nevertheless, as set out above, the evidence suggests the Council cannot demonstrate a sufficient supply of housing land and, as such, paragraph 11d) of the Framework is applicable.

23. The proposal would meet the Framework's objectives of boosting the supply of housing and would deliver new dwellings within a settlement area with access to services and public transport. The appeal site is in an acceptable location in principle for housing. The site is a small one, so it can be delivered quickly. Correspondingly, only a net nine dwellings are proposed, which would be a relatively modest contribution to the housing supply. The proposal would contribute to the local economy and there would be some economic benefits accrued from the construction process. The proposal would deliver off-site ecological enhancements. Taken together, these benefits would attract moderate weight in favour of the proposal.
24. The proposal would be acceptable in relation to other matters, including highways, and it would not detract from the character of the area. However, these are neutral factors that neither weigh for nor against the development. The S106 would secure financial contributions towards the provision of public transport services, householder waste recycling centres and offsite highways improvement works. Such contributions are required to meet the needs of the development, so they are neutral in the planning balance.
25. The adverse impacts of the proposal on the living conditions of the neighbours at No 85 in terms of outlook attract substantial weight, for the reasons set out above.
26. Overall, I do not find conflict between the proposal and the NP. However, I do find conflict with SOLP Policy DES6. This brings the scheme into conflict with the development plan as a whole. An important material consideration is the Framework. In accordance with paragraph 11d of the Framework, I assess that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the material considerations do not indicate that the appeal should be decided other than in accordance with the development plan.

Conclusion

27. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR