



Appeal Decision

Site visit made on 29 October 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal Ref: APP/C3105/W/24/3344189

81 North Street, Fritwell OX27 7QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Brendan Heenan against the decision of Cherwell District Council.
 - The application Ref is 24/00698/PIP.
 - The development proposed is described as 'Application for Permission in Principle Development. Proposed 7 to 9 dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

4. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development with regard to:
 - the character and appearance of the area, including the setting of the Fritwell Conservation Area;
 - whether the development would be in a suitable location having regard to the development strategy; and
 - whether the development would be in a suitable location having regard to accessibility to services and amenities.

Reasons

Character and appearance

5. The appeal site comprises an area of grassland adjoining 81 North Street, a detached dwelling which lies on the edge of the village of Fritwell. The land is bound by a roadside hedge to the front boundary adjacent to North Street, and a post and rail fence and sporadic hedging to the shared boundary with the adjoining dwelling to the side. A native hedge to the opposite side boundary and post and wire fencing to the rear separates the site from the adjoining agricultural land. At the time of my site visit, while overgrown in part, the land beyond that immediately to the rear and side of the existing dwelling, had the general appearance of open agricultural land, occupied in part by a small chicken coup.
6. The site is immediately outside the Fritwell Conservation Area (the CA). The Conservation Area Appraisal (January 2008) sets out that the significance of the CA is derived from features of special interest including the large number of well preserved historic buildings dating back to the 17th and 18th century. The local vernacular buildings are of architectural interest, predominantly constructed of the coursed limestone rubble typical of the locality. It also identifies that key views along North Street include views of open fields which are visible across walls and through field gates, which add to the rural feel of the area.
7. The appeal site, which is beyond the built-up confines of the settlement is generally free from development and has an open, rural character and appearance, which contributes positively to the setting of the CA. The close relationship between the village and its agricultural setting, including views out of the CA towards the surrounding open countryside, and from the surrounding fields, including the public right of way (PRoW) which crosses the site, towards the village also contribute to the significance of the CA.
8. I acknowledge that the design and layout of the scheme are for consideration at the technical details stage. Nonetheless, the appeal proposal would extend development out from the current extent of the built form of the settlement into an area of open countryside. The visual impact of the proposed dwellings, including the associated access, parking and other inevitable residential paraphernalia, upon the rural appearance of the site would be considerable. Despite the presence of boundary hedges, and a degree of enclosure of the site which may arise from planting proposed on the adjoining land, the development of the amount and nature proposed would nevertheless contrast markedly with the open fields that adjoin it. Furthermore, it would be visible on the approach to the village along North Street and views across the site from the PRoW towards the CA, from where it would appear as a dominant feature, at odds with the setting of the village. Consequently, the proposed development in this location would diminish the rural character of the site and would harm the significance of the CA derived from its open landscape setting.
9. The Council suggest the proposed density of the development would be inappropriate as it would be below 30 dwellings per hectare as set out in Policy BSC2 of the Cherwell Local Plan 2011-2031 Part 1, adopted July 2015 (LP) and therefore not represent efficient use of land. The site's potential to accommodate built development would not be optimised in numerical terms. However, given that increased density of development would be likely to

further increase the harm I have identified, I find that the proposal would not conflict with the purposes of Policy BSC2.

10. I have had regard to planning permission granted by the Council for alterations to 81 North Street and the erection of a linked dwelling (3-bed) & associated works¹ and planning permission for a new dwelling on land to the north east of the site within the CA². However, given the scale and nature of the development in these cases, and close relationship with the existing built form, they have a different effect on the character and appearance of the area and are therefore not directly comparable to the appeal proposal. Moreover, while I acknowledge that the officer's report in relation to a proposed stable building at Heath Farm³ included a positive recommendation, the circumstances and effects in relation to such a proposal, for a materially different scheme, are likely to be different.
11. My attention is drawn by the appellant to comments made by the Council's Conservation Officer in relation to an earlier planning application for 40 dwellings at the site⁴, which it is suggested indicates support for residential development in this location, subject to considerable amendments to the design and layout. I am also mindful that Fritwell may increase in size in the future, and that new development may be visible from some vantage points. Nonetheless I have determined the appeal on its own merits, in light of the evidence before me.
12. Reference is also made by the appellant to planning permission granted by the Council for residential development on land outside the settlement boundary adjacent to PRoW 219/6⁵. However, I do not have the full details of the scheme before me so I cannot be sure of the circumstances of the case so as to draw me to a different conclusion.
13. In light of the above considerations, I conclude that, by virtue of the location, land use and amount of development, the proposal would cause less than substantial harm to the character and appearance of the area, including the significance of the CA arising from harm to its setting. In such circumstances, the National Planning Policy Framework (the Framework) requires the less than substantial harm to be weighed against the public benefits of the proposal and further indicate that great weight should be given to the asset's conservation.
14. The proposed development would contribute to the housing stock in the area and could be built out relatively quickly due to its size. It would also offer economic benefits and would reflect the parts of the Framework that recognise that such development can enhance or maintain the vitality of rural communities. High quality design of the proposed new dwellings would be a normal expectation of new development and does therefore not attract positive weight. The appellant's submissions also indicate the provision of off-site biodiversity as part of the scheme, although it is unclear as to how this would be secured given the land in question is beyond the appeal site boundary. Overall, public benefits would be insufficient to outweigh the identified harm to the setting of the CA in this case.

¹ LPA Ref. 19/02162/F

² LPA Ref. 03/001326/F

³ LPA Ref. 22/03807/F

⁴ LPA Ref. 22/01807/OUT

⁵ LPA Ref. 19/00616/OUT

15. Accordingly, I conclude that the proposal would fail to preserve or enhance the character of the CA. In this regard it would be contrary to Policy PD1 of the Mid-Cherwell Neighbourhood Plan 2018-2031, made May 2019 (MCNP) in so far as it requires new development outside the settlement areas to conserve and, where possible, enhance the landscape and the special interest, character and appearance of the conservation areas, and Policy PD4 of the MCNP which sets out that, among other things, development should not harm the CA and its setting. It would also fail to accord with the combined aims of Policies ESD13 and ESD15 of the LP which expect development to respect and enhance local landscape character and contribute positively to an area's character and identity by respecting features or views within conservation areas and their settings and saved Policies C8 and C28 of the Cherwell Local Plan 1996 (CLP) that seek to resist new development proposals beyond the built-up limits of settlements, so as to maintain its attractive, open, rural character and ensure that new development is sympathetic to the character of the site context.

Suitability of the location

16. Despite its location beyond the built-up extent of the village, the site is not isolated, as there are existing residential properties nearby. Nonetheless, notwithstanding the position of the village marker posts, the site is clearly beyond the edge of the main built-up part of the settlement created by the existing residential property at 81 North Street, which is situated at the end of the row of dwellings fronting the highway. While the adjoining land beyond the site may have been used for storage purposes, this forms part of the surrounding rural landscape beyond the built form of the settlement.
17. Furthermore, aside from a small triangular piece of land adjacent to the road frontage, the remainder of the appeal site lies beyond the settlement area of Fritwell as identified in Figure 9⁶ of the MCNP. However, Policy PD1 of the MCNP does not preclude new residential development outside the settlement areas in category A villages, such as Fritwell, subject to specific criteria. Moreover, while I understand that the figure of 25 new dwellings has been met, the proposal, for further development outside the settlement area, would not conflict with Policy PD1 of the MCNP given that the figure is only indicative and is not set out as a maximum amount.
18. Consequently, the proposal would not conflict with the aims of Policy PD1 of the MCNP that seek to control the location of new development and would therefore not be in an unsuitable location, having regard to the development strategy set out therein.

Accessibility

19. Fritwell is a Category A village and benefits from facilities including a primary school, village shop, church and village hall within a short distance of the site. I observed at my site visit that while the route along North Street was devoid in part of a pavement and there are no streetlights, it was nonetheless lightly trafficked, although I appreciate this is only a snapshot in time. In addition, there are wide verges which would allow for pedestrians to step off the road to let vehicles pass and traffic flows and speeds on the highway are likely to be relatively low given the nature of the road.

⁶ Policy Map for Fritwell Village

20. The appeal submissions indicate that a local bus service was started in July 2024, on a limited timetable, for a trial period with funding for 3 years, although I have not been provided with details of frequency of the service or local destinations. As such, while future occupiers of the development would need to travel to larger settlements further afield to access day to day facilities including secondary schools, employment and a broader range of retail facilities, the proposal would nonetheless offer some opportunities to minimise the need to travel by car and encourage alternative sustainable modes of travel. Consequently, occupiers of the dwellings would not necessarily be fully reliant on the use of a private car to access nearby services and amenities. I am also mindful of guidance contained in the Framework which recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
21. The Council highlight that Inspectors have dismissed appeals at villages including Fimere, Fringford, Chesterton and Weston on the Green, which like Fritwell are Category A villages. However, I do not have full details in respect of such developments so I cannot be sure of the circumstances of the cases. Furthermore, while I acknowledge the Parish Council's suggestion that the status of Fritwell may be changed to a 'small village' in the future, I have based my assessment on the current situation and the availability of services and amenities.
22. For the foregoing reasons I therefore conclude that the proposal would be in a suitable location, having regard to access to local services and amenities. In that regard it would not conflict with the aims of Policies ESD1 and SLE4 of the LP which seek to reduce the need to travel and encourage sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.

Other Matters

23. I have considered the consultation on proposed reforms to the Framework published in July 2024. However, the implications of the draft proposals are not yet known. The appellant also refers to the Written Ministerial Statement 'Building the homes we need', which among other things, sets out the government's commitment to ensure that substantial numbers of homes are built in the forthcoming period. This emphasises the severity of the current housing crisis including in respect of affordability.
24. Even if the Council is unable to demonstrate a sufficient housing land supply, paragraph 11 d) (i) of the Framework states that permission should be granted unless policies of the Framework that protect assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 of the Framework states that the policies referred to include those relating to designated heritage assets. Given the harm I have identified to the setting and significance of the CA, this provides clear reason for refusing the proposal as set out in the Framework. As such, the presumption in favour of sustainable development set out at paragraph 11 of the Framework is not applicable in respect of this appeal, irrespective of the housing land supply position.
25. Wheatcroft is an attractive Grade II listed building, which lies to the north of the site. The significance of the building is informed by its architectural and historic interest and its former function as the Wheatsheaf Inn. While there is a degree of intervisibility between the site and the listed building, it has not been

shown how the appeal site contributes to the significance of the listed building, nor has it been demonstrated as to how harm to its setting would arise.

26. My attention is drawn by the appellant to a recent appeal decision for residential development at land off Tadmarton Road, Bloxham⁷. It acknowledges that the main parties in that case agreed that Policy BSC1 of the LP is out of date. However, the Council's submissions in the case of the appeal before me do not allege conflict with Policy BSC1.

Planning Balance and Conclusion

27. The proposal would offer benefits in terms of housing delivery and would be in a suitable location having regard to the development strategy set out in the MCNP and accessibility of future occupiers to services and amenities. Set against this, I have found that the development would adversely affect the character and appearance of the area, including the setting of the CA as a heritage asset, to which I attribute significant weight. The proposal would therefore conflict with the development plan taken as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

E Worley

INSPECTOR

⁷ APP/C3105/W/23/3329533