



Appeal Decision

Site visit made on 1 April 2025

by N Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2025

Appeal Ref: APP/C3105/W/24/3353919

Parts of OS Parcels 1125 & 1621, East of Home Farm Close, Ambrosden, Bicester, Oxfordshire OX25 2NP

- 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 E Kerr against the decision of Cherwell District Council.
 - The application Ref is 23/01736/F.
 - The development proposed is the erection of 9 dwellings comprising of 1 x 5 bed detached, 4 x 3 bed terraced and 4 x 2 bed terraced.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 9 dwellings comprising of 1 x 5 bed detached, 4 x 3 bed terraced and 4 x 2 bed terraced at parts of OS Parcels 1125 & 1621, East of Home Farm Close, Ambrosden, Bicester, Oxfordshire OX25 2NP in accordance with the terms of the application, Ref 23/01736/F, subject to the conditions in the attached schedule.

Preliminary Matters

2. Following the receipt of statements and final comments for both parties, the Council published its Annual Monitoring Report (AMR) in February 2025. As this document which was produced by the Council and was provided by the appellant, I have taken it into account as no parties are prejudiced by me doing so.

Main Issues

3. The main issues are:
 - 1) The effect of the proposed development on the character and appearance of the area with particular regard to its design and layout, and
 - 2) Whether the proposed development would protect and enhance biodiversity.

Reasons

Character and appearance

4. The existing site comprises a roughly rectangular parcel of land, albeit with an angled northern boundary and dogleg to the east forming the access with the remainder of Home Farm Close. It is set amongst recent developments of other new homes, some of which were still under construction at the time of my site visit. The houses in the area are made up of a mix of detached, semi-detached and terraced homes with varying orientations.

5. The proposed dwellings are of a similar size, style and of general proportions to other homes in the area. There is a mix of house types in the area and the provision of eight new terraced homes with varied numbers of bedrooms, in addition to the one detached house, would contribute to this overall character.
6. Home Farm Close has a slightly quirky layout as it winds around to its conclusion at the appeal site. I appreciate the views of the Council in this regard as theoretically it could link up with the neighbouring, recently completed, estate next door (the Redrow development) with fairly minimal revisions to the layout. I do recognise the merits of this in terms of permeability and efficiency for delivery and refuse vehicles but this does not render the proposed development as an unpleasant environment. A pedestrian linkage to the Redrow development is clearly desirable but at worst, the additional distances that pedestrians would have to walk between the two estates remains quite short. Indeed, I find the winding nature of Home Farm Close to be an interesting layout that provides variety in the urban grain. The Redrow development does already benefit from pedestrian footways along Merton Road towards the centre of the village, as does the appeal site. In any case I am only able to consider that which has been put before me.
7. I recognise that there are elements of the design of the scheme which do not fully accord with the Residential Design Guide Supplementary Planning Document (SPD). In particular, the parking of vehicles to the front of almost all the dwellings is not optimal however, equally, I must recognise that achieving side vehicle parking, as is mandated by the SPD, for rows of terraced homes can be difficult. The overall layout includes areas of landscaping in addition to a modest communal amenity space which will no doubt break up the prevalence of hardstanding in addition to assisting in the views of the Church of St Mary the Virgin. Moreover, the dwellings themselves are well proportioned with stone facades utilising materials reflecting the local vernacular.
8. Accordingly, I conclude that the proposed development would have a satisfactory design and layout. I have no evidence before me to indicate that it would be unsafe or have an adverse effect on the living conditions of the future occupants or neighbours. As such the proposal complies with policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 (CLP 2015), policies C28 and C30 of the Cherwell Local Plan 1996 (CLP 1996), The Cherwell Residential Design Guide 2018 and provisions of the National Planning Policy Framework (the Framework) insofar as it complements and enhances the character of its context through sensitive siting, layout and high quality design.

Biodiversity

9. The requirement for mandatory biodiversity net gain was introduced for all minor development submitted after the 2 April 2024. The planning application for this development was submitted to the Council well in advance of this date and therefore there is no legal requirement for the development to achieve the 10% gain. Policy ESD10 of the CLP 2015 does relate to the protection and enhancement of biodiversity and the natural environment. This policy however has no prescribed 10% enhancement criteria. I have, however, had regard to this policy here.
10. I have also considered the Preliminary Ecological Appraisal (PEA) and have had regard to the development at the adjacent Redrow site and that this has included

the planting of a hedgerow along the shared boundary with the appeal site. I am further mindful of the age of the PEA and that, invariably, habitats on this site and adjacent ones will have been disturbed by construction works in the intervening period.

11. I recognise that the Council made an executive decision to approve seeking 10% biodiversity net gain in 2019 however I am not aware that this has been adopted as policy. I am therefore unable to apply this requirement here.
12. The conclusions and recommendations of the PEA are reasonable and informed. With the mitigations and enhancements proposed, I am satisfied that there would be a satisfactory impact on local ecology. I discuss this further in the conditions section detailed below.
13. There is a potential conflict between the plans and suggested biodiversity enhancements due to the fence along the rear boundary, the proposed position of cycle stores in the rear garden and rear passageways. However, I do not see how this should affect other planting along this boundary, where possible, or disrupt the introduction of badger gates at appropriate points along the fence line.
14. Overall, I conclude that the proposed development, whilst potentially not securing a 10% increase in bio-diversity, achieves a satisfactory impact on local ecology, with conditions, and is therefore in accordance with policy ESD10 of the CLP 2015 and with the provisions of the Framework. This is insofar as it does achieve some net gain in biodiversity.

Other Matters

15. In reaching my conclusions here I have had regard to the concerns expressed by the Parish Council. Many of the matters raised have been explored above. I appreciate the concerns relating to pedestrian and sight lines along this winding cul-de-sac however as the road is quite narrow and serves only a small number of dwellings, vehicle speeds are likely to be low and therefore the chance for conflicts minimised.
16. A condition is imposed relating to hours of work on site and to accord with the construction management plan. Whilst I appreciate that construction sites can be disruptive to neighbours, this is a temporary situation and effects can be mitigated so as not to be disruptive during sensitive times.

Conditions

17. I have considered the conditions suggested by the Council and have imposed these here with modifications and edits. A number of conditions are pre-commencement conditions, and the appellant has been consulted on these. I have imposed a general time limit condition to accord with the Act and a plans condition for certainty.
18. I have required details of materials to be provided and this includes the provision of a sample panel for the external walls. This is because I have found that the use of materials in this development is a point in its favour and part of the reason for granting permission.
19. I have imposed conditions relating to road and driveway construction in the interests of the safety and convenience of the future occupants and to ensure the

development is drained adequately. A further condition is imposed to restrict water usage.

20. A condition relating to construction management has been suggested by the Council. Whilst I do not have sight of this plan, it is apparent from the wording of the condition that this scheme has already been agreed by the Council and therefore there is no requirement to revisit requirements that have already been held to be acceptable.
21. Cycle parking provision is also required and whilst this is shown on plan 4a, full specifications of this cycle storage have not been provided.
22. I have imposed a condition relating to biodiversity and landscaping and this is to taking into account the recommendations of the PEA.
23. The Council has recommended a condition seeking a biodiversity net gain assessment for the development. However, as I have concluded above, the proposed development is not subject to mandatory biodiversity net gain. Moreover, the proposed condition seeks, in effect, an estimation of the value of the site prior to works having been undertaken to it. Given the extent of works to the site and in the surrounding area, I am unable to conclude that this could be anything more than an informed estimation at this time. Considering other conditions relating to ecological enhancements are imposed here, this proposed condition seems neither reasonable nor necessary and therefore fails the tests set out in the Planning Practice Guidance (PPG).
24. A further condition is proposed by the Council to restrict development within the wildlife corridor on the western boundary. However, I find this condition to be very loosely worded and the western wildlife corridor is effectively undefined. This will no doubt lead to confusion in interpretation and potentially a lack of understanding by the future occupants of the proposed dwellings. The condition may therefore be regarded as being insufficiently precise and unenforceable contrary to PPG requirements.
25. Nevertheless, I recognise the value of restricting development as far as reasonably possible in this area and have therefore imposed a condition restricting the construction of outbuildings. Due to the overall layout of the development, this restriction is likely to only bite insofar as it affects rear gardens and thus may be considered reasonable and necessary. I have not imposed a condition restricting replacement fencing as, although any such replacement fencing may not include badger gates or the like, this would be a particularly onerous restriction on the future occupants and, in any case, would not prevent the construction of fencing on adjacent land.

Planning Balance and Conclusion

26. The proposed development is of an acceptable design and layout and would not result in harm to the character and appearance of the area of the living conditions of future occupants or neighbours. I am satisfied that, with conditions, sufficient biodiversity enhancements can be achieved and whilst these may not achieve 10% increase in biodiversity, this is not a requirement for this development.
27. I am aware that the Council's most recent AMR suggests that it cannot demonstrate a five year supply of deliverable housing land. However, in this

instance, I have found the proposal to be acceptable on its own merits and therefore the provisions of paragraph 11 d) of the Framework do not need to be considered. Regardless, there are benefits associated with this proposal, in that it would make a small but relevant contribution to the overall supply of housing land within the District.

28. I have further taken into account other considerations which include the communal amenity space allowing biodiversity opportunities and views of the village church and this is a small benefit, particularly when considering this will aid in the appreciation and layout of the adjacent estate. Other neutral considerations, including an acceptable impact on the highway network and the position of the site within flood zone 1, have also been factored in here.
29. The proposed development would accord with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given above the appeal should be allowed.

N Bowden

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with plans 1, 2, 3, 4a.
- 3) Prior to the commencement of the development a schedule of materials and finishes to be used in the external walls and roofs of the dwellings shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.
- 4) No development shall commence above slab level until sample panels of the materials to be used in the construction of the external walls (in accordance with those details specified in condition 3) shall have been prepared on site for inspection and approved in writing by the Local Planning Authority. The sample panels shall be at least 1 metre by 1 metre and show the proposed materials, bond and pointing techniques. The sample panels shall be constructed in a position that is readily accessible for viewing in good natural daylight. The development shall be constructed in accordance with the approved sample panels, which shall not be removed from the site until completion of the development.
- 5) Prior to the commencement of the development, full specification details of the road including construction, surfacing, layout, drainage and road markings, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation, the development shall be constructed in accordance with the approved details.
- 6) Prior to the first use/occupation of the development hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved (Drawing No. 4a) and these shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring areas shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.
- 7) If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.
- 8) Notwithstanding the approved drawings, prior to the commencement of the development, a scheme for landscaping and biodiversity enhancement shall first be submitted to and approved in writing by the Local Planning Authority. This shall include, but may not be limited to:
 - a) The implementation of the recommendations set out in the approved PEA, including the functional provision of a wildlife corridor along the western site boundary, including badger gates and access points where appropriate;

- b) Details of the proposed tree and shrub planting including their species, number, sizes and positions;
- c) Details of the enclosures and/or planting along the boundaries of the site;
- d) Provision of nine (one per dwelling) bird boxes; and
- e) Details of the hard landscaping including hard surface areas, pavements, garden boundary treatments, and any other forms of fencing/walling/enclosure within the site.

The development shall be carried out in full accordance with the approved details and retained as such thereafter. All planting, seeding or turfing included in the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the first occupation of the development or the completion of the development, whichever is the sooner, and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The approved hard landscaping and boundary treatments shall be completed prior to the first occupation of the development and shall be retained as such thereafter.

- 9) No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas are to be constructed until the works have been carried out in accordance with the surface water strategy so approved.
- 10) Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.
- 11) No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.
- 12) The development hereby approved shall be carried out fully in accordance with the recommendations set out within the approved 'Construction Traffic Management Plan' (ref. 002_8230594_VW_CTMP_(Issue_2)) by Glanville, dated 3rd November 2023, unless otherwise first approved in writing by the Local Planning Authority.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Class E of Part 1 of Schedule 2 to the Order shall be undertaken to any of the dwellings.

End of Schedule