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## Appeal Decision

Site visit made on 1 April 2025

**by Juliet Rogers BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 3 June 2025**

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**Appeal Ref: APP/Q3115/W/24/3350999**

**Heathfield, Reading Road, Shiplake, Henley-on-Thames, Oxfordshire RG9 3JN**

- 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 Cottonham and Broomfield against the decision of South Oxfordshire District Council.
  - The application Ref is P23/S3630/FUL.
  - The development proposed is the erection of 2no. dwellings including provision of new access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters and Main Issues

2. During the appeal additional information was submitted to address the Council's reason for refusal relating to subsidence and surface water drainage. These details have satisfied the Council's concerns. I see no reason to conclude otherwise.
3. A Biodiversity Net Gain Assessment<sup>1</sup> (BNG Assessment) has also been submitted, which the Council has commented upon. On this basis, I am satisfied that no party would be prejudiced by taking the additional information into account during my determination of this appeal.
4. Consequently, the main issues are:
  - whether the appeal site is suitable for the proposal, with particular regard to the local development strategy on the location of housing;
  - the effect of the proposal on the character and appearance of the area; and
  - the effect of the proposal on biodiversity.

### Reasons

#### *Location*

5. The appeal site is located outside, albeit immediately adjacent to, the built-up area boundary (BUAB) of Lower Shiplake, as defined within the Shiplake Villages Neighbourhood Plan (SVNP). Infill development or the redevelopment of previously developed land within the BUAB is supported by Policy SV1 of the SVNP whilst only specific types of residential development are acceptable beyond

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<sup>1</sup> Prepared by arbtech, Issue 2.2 dated 21 November 2024

this boundary, as listed within Policy SV2. None of the specific types listed are applicable to this case.

6. Lower Shiplake is identified in Policy STRAT1 of the Local Plan<sup>2</sup> as a smaller village where a limited amount of housing to help secure the provision and retention of services should be permitted. Residential development on previously developed land within and adjacent to a BUAB is permitted via Policy H1. As the appeal site comprises part of the garden area associated with the property known as Heathfield and is located outside the defined built-up area, the proposal accords with the Framework's<sup>3</sup> definition of previously developed land. On this basis, Policy H1 of the Local Plan supports the principle of residential development on the site.
7. Nonetheless, while Policy SV1 of the SVNP is not wholly consistent with Policy H1 of the Local Plan, the SVNP was formally made after the Local Plan was adopted. Policy SV1 of the SVNP, therefore, establishes a more recent and neighbourhood specific approach to the location of housing within its plan area.
8. Consequently, I conclude that the appeal site is not suitable for the proposal, having regard to the local development strategy on the location of housing, as set out in Policy SV1 of the SVP.
9. Whilst the Council refer to policies H8 and H16 of the Local Plan and Policy SV2 of the SVNP on the decision letter, as these relate to development on land within, as opposed to adjacent to, smaller villages, they are not determinative to this main issue.

#### *Character and appearance*

10. The appeal site is located within an area to the west of Reading Road, comprising large, detached dwellings that are set within generous plots. Substantial mature trees and established hedgerows contain the properties in this area, with few visual connections between the roads and the dwellings. Given the spacing between the properties and their siting back from the highways, the density of the built form is low. These elements, combined with the landscape features which envelop the area, create a spacious, yet enclosed, verdant character.
11. In contrast, the built form located on the other side of Reading Road, within the BUAB of the village, is denser with the dwellings having a closer physical relationship with the highway. Despite also comprising predominantly detached, two storey dwellings, this area has a stronger visual relationship with the road, particularly where frontages comprise close board fencing, wooden gates and other manufactured elements. Furthermore, the low number of trees and other greenery around the dwellings result in the character of the area being strongly influenced by the built form.
12. The introduction of two dwellings into the garden area of the host property would result in a significantly denser form of development on this side of the road, with limited spaces between the built form. Together with the removal of some of the trees on the site, albeit indicated to be of low value and quality, the proposal would result in a cramped development within an otherwise spacious area. Although replacement planting could be secured via a condition on the grant of planning

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<sup>2</sup> South Oxfordshire Local Plan 2035 (the Local Plan)

<sup>3</sup> National Planning Policy Framework (the Framework)

permission, this would take time to grow and establish, thereby limiting the screening it could provide in the short term.

13. The pattern of development which would result from the proposal would be more closely related to the existing built form on the other side of the road and within the BUAB. This would lead to an increase in the influence of urbanising development within the fringe of the settlement, causing harm to the character of the area as it transitions from the BUAB into the countryside.
14. I conclude that the proposal would harm the character and appearance of the area, contrary to policies DES1, DES2 and ENV1 of the Local Plan and policies SV7, SV15 and SV24 of the SVNP. Amongst other provisions, these policies seek to preserve or enhance the features which positively define the character of an area through development that reflects this character.
15. Reference is made to Policy H16 of the Local Plan and policies H8 and SV2 of the SVNP on the decision letter. As these concern development within, rather than adjacent to, the BUAB of a smaller village, they are not determinative to this main issue.

### *Biodiversity*

16. The BNG Assessment submitted with the appeal, using the Statutory Biodiversity Metric (the Metric), demonstrates that the proposal would result in a net loss in biodiversity. As such, the proposal would conflict with Policy ENV3 of the Local Plan which states that, whilst all development should provide a net gain in biodiversity where possible, as a minimum, there should be no net loss. This is separate to the statutory biodiversity net gain requirement for planning applications relating to small residential sites to provide a BNG of 10% made after 2 April 2024. There is no exemption from the requirements of Policy ENV3 for particular forms of development, including self-build homes.
17. Whilst the submitted BNG Assessment refers to recommendations to maximise the biodiversity value of the site post development, it has not been demonstrated these would result in no net loss in biodiversity. Given the difficulties of securing BNG within private gardens, the ability of the site to offset any biodiversity loss is unlikely, even if Policy ENV3 does not explicitly refer to garden land being inappropriate for such purposes.
18. The use of compensatory measures, albeit as a last resort, to offset any loss by contributing to appropriate biodiversity projects is not precluded by Policy ENV3, however. To secure this, the main parties have proposed the use of a pre-commencement planning condition which would require the approval of a Metric and, were this to show a net loss in biodiversity, the submission of a certificate or allocation agreement with an offsetting provider to deliver a scheme of offsetting.
19. Nevertheless, the PPG<sup>4</sup> sets out that the use of a negatively worded condition requiring a planning obligation or other agreement to be entered into before development can commence may be appropriate in exceptional circumstances. This includes where there is clear evidence that the delivery of the development would otherwise be at serious risk or it relates to a complex scheme. The evidence before me does not lead me to conclude that the provision of two dwellings on the

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<sup>4</sup> Planning Practice Guidance

appeal site represents an exceptional circumstance which justifies the use of the aforementioned condition.

20. Additionally, I have little substantive evidence before me regarding Wild Capital, an offsetting provider referred to by the appellant, or another similar scheme, to conclude that an appropriate provider with available credits can be implemented within a reasonable timeframe. In these circumstances, the use of a condition to secure the offsetting required for the proposal to accord with Policy ENV3 of the Local Plan would not meet the Framework's tests.
21. I conclude that the proposal would harm biodiversity, in conflict with Policy ENV3 of the Local Plan in this respect, as well as Policy SV13 of the SVNP which requires any loss of biodiversity to be mitigated on site or via an approved scheme.

### **Planning Balance**

22. The proposal would provide social and economic benefits from the construction and occupation of two dwellings, leading to contributions to the local community and economy from future occupants and in support of the objectives of STRAT1 of the Local Plan. Given the scale of the proposal, the corresponding social and economic benefits would be small. Even if a suitable mechanism were in place to deliver the biodiversity credits offsite, as there would be no net gain in biodiversity, no benefits would be derived from the proposal from an environmental perspective.
23. Nonetheless, there would be direct benefits to the appellants via the provision of the self-build dwellings and the evidence before me indicates that there is an increasing shortfall in the delivery of custom/self-building housing in the Council area. It has been suggested that a condition could be imposed to ensure the dwellings are occupied by the person or persons who had a primary input into its design for at least 3 years. However, it is not possible to be certain that this would occur and, until the dwelling is occupied, enforcement action would not be possible, even if variations of this condition are widely adopted by other Councils.
24. If someone other than the person building the dwellings occupies them during the three years following completion they would be in breach of the condition. Any enforcement against this third party is unlikely to be reasonable. Moreover, any action the third party takes to address the breach would not achieve the condition's planning and policy objective, namely that the dwelling is occupied by the person/s involved in its design. Therefore, in the absence of a suitable mechanism to secure the dwellings as self-build homes, the proposal would not lead to any benefits in this regard, even if the appellants have now been registered on the Councils' self-build register.
25. The evidence before me indicates that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with the Framework, with the latest published position being 4.5 years<sup>5</sup>. The net gain of two dwellings as a result of the proposal would, therefore, be valuable in supporting the Framework's objective of significantly boosting the supply of housing where there is a shortfall. Given the minor scale of the contribution which the proposal would make against a small housing land supply shortfall, I attribute modest weight to this benefit.

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<sup>5</sup> As of January 2025

26. Although the proposal conflicts with Policy SV1 of the SVNP, the Framework confirms that residential gardens outside built-up areas meet the definition of previously developed land and supports the development of under-utilised land. Whilst there is nothing to prevent a neighbourhood plan from taking a more restrictive, area specific approach to the location of housing than a local plan, in this case the wording of Policy SV1 of the SVNP conflicts with that of Policy H16 of the Local Plan and, in turn, the Framework. Consequently, I attribute modest weight to the proposal's conflict with the SVNP in this regard.
27. Nevertheless, the proposal would harm the character and appearance of the area, contrary to policies DES1, DES2, ENV1 and H16 of the Local Plan and policies SV7, SV15 and SV24 of the SVNP. These policies are broadly consistent with the Framework's approach to creating high quality developments that are sympathetic to local character including the surrounding built environment and its landscape setting. I have also found that it would harm biodiversity and there is consistency between Policy ENV3 of the Local Plan, Policy SV13 of the SVNP and the Framework's objective to minimising impacts on and providing net gains for biodiversity. Consequently, the proposal conflicts with the development plan when considered as a whole and I attach significant weight to this.
28. Given the housing land supply position, paragraph 11d of the Framework and the presumption in favour of sustainable development is relevant. This supports the grant of permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. However, in this case, the SVNP became part of the development plan within five years of the date of the Council's decision and, whilst there is no identified housing requirement in smaller villages, policies therein support the delivery of housing. Therefore, paragraph 14 of the Framework indicates that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits which could be derived from it.
29. Consequently, the significant weight given to the proposal's conflict with the development plan and the adverse effects which follow would not be significantly and demonstrably outweighed by the identified benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

## **Conclusion**

30. The proposal conflicts with the development plan as a whole and there are no material considerations, either individually or in combination, including the provisions of the Framework, that outweigh this conflict.
31. For the reasons identified above, having had regard to all relevant matters raised, the appeal should be dismissed.

*Juliet Rogers*

INSPECTOR