



Appeal Decision

Site visit made on 10 July 2025

by H Butcher BSc(Hons) MSc PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2025

Appeal Ref: APP/C3105/W/25/3363162

Land adjoining The Cottage, The Green, Fringford OX27 8DY

- 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 R2 Developments Ltd against the decision of Cherwell District Council.
 - The application Ref is 24/00899/OUT.
 - The development proposed is the construction of 9 detached dwellings, formation of new vehicular and pedestrian access, associated landscaping, drainage and associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved apart from access.
3. The Council's Annual Monitoring Report for 2023-2024 sets out that the district housing land supply position is 2.3 years, and this is not in dispute.
4. Amendments have been made to the "Proposed Outline Site Plan"¹ during the appeal process. This plan has been submitted for illustrative purposes only, and I have dealt with it on this basis. As such it does not propose fundamental changes to the application. Similarly updated technical reports simply provide further information on the application. The appellant has, nevertheless, carried out a separate consultation exercise on the amended plan and technical reports. Accepting these would therefore not result in procedural unfairness to anyone involved in the appeal.
5. The Council is preparing a new Local Plan which could affect the categorisation of Fringford for the purposes of locating residential development. However, given that the plan is still in the early stages of preparation it carries only very limited weight in this appeal. The Council and appellant are of a similar view.
6. I have made limited reference to sensitive information in my decision and any references herein are the minimum necessary in the interests of open, fair, and impartial decision making.

Main Issues

7. The main issues are:

¹ 1623(2) PO2 Rev D

- The effect of the development on the living conditions and health of the current occupant of The Cottage, Fringford; and,
 - Whether the appeal site is a suitable location for the development having regard to planning policy, and the character and appearance of the surrounding area.
8. Reasons for refusal 3, 4, 5 and 6 on the Council's Decision Notice are no longer being pursued following the submission of additional documentation. It is not necessary, therefore, for me to take these matters further.
9. Although not a reason for refusal, because of representations made on behalf of the resident of The Cottage, which directly abuts the appeal site, I have included the first main issue above. I consider it to be a matter of fundamental importance in this appeal given it affects a person with a protected characteristic (disability) for the purposes of the Public Sector Equality Duty (PSED) and engages the UN Convention on the Rights of Persons with Disabilities (UNCPRD) Article 19, rights of persons with disabilities to live independently and be included in the community. The appellant was given the opportunity to comment further on this main issue.

Reasons

Living conditions and health of the present occupant of The Cottage

10. The appeal site is an agricultural field. The Cottage is a two-storey detached dwelling, the north and west elevations of which directly abuts the field. In these elevations are windows which serve the lounge, kitchen/dining room, and study at ground floor, and main bedroom and guest bedroom at first floor.
11. The present occupier of The Cottage is a disabled person who receives 24-hour care from a team of trained carers at home. They have specific needs in respect of their living environment, and, of particular note in this appeal, the impact of noise and disturbance on their sleeping and waking can have significant adverse, and potentially life threatening, implications for their health.
12. S149(1) of the Equality Act 2010 which imposes the PSED on 'a public authority...in the exercise of its functions' is relevant. The PSED concerns the impact of a proposal on all persons with a protected characteristic who might most obviously be adversely affected. A proper appreciation must therefore be had as to the potential impact of a decision on equality objectives and the desirability of protecting them.
13. There is currently no separation between The Cottage and the appeal site, and any activities which may currently take place on the land. The development would, however, introduce a far more intensive land use onto the site with a higher potential for noise and disturbance to the detriment of the living conditions and health of the present occupant of The Cottage. The appellant, having carried out noise assessments, proposes a noise barrier or acoustic fence to be erected to separate The Cottage from the development, for the duration of the occupation of this property by its current occupant, to mitigate any harmful noise impacts.
14. The noise barrier would consist of a 2.7m high absorptive face acoustic barrier which would curve around the north and west elevations of the cottage in relatively close proximity. Whilst this may mitigate some harmful noise impacts on the resident of The Cottage from the development it would have undesirable impacts

on their living conditions. It would reduce outlook and create a sense of enclosure to an unacceptable degree on the main ground floor habitable rooms in The Cottage. This impact on the current occupant of The Cottage would be particularly acute given their disability and, consequently, the degree of time they spend at home and their dependence on their home to meet their day-to-day needs. This could result in a deleterious impact on their mental health.

15. It has been suggested that the windows in The Cottage could be fitted with acoustic glass as this would be more effective at mitigating noise from the development, and not result in the adverse impacts to the current occupant's living conditions and mental health described above. It seems to me that this would be a preferable solution to protect the current occupant from noise. However, there is nothing before me to suggest this has been considered by the appellant as an option.
16. The possibility of transferring land to the owner of The Cottage to secure separation between this property and the development in perpetuity has also been suggested to reduce any adverse impact of the development in terms of noise on the current occupant of The Cottage. Again, this seems to me to be a good solution to protect the living conditions and health of the current occupant of The Cottage. However, there is no substantive evidence before me of arranging or securing such mitigation. Furthermore, it is my view that such matters would require resolution at outline stage, either by condition or legal agreement, neither of which is before me. This is because they would need to form the terms of the outline planning permission as they are matters of fundamental importance.
17. The PSED requires that a public authority must, in exercise of its functions, have due regard to the following three aims when making decisions; the duty to understand that eliminating discrimination, advancing opportunity, and fostering good relations are the aims of the law. Furthermore, it is a duty to ensure that any decision giving rise to any negative impacts in relation to the above three aims is informed and made with regard to any less harmful alternative outcome.
18. In light of my findings above I consider that a less harmful alternative outcome on the living conditions and health of the current occupant of The Cottage could be achieved, such as that discussed above. These options are not, however, before me. It follows that the proposal would therefore have an unacceptable harmful effect on the living conditions and health of the current occupant of The Cottage. Consequently, I find conflict with the relevant provisions of Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 (LP) and saved Policies C30 (iii) and ENV1 of the Cherwell Local Plan 1996 (LP 1996) which require new development to deliver safe and healthy places to live in, and to consider the amenity of existing occupiers.

Suitable location for development

19. Policy Villages 1 of the LP manages small scale development proposals for residential development within the built-up limits of villages. The supporting text to the policy advises small scale development proposals are typically but not exclusively for less than 10 dwellings.
20. The proposal is for nine houses to be built on land on the western edge or periphery of Fringford. The site is, nevertheless, located in very close proximity to the village green, village hall, and primary school. The primary school, in particular, could significantly reduce the reliance on a car for journeys to school by any future

families within the development with primary school age children. Also nearby are a public house, coffee facilities, and cricket grounds, and, at a slightly further distance away, the church.

21. The appeal site is also broadly bound by surrounding residential development to the north, east and south. Consequently, it is largely viewed in the context of these local community facilities and residential properties, and as such, a small residential development here would naturally appear as part of the village. To the west, the Cottisford Road provides a strong boundary between the extent of the built-up area of Fringford and the wider countryside beyond ensuring against an impression of sprawl. I am therefore of the view that, in the absence of adopted settlement boundaries, and for the purposes of Policy Villages 1, the appeal site falls within the built-up limits of Fringford.
22. The Council argue that the development cannot be considered small scale given the level of services in Fringford, noting the loss of a local bus service. Nevertheless, as this is a development for nine dwellings, and given my findings above, I find that the proposal accords with Policy 1 Villages of the LP in this case. I also find no conflict with the relevant provisions of Policies BSC1 and ESD1 of the LP which concern sustainable development and housing distribution. As I have found that the appeal site does not fall outside of the built-up limits of Fringford saved Policy H18 of the LP 1996 does not apply.

Character and appearance

23. For the same reasons as those set out above, the context of the site in relation to Fringford is such that I do not consider its development for nine residential dwellings to be harmful to the character and appearance of the surrounding area. That it would be visible in local views would not amount to harm given its village context. A small scale, inward facing, development in this location would not necessarily be harmful given adjacent courtyard style development, which is similarly inward facing. In any event, layout is a matter to be determined at a later stage. Similarly, appearance is to be determined as a reserved matter.
24. Works to improve access along Crow Lane to include a passing place and pedestrian footpath would not be so overtly urbanising so as to amount to harm to the character and appearance of the surrounding area. There is nothing particular about the appeal site, nor any specific connection to Flora Thompson and her books "Larkrise to Candleford", that I have been made aware of, which would lead me to a finding of harm to local character and appearance.
25. For these reasons I find no conflict with Policies ESD13 and ESD 15 of the LP or saved Policies C28, C30 and C33 of the LP 1996, all of which seek to protect the character of the local landscape and built environment through sensitively designed development.

Other Matters

26. There are two listed buildings in the vicinity of the appeal site; Green Farmhouse (Grade II Listed) and Barn approximately 25m west of Green Farmhouse (Grade II Listed). Having regard to section 66 of the Act I have had special regard to the desirability of preserving the setting of these listed buildings. Contemporary development separates these listed buildings from the appeal site and there is nothing before me to suggest that the appeal site contributes to their significance

through setting. I therefore find that the development would preserve the setting of these listed buildings.

27. The Bakehouse is said to be listed by a local resident but there is no evidence of this such as the list entry or description by Historic England.
28. The Local Highway Authority are satisfied that a safe and suitable access to the development could be provided, subject to the imposition of suitable conditions. Similarly, the drainage engineer for the local authority is satisfied with the proposed drainage scheme. There is also evidence that the County Archaeologist is now satisfied with the archaeological details of the application. Finally, the Council's Arboricultural Officer no longer raises concerns with respect to the construction of the footpath adjacent to a protected Oak Tree. I find no reason to come to different findings on these matters.

Conclusion

29. I have found unacceptable harm to the living conditions and health of the current occupant of The Cottage and, therefore, conflict with the development plan as a whole. It is my duty under the PSED to ensure that any decision giving rise to any negative impacts is informed and made with regard to any less harmful alternative outcome. I cannot be satisfied in this case that there is not a less harmful alternative outcome. It follows, therefore, that the harmful impacts of the development would cause an interference with the right of a person with disabilities to live independently and be included in the community under Article 19 of the UNCRPD. Such an interference is not justified in the wider public interest having regard to the small scale of development proposed.
30. I give the harm I have found significant weight in the planning balance such that, even in light of the Council's housing land supply, and the various social and economic benefits arising from this modest development of nine houses, the adverse impacts would nevertheless, significantly and demonstrably outweigh these.
31. The appeal is dismissed.

H Butcher

INSPECTOR