



Appeal Decision

Site visit made on 28 February 2024

by **H Wilkinson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th May 2024

Appeal Ref: APP/C3105/W/23/3329834

Land to the east of Woodway Road, Sibford Ferris

- 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 Blue Cedar Homes Limited against the decision of Cherwell District Council.
 - The application Ref is 23/01316/F.
 - The development proposed is the erection of 5 two storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 5 no two storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure at Land to the east of Woodway Road, Sibford Ferris in accordance with the terms of the application, Ref 23/01316/F, subject to the conditions in the schedule to this Decision.

Applications for costs

2. An application for costs was made by Blue Cedar Homes Limited against Cherwell District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. In November 2023, all designated Areas of Outstanding Natural Beauty in England and Wales became 'National Landscapes'. However, the legal designation and policy status is unchanged. I have therefore proceeded on this basis and referred to the Cotswold National Landscape accordingly.

Main Issues

4. The main issues in this appeal are:
 - whether the appeal site would provide a suitable location for housing having regard to the Council's spatial strategy for the district; and,
 - the effect of the proposed development on the character and appearance of the area, including the setting of Sibford Ferris Conservation Area (CA) and the Cotswold National Landscape (CNL).

Reasons

5. Local Plan Policies BSC 1 and Villages 1 of the Cherwell Local Plan 2011-2031 (Local Plan) together with Saved Policy H18 of the Cherwell Local Plan 1996 set out the spatial strategy for the district. This seeks to distribute development to

- the most sustainable locations thereby ensuring that it is supported by services and facilities and does not unnecessarily exacerbate travel patterns that are overly reliant on the private car, which incrementally has environmental consequences.
6. Local Plan Policy Villages 1 provides a categorisation of villages considering factors such as their population, services/facilities, and accessibility. The focus of this policy is to manage small scale development proposals (typically but not exclusively for less than 10 dwellings) within the built-up limits of each village to sustainably contribute towards meeting the housing targets set out in Local Plan Policy BSC 1. Policy Villages 1 provides for minor development, infilling and conversions within the built-up limits of Services Centres otherwise referred to as Category A villages which include Sibford Ferris/Sibford Gower. Only certain types of development requiring locations outside of built-up limits are permissive under Saved Policy H18 of the Cherwell Local Plan 1996.
 7. The Local plan does not define the extent of the built-up limits of a settlement. The determination as to whether the site falls within these limits is therefore a matter of planning judgement. The appeal site comprises an open field and is devoid of built form. However, it is bound by residential development on three sides including a larger housing development currently under construction¹. Given both its physical and visual relationship to the neighbouring development which forms part of the main built up area of the settlement, in my judgement the appeal site is within the village envelope, albeit at its edge.
 8. There is a convenience store and post office in Sibford Ferris, which would be within reasonable walking distance of the appeal site. As a Category A village, Sibford Ferris is a 'cluster' village with Sibford Gower and Burdrop, and across these three settlements there are a range of services and amenities including educational facilities, medical services, and retail. Despite the limitations of the highway network and public transport frequency, given my findings regarding the location of the site within the built-up limits of the settlement, and the categorisation of Sidford Ferris, I have no reason to doubt the accessibility of the location.
 9. The evidence sets out that the housing target of 750 homes across the twenty-three Category A villages over the plan period has been exceeded. However, there is no substantive evidence before me to suggest that the exceedance to date has undermined the overall locational strategy for the district or that the provision of 5 additional dwellings would be harmful in this regard. Further, whilst it may be the case that Sibford Ferris has been downgraded in the settlement hierarchy as set out in the draft Cherwell Plan Review, the evidence suggests that this plan is not at an advanced stage. Therefore, only limited weight can be attributed to this.
 10. For these reasons, I find that the appeal site would provide a suitable site for housing having regard to the Council's spatial strategy for the district. It would therefore comply with Policies PSD 1, BSC 1, ESD 1 and Villages 1 of the Local Plan. Collectively, these policies seek to ensure that new development is directed to the most sustainable locations and mitigates the impact of development on climate change.

¹ APP/C3105/W/19/3229631

11. As I have found the development to be located within the built-up limits of the village, Saved Policy H18 of the Cherwell Local Plan 1996 is not determinative to this main issue.

Character and appearance

12. Together with Sibford Gower and Burdrop, Sibford Ferris is designated as a CA. It comprises a small linear settlement and is primarily characterised by two-storey terraced and detached dwellings which are generally set back from the pavement behind ironstone walls and trees. The significance of the CA is derived in part from the traditional character and appearance of the built form including the homogenous use of vernacular ironstone and red brick. This strong, co-ordinating effect creates a pleasing, rustic street scape which contributes positively to the character and appearance of the area.
13. Consistent with the Rolling Valley Pastures Landscape Type², the surrounding panorama is principally green and open, comprising of undulating landform of rounded hills and small valleys, small to medium sized fields, densely scattered hedgerows and trees and well-defined nucleated villages with little dispersal into the wider countryside. The pleasant, rural setting positively contributes to the character and appearance of the area including the significance of the CA.
14. The appeal site comprises a broadly rectangular shaped field which currently has the appearance of a paddock with rough grassland. The northern and eastern boundaries of the appeal site are defined by the rear gardens of neighbouring residential properties whilst the western and southern edge is defined by a hedgerow which forms the boundary to the road and the adjoining residential development respectively.
15. The erection of 5 dwellings, including detached garages and hardstanding would alter the undeveloped nature and open aspect of the appeal site. Nevertheless, the proposed dwellings would be physically and visually related to the existing housing and would not extend beyond the building line of the new development on the adjacent site or that of Faraday House. As such, the development would be visually contained within the built-up limits and would read as part of the nucleated village. Thus, the development would not be an unduly prominent or visually intrusive addition to the landscape.
16. The layout of the proposed development would reflect the established linear development pattern with the proposed dwellings fronting the access road. The plot sizes would be marginally smaller and narrower than those which adjoin the site. However, they would not be wholly uncharacteristic of the wider area such that they would appear unduly cramped. Further, whilst noting that the roof form at Plot 5 would differ to the traditional, steeply pitched roofs which predominate in the area, the general proportions and pitch would be in largely in keeping with the village. Therefore, whilst different, it would not unacceptably detract from the traditional character and appearance of the existing built form.
17. All three boundaries are marked by a mix of landscape features which would be retained and enhanced. In addition, a large area of open space comprising a mixture of orchard and woodland planting, natural attenuation, scattered open space, trees and rear garden trees would occupy the western half of the appeal

² The Oxfordshire Wildlife and Landscape Study

site. Admittedly, this landscape buffer would not screen the development in its entirety and its filtering effect would not be immediate. Nevertheless, it would soften the appearance of the development in the long term and support its assimilation within its surroundings.

18. Views from within the CNL are characterised by the rolling agricultural land which dominates the foreground together with scattered dwellings set in a dense wooded context on the elevated land rising to the skyline. Although the development would become a component of the view, it would be indistinct in the overall composition and would be read in conjunction with the existing nucleated built form. From Woodway Road, changes to the view will be seen against the backdrop of the existing settlement edge and would be relatively limited given the height of the established hedgerows. While the dwellings would be closer in the view, they would not change the overall character and composition of the visual experience as perceived by users of the highway and nearby public rights of way. Consequently, despite the localised change, the proposed development would not adversely affect the wider landscape setting or undermine the desire to conserve and enhance the character and scenic beauty of the CNL.
19. For these reasons, I find that the proposed development would not harm the character and appearance of the area, including the setting of the CA and the CNL. It would therefore accord with Local Plan Policies ESD 13 and ESD 15 together with Saved Policies C28 and C30 of the Cherwell Local Plan 1996. These policies collectively seek to ensure that development conserves the character of the built and historic environment through sensitive siting, layout, and high-quality design. It would also be consistent with the design objectives of the Framework.

Other Matters

20. Despite being categorised as a Category A village, and unlike Sibford Ferris, Finmere does not have a shop or post office. A considerably greater number of dwellings were also proposed in the appeal scheme³ referenced by the interested parties. This scheme is therefore materially different to the appeal proposal and does not lead me to a different conclusion.
21. Notwithstanding the submissions regarding the limitations of the highway network and volume of traffic passing through the village, there is no convincing evidence before me to demonstrate that the proposal would be harmful to highway safety. Based on my own observations at my site visit, the scale of the development and the available evidence, I have no reason to conclude that the proposal would adversely affect highway safety.
22. The appeal proposal would result in the loss of best and most versatile agricultural land (BMV). Nevertheless, the Council does not allege conflict with any specific development plan policy, nor does it suggest that the loss of this land would result in a lack of this quality of land within the district. Given that the site area is not extensive together with the site-specific factors including its isolation from a farmed unit, I do not consider that the loss in this case would harm the agricultural industry.

³ APP/C3105/W/22/3309489

23. Given the layout of the proposed development and the intervening distances, the proposal would not be unduly dominant in views from the adjoining houses. Further, as indicated on the submitted plans, views of the wider area would not be obstructed to such an extent that the proposal would be perceived as an oppressive form of development. Thus, whilst the appeal proposal would change the outlook currently enjoyed by the occupiers of the adjoining occupiers, it would not be harmful in this regard. A Construction Traffic and Environment Management Plan would ensure that suitable controls are in place to manage operations within the site and ensure that the scheme does not adversely affect the living conditions of neighbouring occupants by reasons of noise disturbance.
24. I have had regard to the representations in relation to increased pressure on existing services. However, there is no cogent evidence to demonstrate that financial contributions towards infrastructure provisions would be necessary to make the development acceptable in planning terms.
25. Whilst mindful of the concerns raised in relation to future precedent, I have determined the appeal on individual merit, in accordance with the development plan and all other material considerations.

Conditions

26. I have had regard to the draft planning conditions that have been suggested by the Council and I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.
27. In addition to the standard time limit condition, a condition requiring that the development is carried out in accordance with the approved plans is imposed in the interests of certainty. A Construction Traffic and Environment Management Plan is necessary to ensure that the operational works to complete the scheme do not adversely impact on the living conditions of surrounding residential occupiers and avoid potential conflict with highway users. To ensure that adequate surface and foul water drainage is provided and maintained for the lifetime of the development, a scheme for the disposal of surface and foul water necessary.
28. A condition requiring samples of the materials to be used in the construction of the external surfaces is required in the interests of the character and appearance of the area. For the same reasons, details of the proposed windows and doors are required as is a scheme of landscaping for both the housing development and the area of open space.
29. To ensure that biodiversity is maintained and enhanced, adherence to the Mitigation and Enhancement measures set out within the Ecological Appraisal is necessary. However, it is not necessary to impose a separate condition restricting the removal of hedgerow outside of the bird breeding season as this is stipulated within the Ecological Appraisal. A condition requiring adherence to the Arboricultural Impact Assessment (AIA) is also necessary to safeguard the well-being and integrity of the existing trees and hedgerows. A condition requiring evidence of compliance with the AIA following completion is not necessary as the aforementioned condition would provide sufficient protection and could be enforced against if necessary.

30. To promote sustainable transport, a condition requiring the installation of vehicular electric charging points together with the provision of the bicycle storage prior to first occupation is imposed. In the interests of highway safety, a condition requiring the provision of parking and turning together with details of the road surfacing and drainage is necessary. For the same reason, a condition prohibiting the use of any other access to the site is necessary.
31. I have found the principle of development to be acceptable. Therefore, and notwithstanding the evidence in relation to need, in this case, a condition restricting the age of future occupants would fail the tests of necessity. The PPG indicates that planning conditions should not be used to restrict national permitted development rights (PD) unless there is a clear justification to do so. There is no such justification in this case. The retention of the external surfaces as approved in perpetuity would be secured by the materials condition. My attention has not been drawn to any specific development plan policies or supplementary planning guidance which indicates that the optional accessibility building control standards are necessary in this case. Therefore, I have not imposed a condition requiring compliance with M(4)2 standard of Approved Document M of The Building Regulations 2010.

Conclusion

32. For the reasons given above, having regard to the development plan taken as a whole, and all other material considerations including the Framework, the appeal is allowed.

H Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three year from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - Drawing no. 4349-02 - Site Location Plan
 - Drawing no. 4349-03 Rev W – Site Plan
 - Drawing no. 4349-04 Rev H – Proposed Site Plan
 - Drawing no. 4349-30 Rev F – Plot 1 Elevations
 - Drawing no. 4349-31 Rev F – Plot 2 Elevations
 - Drawing no. 4349-32 Rev E – Plot 3 Elevations
 - Drawing no. 4349-33 Rev F – Plot 4 Elevations
 - Drawing no. 4349-34 Rev E – Plot 5 Elevations
 - Drawing no. 4349-36 Rev A – Street Elevations
 - Drawing no. 4349-40 Rev C - Floor Plans Plot 1
 - Drawing no. 4349-41 Rev D – Floor Plans Plot 2
 - Drawing no. 4349-42 Rev C – Floor Plans Plot 3
 - Drawing no. 4349-43 Rev C – Floor Plans Plot 4
 - Drawing no. 4349-44 Rev D – Floor Plans Plot 5
 - Drawing no. 4349-50 Rev A – Waste Management Plan
 - Drawing no. 4349-51 Rev A – Cycle Storage Plan
 - Drawing no. 4349-52 Rev A – Bat and Bird Brick Location Plan
 - Drawing no. 4349-53 Rec C – Materials Plan
 - Drawing no. JWL_095.01 Rev D – Landscape Layout Plan
3. No development shall take until a Construction Traffic and Environment Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The approved CTMP shall be adhered to throughout the construction period for the development.
4. No development shall take place until a detailed scheme including a management and maintenance plan, in line with the recommendations set out in the Drainage Strategy Technical Note, dated 9 My 2023 has been submitted to and approved in writing by the local planning authority. Thereafter, no dwelling shall be occupied until the drainage system for the site has been completed in accordance with the submitted details. The drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
5. No development shall take place above slab level until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been inspected on site and approved in writing by the local planning authority. The samples shall include:
 - a render sample panel (minimum 1m²) demonstrating the type, colour and texture;
 - a natural ironstone sample panel (minimum 1m²);
 - a brick sample panel (minimum 1m²) demonstrating the type, colour, texture, face bond and pointing;

- a sample of the roof slates;
- a sample of the timber cladding (garages)

The development shall be carried out in accordance with the approved details and permanently retained as such thereafter.

6. No development shall take place above slab level until full details, at an appropriate scale of the doors and windows hereby approved, including a cross section, cill, lintel, recess detail and colour/finish, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and permanently retained as such thereafter.
7. No development shall take place above slab level until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme of landscaping shall include:-
 - details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas;
 - details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation;
 - details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps;
 - elevational details and exact extent of the means of enclosure and other boundary treatments as indicatively set out in drawing no. JWL_095.01Rev D May 2023 - Landscape Layout Plan.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or on the completion of the development, whichever is the sooner. Any trees, or plants 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 current/next planting season with others of similar size and species. The hard landscaping elements shall be carried out prior to the first occupation of that dwelling and shall be retained as such thereafter.

8. No development shall take place above slab level until details of the landscaping and treatment of the open space within the site including a timeframe for its provision and maintenance strategy has been submitted to and approved in writing by the local planning authority. Thereafter the open space shall be completed and maintained in accordance with the approved details and retained permanently as open space.
9. The development hereby permitted shall be undertaken strictly in accordance with the Mitigation and Enhancement measures set out in the Ecological Appraisal prepared by Malford Environmental Consulting dated 13 December 2021 and the Ecological Appraisal Addendum dated 5 May 2023.
10. The development hereby permitted shall be undertaken strictly in accordance with the Arboricultural Impact Assessment dated 10 May 2023. The tree

protection measures detailed within the Arboricultural Method Statement shall be retained throughout the construction period for the development.

11. No development shall take place above slab level until a scheme for the provision of vehicular electric charging points to serve the development has been submitted to and approved in writing by the local planning authority. The vehicular electric charging points shall thereafter be provided in accordance with the approved details prior to the first occupation of the dwelling they serve and retained as such thereafter.
12. No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 051 Rev A (Cycle Storage Plan) for 2 bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
13. Notwithstanding the approved plans, no dwelling shall be occupied until details of the proposed parking turning, loading, and unloading provision for vehicles to be accommodated within the site including details of the proposed surfacing and drainage of the provision, have been submitted to and approved in writing by the local planning authority. The approved parking turning, loading, and unloading facilities shall thereafter be laid out and completed in accordance with the approved details prior to the first occupation of the dwellings and thereafter retained for the parking turning, loading, and unloading of vehicles at all times thereafter.
14. Other than the approved access no other access to the development hereby approved shall be formed or used between the site and the highway.

END OF SCHEDULE