

CHERWELL DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY

Appeal by Mr & Mrs Robert Hooke against the decision by Cherwell District Council to refuse full planning permission for the erection of new detached dwelling with integral garage.

Appellant : Mr & Mrs Robert Hooke
Appeal Site : 8 Rectory Close
Wendlebury
BICESTER
OX25 2PG
LPA Reference : 18/00848/F
Planning Inspectorate : APP/C3105/W/19/3220463
Reference

1. Site Description and Proposed Development

- 1.1 Information regarding the site description and the proposed development can be found in the officer's delegated report submitted with the Council's appeal questionnaire and will therefore not be repeated in this Statement of Case.

2. Relevant Planning History Relating to the Appeal Site

- 2.1 The relevant planning history for the site is outlined in the officer's delegated report.

3 Reasons for Refusal

- 3.1 Planning permission for the erection of a building to form dwelling was refused 17th July 2018 for the following reasons:

1. The proposed dwelling, by virtue of its siting and scale, would constitute a cramped form of development that would fail to sympathetically integrate into the built environment, not relating well to the surrounding pattern of development and

would detract from the traditional loose-knit character of the area. The proposal would therefore fail to represent acceptable infill development within the built up limits of Wendlebury. The proposal is therefore considered contrary to the provisions and aims of Policy ESD15 and Villages 1 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

2. The proposed development lies within Flood Zones 2 and 3 as identified by the Environment Agency and in the absence of a suitable Flood Risk Assessment has not been demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The proposal is therefore contrary to Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

4 Relevant National and Local Planning Policy and Guidance

- 4.1 Below are the policies referred to in the Council's reasons for refusal as well as others that were relevant to the overall consideration of the original application.

The Cherwell Local Plan 2011-2031 (Part 1) (CLP)

PSD1:	Presumption in favour of sustainable development
SLE1:	Improved Transport and Connections
BSC2:	Effective Use of Land and Housing Density
ESD1:	Mitigating and Adapting to Climate Change
ESD3:	Sustainable Construction
ESD6:	Sustainable Flood Risk Management
ESD7:	Sustainable Drainage Systems (SuDS)
ESD10:	Protection and Enhancement of Biodiversity and the Natural Environment
ESD15:	The character of the built and historic environment
Villages 1:	Village Categorisation

Cherwell Local Plan 1996 (Saved Policies)

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development

National Planning Policy Framework (The Framework) and the Planning Practice Guidance (It is assumed that the relevant parties will have a copy of this document and as such it has not been reproduced).

Cherwell Design Guide SPD (2017)

- 4.2 The Council's saved development plan policies are dated, having been adopted in 1996. However those listed above are considered to carry significant weight insofar as they are consistent with guidance contained within the Framework.

5. The Council's Case

- 5.1 The Council's case in this appeal is principally as set out within the officer's delegated report for the planning application, a copy of which was sent to the Inspectorate with the appeal questionnaire. This Statement of Case does not intend to repeat or duplicate the arguments set out in those reports, but instead focuses on responding to and clarifying the key issues that arise from the Appellant's Statement of Case (ASoC).
- 5.2 This statement solely focuses on the reason for refusal and does not cover the aspects of the development which the Council considers to be acceptable as these matters are common ground between the parties and are assessed in the delegated officer's report.

COMMENTS ON THE APPELLANT'S GROUNDS OF APPEAL

- 5.3 Paragraphs 2.1 – 2.4 of the ASoC do not raise any new material planning considerations and do not substantiate the grounds of appeal.
- 5.4 The Appellants assert at paragraph 2.5 of their statement that the Planning Officer did not take into consideration the contents of the submitted Flood Risk Assessment (FRA), noting that the Environment Agency did not raise any objections.

- 5.5 This is incorrect. The officer's assessment did take into consideration the FRA submitted with the application.
- 5.6 The Council's assessment of the development includes the application site as a whole (as this would form the new planning unit), and on this basis the reason for refusal is correct in stating that the development is in Flood Zones 2 and 3.
- 5.7 Whilst the Council is aware that the Environment Agency did not object to the application provided the built development is located outside Flood Zone 3, their response does not take account of the Sequential Test. The PPG (Paragraph: 019 Reference ID: 7-019-20140306) sets out that the aim of the Sequential Test is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding).
- 5.8 The Government's PPG (Paragraph: 034 Reference ID: 7-034-20140306) makes clear it is for local planning authorities to consider the extent to which Sequential Test consideration have been satisfied, and in this case the Council concluded that the appeal proposal fails the sequential test because the site is not wholly within Flood Zone 1, and the dwelling itself, whilst not located in Flood Zone 3, is located partly in Flood Zone 2. That is the basis of the second reason for refusal. Thus, the Council submits that second reason for refusal is clear, justifiable and reasonable.
- 5.9 The Council would refer the Inspector to paragraph 8.21 and 8.22 of the officer's report. This sets out that the onus is on applicants to demonstrate that the Sequential Test has been applied. The Council considers that the submitted FRA failed to demonstrate that there are no reasonably available sites available with a lower probability of flooding within the district. No new evidence has been submitted alongside this appeal to demonstrate this and as such the Council submits that the appeal proposal does not pass the Sequential Test.
- 5.10 Officers note that the Appellants do not comment on the 1st reason for refusal, raising no argument contrary to the Council's decision that the proposal is unacceptable in this regard. In this regard, the Council would submit that the Appellants have not substantiated their grounds of appeal and this has resulted in unnecessary expense on the part of the Council in defending this appeal.

6 Conclusion

- 6.1 For the reasons set out in its decision notice and this statement of case, the Council would submit that the appeal proposal clearly conflicts with Government guidance contained within the National Planning Policy Framework as well as development plan policy. Accordingly, the Inspector is respectfully requested to uphold the decision made by the Local Planning Authority and dismiss this appeal.

Officer: George Smith

Dated: April 2019

Appendices

Appendix 1 – suggested draft conditions

Suggested Conditions

If, notwithstanding the above, the Inspector is minded to allow the appeal, the following conditions are suggested as necessary to make the development acceptable:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:

- Application forms
- Location Plan
- Block Plan
- Ground Floor Plan – 17/01/4/1
- First Floor Plan – 17/01/4/2
- Elevations – 17/01/4/3

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to the commencement of the development above slab level hereby approved, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development above slab level, full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved means of enclosure shall be erected, in accordance with the approved details, prior to the first occupation of the dwelling and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. The development permitted by this planning permission shall only be carried out in accordance with the submitted Flood Risk Assessment by JBA Consulting (February 2018) and the following mitigation measures detailed within the FRA:
 - All development must lie outside of Flood Zone 3, as per the FRA.
 - All development should be carried out in line with the drawings submitted.
 - Finished floor levels must be set at 64.83mAoD in accordance with the FRA, 600mm above the flood level.

Reason: To protect the development and its occupants from the increased risk of flooding and in order to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.