
Appeal Decision

Site visit made on 23 May 2017

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2017

Appeal Ref: APP/C3105/W/17/3169168

Heatherstone Lodge, Banbury Road, Finmere MK18 4AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Siteplan UK LLP against the decision of Cherwell District Council.
 - The application Ref 16/01209/OUT, dated 20 June 2016, was refused by notice dated 28 November 2016.
 - The development proposed is an outline application for residential development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved but was accompanied by supporting documentation including, amongst other things, a Landscape and Visual Impact Assessment (LVIA), Transport Statement, Interim Travel Plan and Flood Risk Assessment. The appeal site extends to just over 2.3 hectares and whilst scale would be a reserved matter the application form and both main parties have referred to up to 47 dwellings and I have dealt with the appeal on this basis.
3. During the appeal the appellant submitted a signed and dated Unilateral Undertaking (UU) in accordance with Section 106 of the Town and Country Planning Act 1990. The UU presents a number of planning obligations relating to affordable housing provision, open space and play area and various highway related matters.

Preamble and Main Issues

4. The development plan comprises of, amongst other documents, the Cherwell Local Plan 2011-2031 Part 1 July 2015 (the CLPP1) which has been prepared in accordance with the National Planning Policy Framework (NPPF). Policy ESD 1 of the CLPP1 seeks to secure a sustainable distribution of growth in the rural District including reducing the need to travel more generally and in particular the dependency on private cars. Policy Villages 2 of the CLPP1 amplifies how growth will be distributed across the rural areas by setting out that a total of 750 homes will be delivered at Category A villages, including Finmere.
 5. I note Policy Villages 2 does not restrict the proportion of the 750 dwellings referred to in this policy that may be built in any one village or control phasing of that figure to 2031. The most recent relevant appeal decision in the District before me (APP/C3105/W/16/3158925) found similar in that Policy Villages 2 does not prescribe a limit for the number of houses to be accommodated at
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each village. In principle the development plan sanctions additional housing on sites capable of accommodating 10 or more dwellings in communities such as Finmere. It is clear, however, that when the development plan is taken as a whole, judgements need to be applied on the suitability of each major housing proposal in Category A villages, based on the particular circumstances.

6. Therefore, the two main issues in this appeal are as follows:
 - i. Whether the potential scale of development would be appropriate to the settlement and the facilities it offers, having regard to the relevant policies of the development plan: and
 - ii. The effect of the proposal on the settlement pattern of Finmere and the character and appearance of the surrounding area.

Reasons

Issue 1 - Scale of development

7. Finmere is a small village whose principal facilities comprise of a primary school, a public house and a village hall with sports field and play area. All of these facilities would be within a reasonable and safe walking distance from the appeal site. There is neither a shop nor post office in the village and I have no evidence that there are medical facilities or appreciable employment opportunities. I have very little evidence on the criteria applied in identifying Category A villages and Finmere's selection within this spatial tier. Given the local and national planning objectives to secure sustainable patterns of growth and reducing dependence on the private car, the relatively limited day-to-day service provision in Finmere requires, in my view, a prudent approach to the scale of additional housing development in the village.
8. One of the nearest settlements is Tingewick which has, amongst other things, a shop and post office. At nearly 2 kilometres I am not persuaded that it is within a reasonable walking distance from the appeal site. It is within a cycling distance but the connecting route via Sandpit Hill is primarily at the national speed limit, with little natural surveillance and extensively without footway or lighting. In my view it is not a particularly desirable route, particularly in winter months. Accordingly, I am not persuaded that car dependency would be reduced at the appeal site to access such basic daily services. I have been referred to farm shops at Newton Purcell and Stowe but again both of these are beyond reasonable walking distance and only likely to be attractive to the most ardent cyclist.
9. The nearest towns are Brackley and Buckingham and both provide a good range of services and significant employment. Both towns are well beyond a reasonable walking distance and at the upper margins of a daily cycling commute. Cycle lane infrastructure only applies to the local A421 bypass and does not extend beyond this in either direction to both towns. Accordingly, there are long stretches of the A421 to Buckingham and either the A421 or A422 to Brackley which have no cycle lane or footway, very limited lighting and roundabouts. Whilst my site visit only represents a snapshot, I noted these were busy roads. In my view, taking account of these conditions, cycling would not provide an attractive form of transport to the nearest towns.
10. Public transport via bus in Finmere is limited with evidence on site supporting the Local Planning Authority's (LPAs) submission that some bus services have

now been withdrawn since the planning application was submitted. There remains a limited daily service connecting the village to the towns of Brackley and Buckingham but the frequency is intermittent and not conducive to commuting. In my view, public transport would not provide an appealing or practicable mode for many necessary journeys and not at all in the evenings or on Sundays. Accordingly, I do not find the limited public transport would reduce dependency on the private car at the appeal proposal.

11. The appellant has produced an Interim Travel Plan and submits that travel planning including the use of smarter technologies could reduce the need to travel. Nonetheless, the likely scale of the appeal proposal would result in a sizeable development in a small rural community with limited services and poor connectivity by transport modes other than the private car. In this context I am not persuaded that travel planning measures would have a notable effect on travel behaviour. Consequently the scale of the appeal proposal would be at odds the need to assign most growth to the most sustainable locations where dependency on the car can be reduced.
12. Reference has been made to the latest position in a recent appeal decision (APP/C3105/W/16/3158925) that of the rural allocation to 2031 of 750 homes in Policy Villages 2 some 535 dwellings have been permitted and a further 94 units are in the pipeline. Whilst 750 is not to be regarded as an upper limit, the recently adopted strategy for sustainable development in the CLPP1 actively seeks to manage most housing developments to the more sustainable locations of Banbury and Bicester. The corollary of that is to avoid unconstrained growth in less sustainable locations.
13. Accordingly, a development of up to 47 houses would represent a sizeable amount of the remaining balance of the CLPP1 rural apportionment at an early stage of the plan period. It would do so in a location where the sustainability credentials are currently limited and would leave little plan-led manoeuvrability to sustainably align the proportionate rural growth within other settlements in the Category A villages tier with better sustainability attributes. I therefore find the appeal proposal would prejudice a more balanced distribution of rural housing growth and undermine the sustainable housing strategy in the CLPP1.
14. I therefore conclude that the potential scale of the proposed development at a settlement with few facilities and poor public transport connectivity renders the appeal proposal unacceptable. It would conflict with CLPP1 Policies ESD 1 and Villages 2. It would also fail to accord with the objectives of the NPPF to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to mitigate and adapt to climate change.

Issue 2 - Settlement pattern and character and appearance

15. Notwithstanding the fact that some modern development has occurred at moderate depth at Chinalls Close and Stable Close, the established and predominant character of Finmere remains a linear settlement reflecting its historical evolution along a shallow valley. Accordingly, large parts of the village are concealed within the fold of the valley such that there is little pronounced sense of settlement in the wider rural landscape. This is typical of settlement pattern in the host landscape national character area.
16. In contrast the appeal proposal would constitute a dislocated limb of development projecting southwards on rising land into countryside at stark

variance to the established linear form. It would also extend by some margin beyond the line created by Stable Close and due to intervening paddocks it would have a limited relationship to the pattern of development at Chinalls Close and at the eastern end of the old Banbury Road. The appeal proposal would largely appear as an incongruously isolated projection of development into the surrounding countryside.

17. The unconnected form of the proposed development from the rest of Finmere would be accentuated by the proposed elongated access via the old Banbury Road. Only occasional dwellings are served from this road which has a particularly rural character at the appeal site. This would serve to emphasize that the appeal proposal would be poorly integrated with the existing settlement and community. I noted the interconnecting footpaths across adjoining paddocks but these would not overcome my concern that the development would harmfully extend away from the village rather than meaningfully integrate with it. It would appear and function as a separate development, harmfully at odds with the established pattern of the village.
18. I accept the proposed development would not be noticeable from within Fulwell Road however it would be visible from numerous rural routes and paths to the south of Finmere. It would involve the loss of undulating countryside whose green, open character positively contributes to the wider landscape containing Finmere. Whilst development is visible in some perspectives of the appeal site, the site itself remains to be read, principally, as part of a wider patchwork of fields across gently rolling hills. I accept the appeal site is only one part of a wider non-valued landscape but the effect at a local level on the loss of an appreciable area of verdant openness would be significantly adverse.
19. The old Banbury Road (the former A421) now forms a rural byway with evidently very little vehicular traffic due to its restricted access and terminated function. Utilising this road to serve a development of up to 47 dwellings would harmfully erode its rural character and its role as a largely undisturbed route into the countryside. The detrimental urbanising effects of the vehicular access and proximity of the appeal proposal on this byway adds to my concerns about the appeal proposal's impact on the rural character of the locality.
20. I agree with the appellant's LVIA that in some views intervening trees and hedges, notably where the former A421 diverges from the bypass road, screen the site and these could be strengthened by further planting. Elsewhere, however, especially from within the old Banbury Road and from the bridleway to the west of the site including the lane to Hill Leys, it is evident that the appeal site occupies rising land above a shallow valley. The rural character of the appeal site is clearly discernible in these close views. Due to the combination of topography and proximity I am not persuaded that additional landscaping would effectively assimilate the proposed scale of development and the residual impacts on the rural character and appearance would be detrimental. Consequently, the appeal proposal would result in a highly visible encroachment into the countryside. This would occur at some distance from the current built settlement edge of Finmere which is not delineated by the rural old Banbury Road or the lane to Hills Ley to the west. Visually, the appeal proposal would have a significant adverse effect on the experience of several rural rights of way which pass close the appeal site.

21. Whilst layout would be a detailed matter, the appeal proposal would also inherently urbanise the experience of using those footpaths that cross the appeal site. These presently provide a pleasant route from village edge into gently undulating countryside. In visual and sensory terms the enclosing effect of the appeal proposal on users of these paths at the appeal site would be of a high magnitude given the nature of the receptors and the effect, from my observations on site, would be at least moderately adverse. This again, adds to my concerns about the harm to the rural character at the appeal location.
22. I therefore conclude that the appeal proposal would result in significant harm to both the settlement pattern of Finmere and the character and appearance of the surrounding area. As such the appeal proposal would be contrary to CLPP1 Policies ESD 13, ESD 15 and Villages 2 and Policies C8 and C28 of the Cherwell Local Plan 1996. These policies seek, amongst other things, to ensure that development positively contributes to the area's character and identity and is sympathetic to its particular context. The proposal would also fail to accord with the objectives of the NPPF to take account of the character of different areas and to recognise the intrinsic character and beauty of the countryside.

Other matters

23. The LPAs decision also set out reasons for refusal relating to archaeology and flood risk. On the former, I see no reason, particularly in light of the updated geophysical work submitted by the appellant as part of this appeal, why the matter could not be appropriately conditioned to accord with Policy ESD 15 of the CLPP1. Similarly, I am satisfied that matters relating to surface water drainage could also be the subject of appropriate conditions thereby satisfying the requirements of Policy ESD 6 of the CLPP1.

Overall planning balance

24. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. As set out above the appeal proposal would conflict with the development plan's approach to sustainable patterns of growth and would result in harm to the settlement pattern of Finmere and the character and appearance of the surrounding area. These conflicts with the development plan are significant factors which weigh heavily against the grant of planning permission.
25. The appellant submits that a five year housing land supply based on the CLPP1 is only just being achieved in the District. I accept, as demonstrated in the appeal decisions submitted by the appellant that a demonstration of a five year housing land supply is not in itself a cap on additional housing development. However such development must be, either, in accordance with the development plan or demonstrably sustainable where the plan is absent, silent or relevant policies out of date.
26. The appellant submits that the scale of housing need and the housing requirement in the CLPP1 is now out-dated given unmet need in the wider Oxfordshire Housing Market Area (HMA). It is evident that Oxford City is unable to meet its housing need in full and as such apportionment to other authorities within the HMA will be required. However, the CLPP1 examination grappled with this matter in the context of the NPPF and it is to be dealt with by way of a short-term review of the Plan, which is in hand. As such, I consider the housing requirement in the CLPP1 and the relevant policies for the

supply of housing, including Policy Villages 2, to be up-to-date and should be accorded full weight. The second bullet point of paragraph 14 of the NPPF is therefore not engaged and the development plan prevails. I now turn to consider whether other material considerations indicate otherwise that permission should be granted.

27. There would be benefits arising from the appeal proposal in terms of adding to the supply of housing and securing rural affordable housing in line with development plan policy. However, these benefits are moderated given there is a five year housing land supply. There would also be modest economic and social benefits from the construction jobs, provision of a play area, additional residents to support existing village facilities and Council Tax and New Homes Bonus receipts. I also find that the appeal proposal, subject to conditions, would not have unacceptable effects on matters such as flooding, highway safety, archaeology and the amenities of nearby residences. Consequently, there would be modest social and economic benefits arising from the appeal proposal.
28. These benefits, however, would be, significantly and demonstrably outweighed by the significant harms identified in respect of the environmental dimension of sustainable development. The NPPF is clear that sustainable development means that economic, social and environmental dimensions should be sought jointly and simultaneously. On this basis, having balanced the factors, the appeal proposal would not constitute sustainable development. It would be contrary to the up-to-date development plan, where the other material considerations before me do not indicate other than dismissing the appeal.
29. In view of this it is not necessary for me to consider further, in detail, the provisions contained in the submitted UU.

Conclusion

30. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Spencer

INSPECTOR.