



Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

TOWN AND COUNTRY PLANNING ACT 1990

STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY

Appeal by Mr & Mrs Purewal against the decision by Cherwell District Council to refuse full planning permission for the erection of 4no dwelling houses with associated garages, access and landscaping on land adjacent to The Old Vicarage, Caversfield

Appellant : Mr & Mrs Purewal
Appeal Site : The Old Vicarage, Caversfield
LPA Reference : 19/02075/F
Planning Inspectorate : APP/C3105/W/20/3246723
Reference

LOCAL PLANNING AUTHORITY'S STATEMENT OF CASE

April 2020

1 Site Description and Proposed Development

- 1.1 Information regarding the site description and the proposed development can be found in the officer's report submitted with the Council's appeal questionnaire and thus will 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 report.

3 Reasons for Refusal

- 3.1 Planning permission was refused on 25th November 2020 for the following reasons:

1. *By virtue of their location, siting, scale, layout, design and overall appearance, the proposals would constitute unjustified development beyond the built-up limits of Caversfield, failing to relate well to existing built development, and which would intrude into open countryside causing significant and demonstrable visual harm to the valued rural landscape. In addition, the proposed development would be sited in an unsustainable location that would be contrary to the district's housing strategy without the demonstration of an essential need, resulting in future occupiers having no realistic choice of travel means other than the private car. This harm would significantly and demonstrably outweigh the limited public benefits arising from this proposal. The proposal is therefore in direct conflict with the provisions and aims of Saved Policies C28, C30 and H18 of the Cherwell Local Plan 1996, Policies ESD1, ESD10, ESD13, ESD15 and Villages 1 of the Cherwell Local Plan 2011-2031 Part 1 and guidance contained within the National Planning Policy Framework and is unacceptable in principle.*
2. *By virtue of insufficient information being submitted, it has not been successfully demonstrated that the development can accommodate an acceptable level of safety for road users when egressing from the site. The proposal is therefore in direct conflict with the provisions and aims of Policy ESD15 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
- BSC2: Effective Use of Land and Housing Density
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The character of the built and historic environment
- Villages 1: Village Categorisation

Cherwell Local Plan 1996 (Saved Policies)

- H18: New dwellings in the countryside
- H19: Conversions of buildings in the countryside
- C15: Coalescence of settlements
- 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.
- 5.2 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 Appellants' Statement of Case (ASoC).
- 5.3 This Statement of Case 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.

COMMENTS ON THE APPELLANT'S GROUNDS OF APPEAL

1st refusal reason – Principle of development

- 5.4 The Appellants recognise at paragraph 3.2 of the ASoC that the development plan is the starting point for decision making. They do not dispute that the Council can demonstrate a 3 year supply of housing land or that the tilted balance is not engaged. The Appellants recognise at paragraph 3.6 that Caversfield is a Category C village, where new residential development is restricted to conversions and infilling within the built-up area of the settlement. The Council notes that at paragraph 3.7 of the ASoC the Appellants do not dispute the proposal not being in accordance with the development plan in sustainability terms i.e. that it is in the open countryside.
- 5.5 However, in the paragraphs that follow, up to and including paragraph 3.21, they contend that the NPPF and previous appeal decisions provide support for new dwellings in this open countryside location, due to its proximity to Bicester.
- 5.6 The Council submits that since (1) the development plan is not silent or out of date, (2) the Council can demonstrate the required housing land supply under the Written Ministerial Statement of 2018, and (3) the site does not constitute infilling or conversion, the appeal proposal should be refused permission.

- 5.7 Not only that, but future occupiers would not have a realistic choice of travel to access key services, given that pedestrians cannot access Bicester directly via footpath and would have to contend with busy roads and cars travelling at the national speed limit (60mph).
- 5.8 The Appellants refer at para 3.12 of the ASoC to numerous local services being a 20 minute walk from the appeal site but the Council submits Buckingham Road is not a short distance from the appeal site, as noted above in the officer's delegated report, it is inaccessible to pedestrians travelling from the appeal site. The same applies to schools mentioned by the Appellant at para 3.14 of the ASoC. The Council submits that future occupiers will be heavily reliant on the use of private motor vehicles to access these services. The site is therefore not considered sustainable for housing growth.
- 5.9 At paragraph 3.16 of the ASoC, the Appellants states that Caversfield is closer and more accessible to and from Bicester than Launton, Ambrosden and Chesterton. However, each of these settlements has a nursery, primary school, at least 1 public house, a village hall and, in the case of Launton and Ambrosden, a village shop. It is this relative ability to meet day to day needs that makes these villages more sustainable locations for development than Caversfield. And this is recognised in their categorisation, Launton and Ambrosden as Category A villages and Chesterton as a Category B village. The Council submits that each of these villages is more sustainable than Caversfield, and – as the development sets out – that rural housing supply should be directed to these settlements in the first instance.
- 5.10 The Appellants refer to Policy Villages 2 of the CLP at para 3.17 of the ASoC, but (1) this policy relates to developments of 10 or more dwellings, (2) this policy relates to Category A villages, not Category C villages, and (3) permissions have now been given at Category A villages for well in excess of 900 dwellings.
- 5.11 With regard to para 3.18 of the ASoC, the Council agrees that a 3-year supply or a 5-year supply should not be seen as a maximum, but the housing land supply position is relevant primarily as to whether (1) the development plan is up to date – it is; and (2) the tilted balance applies – it does not. Beyond that, the Council submits, the site is not an environmentally sustainable location for additional residential development, as recognised by Caversfield's Category C status, and is in any case outside of the built limits of the village.

- 5.12 The Council notes the Appellants' reference at paragraph 3.20 of the ASoC refers to paragraphs 59 and 68 of the NPPF, which have regard for overall housing delivery and support for smaller sites. However, the ASoC does not refer to paragraphs 77-78 of the NPPF which are more relevant to this appeal, since the appeal proposal relates to rural housing. The site is clearly within the countryside – outside the built form of the village – which the appellant does not contest.
- 5.13 The Council submits that the appeal proposal is therefore not acceptable in general sustainability terms, and contrary to Policies PSD1 and Villages 1 of the CLP 2031, saved Policy H18 of the CLP 1996 and relevant paragraphs of the NPPF.

1st refusal reason – design and impact on character

- 5.14 The Appellants state at paragraph 3.26 of the ASoC that the existing mature hedgerow provides a physical and visual distinction between the site and countryside. The Council disagrees, since the hedgerow could be removed prior to the determination of this appeal without requiring planning consent. In any case, the Council retains the view that the Old Vicarage provides a gradual transition from the village into the open countryside, and into which the appeal proposal would thus extend.
- 5.15 The Council does not disagree that the site is close to other residential dwellings and the Fringford Road, as noted by the Appellants at paragraph 3.29 of the ASoC. However, the appeal proposal would be accessed off a new engineered road onto Aunt Ems Lane, where only the Old Vicarage as a single dwelling has a driveway access at present. The scale, form and pattern of development also means that it would be further detached from the adjacent buildings. Therefore, and for the reasons set out in the delegated officer report, the Council submits that the proposed development would cause a significantly adverse impact on the tranquillity and otherwise rural nature of the site and wider area.
- 5.16 The Council maintains that the design, scale, uniformity, form and materials of the dwellings would detract from the overall appearance of the site and the wider open countryside, contrary to the conclusions of paragraphs 3.28 and 3.31 of the ASoC. The proposal would thus fail to comply with Policies ESD10, ESD13 and ESD15 of the CLP 2031, saved Policies C28 and C30 of the CLP 1996 and relevant paragraphs of the NPPF.

2nd refusal reason - highway safety

5.17 The Local Highway Authority (LHA) has provided a response to the ASoC, as made available in Appendix 2 of this document. The LHA clarifies that there remains insufficient detail in relation to the visibility splays to the west along Aunt Ems Lane, and that it wishes to maintain an objection on this basis and does not agree that it is appropriate for the matter to be simply dealt with by way of condition, as the Appellant suggests at 3.37 of the ASoC.

5.18 The Council concurs with and supports the LHA's conclusions. The Appellants have not established an adequate visibility splay and therefore have not demonstrated it would meet NPPF criteria of a safe and sustainable access without unacceptable impact on highway safety, therefore specifically failing to comply with paragraphs 108 and 109 of the NPPF and Policy ESD15 of the CLP 2031.

6 Conclusion

6.1 The proposals would result in in some limited social and economic benefit through the addition of a further single unit of residential accommodation in an urban location, making a minor contribution to the district's housing land supply; however, this needs to be weighed up and assessed against the harm that would be caused in this instance.

6.2 Planning law requires development to be determined in accordance with the development plan unless material considerations indicate otherwise. It has been clearly demonstrated that the proposal conflicts with the environmentally sustainable development policies of the Development Plan and the NPPF's overarching aims of achieving sustainable development and that in this instance it is considered that the benefits do not outweigh the harm that would be caused. In such instances paragraph 12 of the NPPF (as amended) indicates planning permission should be refused. For the reasons set out in the Council's decision, and in the officer's delegated report and the information above, the Inspector is respectfully requested to dismiss the appeal.

Officer: George Smith

Dated: April 2020

Appendices

Appendix 1 – Suggested Conditions

Appendix 2 – Statement on behalf of the Local Highway Authority,
Oxfordshire County Council

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 application form and drawings P01 A, P03 A, P04, P05 and P06 B.

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 above slab level of the development 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 not be carried out other than 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 safeguard the character and appearance of the area 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 hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage, vision splays (to be informed by speed surveys at the location of the site access) and footways connecting with the existing provision on Aunt Ems Lane shall be submitted to and approved in writing by the Local Planning Authority.

The means of access shall not be constructed other than in accordance with the approved details and shall be retained as such thereafter.

Reason: In the interest of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and relevant paragraphs of the National Planning Policy Framework.

5. Prior to the commencement above slab level of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
 - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) 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,
 - (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

The hard landscape elements of the approved scheme shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs 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.

Reason – To safeguard the character and appearance of the area, to ensure the creation of a pleasant environment for the 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.

6. The development shall not be carried out other than in strict accordance with sections 5.4.3, 5.4.7, 5.4.8, 5.6.2, 5.6.3 and 5.6.5 of the submitted Ecological Appraisal Report (Hampshire Ecological Services Ltd., dated August 2019).

Reason - To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing the biodiversity on site, including plant and habitat provisions, a lighting strategy, bat and bird boxes and hedgehog provisions, shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved biodiversity enhancement measures which shall be carried out prior to the first occupation of the development unless otherwise stated in the method statement and shall be retained as such thereafter.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters,

property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. If a potential risk from contamination is identified as a result of the work carried out under condition 8, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. If contamination is found by undertaking the work carried out under condition 9, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried

out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. If remedial works have been identified in condition 10, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 8. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

12. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.