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# Appeal Decision

Site visit made on 16 January 2017

**by Robert Parker BSc (Hons) Dip TP MRTPI**

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

**Decision date: 8 February 2017**

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**Appeal Ref: APP/C3105/W/16/3158925**

**Land to the west of Northampton Road, Weston on the Green, Oxfordshire**

- 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 Mr Clive Tredwell against the decision of Cherwell District Council.
  - The application Ref 15/01953/OUT, dated 19 October 2015, was refused by notice dated 23 March 2016.
  - The development proposed is erection of up to 26 dwellings including creation of a new access, associated landscaping, open space and drainage infrastructure.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application is submitted in outline with all matters reserved. I have dealt with the appeal on that basis, treating the layout plan as illustrative. Although there are a number of options for accessing the site the stated preference is to share the access road for Phase 1 of the development which has already been granted planning permission<sup>1</sup> on land immediately to the south. The intention is to link both schemes together to create a single cohesive development of up to 46 dwellings.
3. The appellant has provided a copy of a signed s106 planning obligation in respect of affordable housing, public open space and play area provision within the site and contributions towards primary education and libraries. I shall return to this below.
4. There is currently a neighbourhood plan (NP) under preparation for Weston on the Green. Paragraph 216 of the National Planning Policy Framework (the Framework) states that from the day of publication decision-takers may give weight to relevant policies in emerging plans. However, the draft NP is yet to be submitted for examination and therefore I cannot know for certain whether its policies are in general conformity with the strategic policies of the Local Plan, as is the requirement. Accordingly, whilst the emerging NP is a material consideration I have given it limited weight.

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<sup>1</sup> Council Ref 13/01796/OUT - This permission relates to a scheme of up to 20 dwellings.

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## **Main Issues**

5. I consider that the main issues in this case are:
  - a) whether the principle of development on this scale is acceptable, having regard to the policies of the development plan and the location of the site in relation to services and facilities;
  - b) the effect of the proposal on the character and setting of the village; and
  - c) in light of my findings on the above issues and any benefits brought forward by the proposal, whether the scheme would constitute a sustainable form of development.

## **Reasons**

### *Principle of development*

6. The starting point for any assessment must be the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.
7. The development plan in this particular instance comprises The Cherwell Local Plan 2011-2031 Part 1 (2015) (CLPP1) together with the saved policies of the Cherwell Local Plan 1996 (CLP). The former was examined after the publication of the Framework and adopted very recently. It is common ground that its policies are up-to-date and consistent with national planning policy.
8. In order to meet the strategic targets for housing delivery, Policy Villages 2 of the CLPP1 states that a total of 750 homes will be delivered at Category A villages, in addition to the rural allowance for small site windfalls and planning permissions for 10 or more dwellings as at 31 March 2014. The policy explains that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission. A number of detailed criteria are set out for identifying and considering sites. The list is not exhaustive, but of particular relevance to this case is the requirement to assess whether the site is well located to services and facilities.
9. Category A villages are by definition the most sustainable rural settlements in the district. However, the classification is fairly crude and there is wide variation in terms of population size and facilities available. I am told that Weston on the Green is the second smallest of the Category A settlements with a population of 523 based on the Census 2011. This contrasts with Kidlington which boasts a population of well over 13,000 and a far greater range of services and employment opportunities.
10. Although Policy Villages 2 does not prescribe an upper limit for the number of houses to be accommodated at each village, there is a judgement to be made on whether the size of the proposed development is appropriate to the settlement and the facilities it offers. Each proposal must be considered on its own merits having regard to the particular circumstances of the case.
11. Weston on the Green contains a basic core of services including a general store and Post Office, village hall, church and two public houses. During my visit I also saw a playing field and equipped children's play area. Occupants of

the proposed housing scheme would be able to access these facilities on foot via a new section of footway which would be constructed alongside the B430 Northampton Road. The Council considers that the development would have poor connectivity to the existing village but I note that the footpath has already been agreed for the Phase 1 scheme. Having regard to this, and my observations at the site visit, I am satisfied that provision for pedestrians would be safe and that the walking distance to the village shop and other amenities would be within reasonable limits for most people. The new footway would not be lit but then neither is the remainder of the village – hence this factor does not carry significant weight against the scheme.

12. Until recently, Weston on the Green was on a bus route between Kidlington and Bicester. I am advised that the service was withdrawn by its operator in July 2016. The appellant contends this to be inconsequential on the basis that the service was infrequent. It is argued that the village retains a 'wide range of services' that reduce the need to use a car. However, it seems to me that the local facilities are limited and there would be an essential need for residents to travel further afield on a regular basis for schooling, healthcare, shopping/leisure and employment opportunities. The now defunct bus service, which comprised four or five buses in each direction on a six day a week basis, was of a reasonable frequency (taken in a rural context) and provided residents with the opportunity to use sustainable modes of transport.
13. As it stands, residents now have no real choice of transport other than the private car and community transport. This brings into question the sustainability of the village and the proposed development itself. I have no means of knowing whether Weston on the Green would have achieved Category A status in the absence of a bus service. Nevertheless, the loss of public transport is a significant 'other material consideration' which would justify making a departure from development plan policy.
14. I appreciate that additional housing would help to support existing services and facilities in the village. However, there is no substantive evidence to show that these are struggling. Moreover, it seems to me that the vitality of the community can be maintained with fewer new houses. Taken in combination with the Phase 1 approval, I consider that the appeal proposal would result in a disproportionate expansion to the village in population terms. In my opinion, concentrating so many houses in this particular location without public transport would be inherently unsustainable.
15. Policy ESD1 of the CLPP1 states that measures will be taken to mitigate the impact of development within the district on climate change. This will include, amongst other things, delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars. Policy SLE4 includes a similar requirement for development to facilitate these travel modes where reasonable to do so. The proposal would conflict with both policies.
16. The latest position according to the Council is that 535 dwellings have already been approved under the provisions of Policy Villages 2, with a further 94 units in the pipeline pending the completion of legal agreements. The figure put forward by the appellant is 470 units. Even taking this lower number, and allowing for some non-implementation of permissions, the existing

commitments will go some considerable way towards meeting the 750 total set out within development plan policy.

17. I appreciate that this is not a ceiling. However, it seems to me that there is a high probability of the figure being exceeded early in the plan period. Any significant increase over and above that number would have implications for other Category A villages later in the plan period. Unconstrained growth in the rural areas would threaten the local plan's spatial strategy of biasing housing development towards the main towns of Bicester and Banbury with more limited growth elsewhere. In light of this, and mindful that the ability of the Council to demonstrate a five-year supply of deliverable housing sites is not being disputed, I consider that there is no overriding need for the appeal scheme on housing delivery grounds.
18. Given the scale of the proposed development and the non-availability of public transport, I conclude that the principle of development is unacceptable. Accordingly, I find the scheme to be in conflict with Policy Villages 2, Policies ESD1 and SLE4 and the overall spatial strategy of the CLPP1.

*Effect on character and setting of the village*

19. The appeal site comprises a field of about 1.5 hectares located at the northern end of the village, immediately beyond the site for Phase 1. The land is subdivided into paddocks which are used for grazing horses. The topography is relatively flat and there are well established hedgerows along the west and east boundaries.
20. The existing hedgerows would partially screen the development in views from the Northampton Road and local public rights of way. I accept the finding of the Landscape and Visual Impact Appraisal that the effect on the wider landscape would be limited. I also acknowledge the intention to provide open space and landscaping as part of the scheme. Notwithstanding this, the proposal would urbanise the northern edge of the village and irreversibly alter its character. In my judgement the incursion of built form into open countryside would unacceptably detract from the rural character and setting of the settlement.
21. I appreciate that layout is a reserved matter and that the illustrative site plan can be refined. However, there is nothing to persuade me that this would be anything other than a modern estate type development bolted onto the edge of the village. On the basis of the information before me, I am unable to determine that the scheme would enhance the built environment which is one of the key considerations of Policy Villages 2. Neither can I be satisfied that it would reinforce local distinctiveness in accordance with the requirements of Policy ESD15.
22. It was evident from my observations that Weston on the Green has evolved gradually over the years. Modern housing is very much apparent, but recent developments have tended to comprise individual dwellings or small clusters of houses. The result is a comfortable blend of old and new, with the latter being absorbed into the settlement. The proposal, by contrast, when taken together with Phase 1, would be read as a single development of 46 units. In the context of a village of approximately 200 or so dwellings which has developed organically over time, this quantum of development would be materially harmful to the local character and identity.

23. In addition to the policies cited above, Policy ESD13 of the CLPP1 seeks to resist development that would cause undue visual intrusion into the countryside, harm the setting of settlements or be inconsistent with local character. In my view the proposal would conflict with all three criteria.
24. Accordingly, I conclude on this issue that the proposal would unacceptably harm the character and setting of Weston on the Green contrary to Policy Villages 2 and Policies ESD13 and ESD15 of the CLPP1.

### **Other Matters**

25. The appellant has placed great emphasis on the Strategic Housing Land Availability Assessment (SHLAA) which was updated in 2014. This exercise identified the appeal site and Phase 1 land as having development potential for up to 50 homes. Whilst this is a material consideration it does not take account of the recent changes in public transport provision and this lessens the weight that I can attach to it. In any event, the SHLAA is part of the evidence base for the CLPP1 and does not have the same status as a local plan allocation. It should not prejudice the outcome of a planning application.
26. Many of the matters raised by the parish council and local residents have been addressed in my analysis above. However, I have noted a number of other concerns, including in relation to surface water flooding, foul drainage, precedent, highway safety and the effect on heritage assets. I have given these matters careful consideration but based on the information before me they would not constitute reasons to dismiss the appeal.

### **Planning balance**

27. The Framework establishes that there are three dimensions to sustainable development: economic, social and environmental. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 explains that proposals that accord with the development plan should be approved without delay.
28. There is no suggestion that the development plan is absent, silent or out-of-date and no challenge to the Council's assertion that it is able to demonstrate a five-year supply of deliverable housing sites. Consequently, the second limb of paragraph 14 is not engaged.
29. The proposal would result in the delivery of additional market and affordable housing, the latter being 35% of the total number of units in accordance with Policy BSC3 of the CLPP1. The provision of dwellings of different tenures, including family homes, would constitute a social benefit of granting planning permission and this factor attracts significant weight.
30. The scheme would create jobs during the construction phase and increase spending from new residents in the local economy. It would also help to support services in the village. The local authority would gain financially from increased Council Tax revenues and monies from the New Homes Bonus. These all constitute economic benefits which carry modest weight in favour of the development.
31. Set against this, the absence of any public transport opportunities means that future residents would be heavily reliant upon the private car for accessing schooling, healthcare, shopping/leisure and employment opportunities. The

- resultant carbon emissions would be a significant environmental disbenefit which would be at variance with the Council's aspirations for sustainable housing growth.
32. The development would also adversely affect the character of the village as a result of its scale and consequent urbanising effect on the village setting. This harm would be irreversible and as such I attach it substantial weight. It would bring the proposal into conflict with the environmental role of sustainable development.
33. The provision of public open space and a play area, the footpath link and financial contributions towards primary education and libraries would comply with the requirements of Policies BSC10, BSC11 and INF1 of the CLPP1. These aspects of the proposal would either serve occupants of the scheme directly or mitigate the impact of the development on existing infrastructure. As such, they are neutral factors in the overall planning balance.
34. Paragraph 8 of the Framework explains that the three roles of sustainability should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
35. On balance, I consider that the social and economic benefits are outweighed by the environmental harm and for this reason I find that the proposal would not be sustainable development in terms of the Framework. Notwithstanding the category A status of Weston on the Green, the proposal fails to satisfy Policy Villages 2 and Policies PSD1, ESD1, ESD13, ESD15 and SLE4 of the CLPP1 and is not compliant with the development plan as a whole.

### **Planning Obligation**

36. I have commented on the planning obligations above and weighed these in the planning balance where appropriate. However, given that I am dismissing the appeal I have not considered the wording of the s106 agreement in any detail. Moreover, there is no need for me to consider compliance with the tests under Regulation 123 of the Community Infrastructure Levy Regulations.

### **Conclusion**

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

*Robert Parker*

INSPECTOR