



# Appeal Decision

Site visit made on 23 May 2023

**by K Allen MEng (Hons) MArch PGCert ARB**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> July 2023**

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**Appeal Ref: APP/C3105/W/22/3311483**

**Land off Fulwell Road, Finmere MK18 4AS**

- 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 NYC Estates against the decision of Cherwell District Council.
  - The application Ref 22/01645/OUT, dated 30 May 2022, was refused by notice dated 23 September 2022.
  - The development proposed is described as 'outline application for the construction of 5 residential dwellings with access to, but not within, the site on land off Fullwell Road, Finmere'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal scheme relates to an outline proposal, with access to be considered at this stage, and with all other matters reserved for future consideration. I have considered the appeal accordingly. Plans have been submitted as part of the appeal which indicate how five dwellings could be accommodated on the site. I have taken these plans into account for indicative purposes only.
3. The Council was unable to demonstrate a 5-year housing land supply at the time the application was determined. However, the Council indicate that a 5.4-year deliverable supply can now be demonstrated. The appellant has been given the opportunity to comment on this matter and, based on the evidence before me, I am satisfied that paragraph 11d of the National Planning Policy Framework (the Framework) is not engaged.

## Main Issues

4. The main issues are:
  - the effect of the development on the character and appearance of the area; and
  - whether, having regard to local and national policy, the appeal site is a suitable location for the development.

## Reasons

### *Character and appearance*

5. Finmere is a linear settlement, with the appeal site forming part of the rural approach to the village, comprising a prominent open agricultural field on rising land. The nearest properties on Fullwell Road, Greensleeves and The Mere, turn

inwards away from the appeal site. A pond surrounded by mature planting physically separates the site and offers a gradual transition between the denser village centre and the openness of the countryside beyond. Despite its proximity to the village, and glimpsed views across the pond, the appeal site visually relates to the open countryside and contributes significantly to the open rural character.

6. Whilst the proposal would create a similar village green environment to that on the junction of Water Stratford Road and Valley Road, the subdivision of the agricultural field and its development with five dwellings and associated features, including large areas of hardstanding would urbanise the plot. Although the proposal would have a linear pattern of development, it would significantly diminish the contribution that the site makes to the villages rural setting.
7. Notwithstanding the development north of the village adjacent to the church, due to its prominent position at the edge of the village on rising land, the proposal would result in an abrupt transition between the village and the countryside. While the introduction of soft landscaping would soften its affects, the construction of a significant built form in this position would visually intrude into the open countryside and would greatly reduce the sense of openness on approach to the village.
8. Overall, I conclude that the proposal would harm the character and appearance of the area, in conflict with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 (July 2015) (CLPP1) and Saved Policies C28 and C30 of the Cherwell Local Plan (November 1996) (CLP) which collectively require that development respects an area's unique built and natural context, contributing positively to local character and distinctiveness.
9. Similarly, there is conflict with paragraph 130 of the Framework which amongst other things, requires development to be sympathetic to local character and maintain a strong sense of place.

#### *Location*

10. CLPP1 Policy BSC1 outlines the amount and distribution of housing development within the district. CLPP1 Policy Villages 1 supports minor development, up to 10 dwellings, within the rural villages of the district, which consists of land within the built-up limits of settlements, where there are sufficient services and facilities, and where development can be served by the most sustainable modes of transport. CLPP1 Policy Villages 1 categorises Finmere as a Category A Service Village.
11. CLPP1 Policy ESD1 reflects the Council's declared climate emergency and amongst other things, seeks to ensure development is distributed to the most sustainable locations, reducing the need to travel more generally and in particular the dependency on private cars. Saved CLP Policy H18 supports specific types of development in the countryside, where there would be no conflict with other relevant policies.
12. The Council has undertaken a recent review of the CLPP1 under regulation 10a of the Town and Country (Local Planning) (England) Regulations 2012. The review has concluded that policies are generally consistent with the

Framework, however, CLPP1 Policies BSC1 and CLP Policy H18 require updating.

13. Nevertheless, the broad thrust of the spatial strategy is to direct residential development to the most sustainable locations, reducing dependence on private cars, supporting community facilities, and protecting the countryside from sporadic development. While the number of dwellings defined by CLPP1 Policy BSC1 are considered out of date, the focus of the policy to primarily locate development within the urban areas of Bicester and Banbury remains.
14. Finmere does not benefit from a defined settlement boundary. As identified above, the appeal site would be physically and visually separate from the existing built-up limits of the village and therefore would not be supported by CLPP1 Policy Villages 1. Although the development would not fall within the categories supported by CLP Policy H18, I note that the policy is more limiting than the Framework, which promotes the development of housing where it will enhance or maintain the vitality of rural communities, especially where they would support local services and would avoid the development of isolated homes.
15. The Council refers to the number of dwellings delivered under CLPP1 Policy Villages 2 and raise concerns that the proposal would contribute to unconstrained growth in conflict with the CLPP1 spatial strategy. However, this policy relates to larger developments for 10 or more dwellings. Instead, the proposed dwellings would contribute towards the supply of housing within rural windfall sites, for which I have no substantive evidence before me to indicate the Council's current position.
16. When combined, the net number of dwellings completed (2011-2022) and the net number of dwellings with planning permission but not yet delivered, located in Banbury and Bicester account for 75% of the total residential completions and permissions within the district<sup>1</sup>. Consequently, I am satisfied that the addition of five dwellings in a rural location would not undermine the overall spatial strategy.
17. Although the proposed dwellings would be located outside of the existing built-up limits of the village, they would not be isolated. The Council have indicated that the bus service to the village has reduced since the adoption of the local plan, however Finmere's categorisation as a Category A Service Village is still in place. While I agree that the services provided within the village are limited, they would be supported by the occupiers of the proposed dwellings. The occupiers would have a higher dependency on private cars for a portion of their day-to-day activities, however, given the proximity of other larger towns with ample services and employment opportunities, these journeys would not contribute significantly to an increased reliance on private cars within the district.
18. Therefore, having regard to local and national policy, the appeal site would be a suitable location for the development. The proposal would be broadly consistent with CLPP1 Policies BSC1, Villages 1 and ESD1 and CLP Policy H18, where they collectively support sustainable patterns of development, locating housing where it would reduce dependence on private cars, support community facilities and protect the countryside from sporadic development.

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<sup>1</sup> Figures correct as of 31/03/22

19. The proposal would also accord with paragraphs 79 and 80 of the Framework where they collectively promote residential development in rural areas where it would enhance or maintain the vitality of rural communities, whilst avoiding the creation of isolated homes.

### **Other Matters**

20. The proposal would contribute to the housing supply within rural windfall sites. Whilst the Framework seeks to boost the supply of housing, the social and economic benefits of the scheme would be limited and would not outweigh the harm identified to the character and appearance of the area. Moreover, the absence of harm to biodiversity and the introduction of native planting are neutral factors which neither weigh in favour of, or against the proposal and in any event, would be expected of any well-designed development.
21. My attention has been drawn to a number of other planning applications and appeals, both in Finmere and the wider district. The appellant and the Council have sought to draw comparisons and similarities between the extensive array of decisions before me for a variety of reasons. However, I have not been provided with the full details of these cases. Further, I note several differences, including the number of proposed dwellings, the relevant policies of the development plan, the Council's housing land position and the location of the proposals in relation to existing built up limits. In any event, each appeal should be considered on its own merits.

### **Conclusion**

22. Although, I am satisfied that the appeal site would be a suitable location for residential development, for the reasons given above, I conclude that the proposal would be harmful to the character and appearance of the area. The proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

*K Allen*

INSPECTOR