

CHERWELL DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

Application for costs by Blue Cedar Homes against Cherwell District Council in relation to its decision to refuse planning permission for 5 dwellings at Land South of Faraday House, Woodway Road, Sibford Ferris.

Appellant : Blue Cedar Homes

Appeal Site : Land South of Faraday House, Woodway Road,
Sibford Ferris

Appellant's Agent : D2 Planning Limited

LPA Reference : 23/01316/F

Planning Inspectorate Reference : APP/C3105/W/23/3329834

1. SUMMARY OF APPELLANT'S CLAIM

1.1. The Appellant has applied for an award of costs against Cherwell District Council ("the Council") on the following grounds:

1. There is a lack of evidence and justification for the reasons for refusal and that the Council failed to act in a manner that accords with the provisions of Section 70(2) of the Town and Country Planning Act 1990 to make decisions based on the development plan and other material considerations.
2. The officer's report did not acknowledge provision for elderly persons accommodation as part of the planning balance where it was previously acknowledged by the appeal inspector and Strategic planning officers.
3. The planning officer paid no due regard to the appeal decision. Inconsistency for decision making given the allowed appeal on land to the south of the appeal site for 25 dwellings under references:
 - 18/01894/OUT - Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage. Refused and approved on Appeal.

2. COUNCIL'S RESPONSE

Ground 1

2.1. The Council disagrees that there is lack of evidence and justification for the reasons for refusal. The Council's statement of case will specifically consider this in more detail but, for clarification as part of the Costs appeal, of the two reasons detailed in the

decision notice both reasons are fully supported by the relevant Local Plan Policies. The relevant paragraphs are included below.

- 2.2. The first reason refers to how the scheme is not compliant with Policies PSD1, BSC1, ESD1 and Villages 1 of the Cherwell Local Plan 2011-2031 ("the CLP 2015"), Saved Policy H18 of Cherwell Local Plan 1996 ("the CLP 1996").
- 2.3. The second reason refers to how the scheme is not compliant with the requirements of Policies ESD13 and ESD15 of the CLP 2015, saved Policies C28 and C30 of the CLP 1996, the Cherwell Residential Design Guide, National Design Guide, and Government guidance in the National Planning Policy Framework.
- 2.4. Reason 1 is supported throughout the officer's report starting under the subheading 'Principle of Development' and paragraphs 8.6 - 8.8 that explains that the site is outside of the built-up limits of Sibford Ferris, and therefore would not be compliant with Policy Villages 1 of the CLP 2015.
- 2.5. Reason 2 is also supported throughout the officer's report starting under the subheading 'Design, and impact on the character of the area' and concluding in paragraph 8.54 – 8.56.
- 2.6. The Council identified the conflicts with the development plan within the Officer Report with respect to the principle of development, along with other material considerations such as the design and impact on the character of the area. The Officer Report concludes that there are no material considerations to outweigh the identified policy conflict.

Ground 2

- 2.7. The Council disagrees with the Appellant's assertions here. The Council has referred to the accommodation being for '55's and over' within the report (beyond just description) at paragraph 6.4, which refers specifically to the formal response from Strategic Housing, also at paragraphs 8.22, 8.23, 8.24, 8.25, and refers to the age restricted housing under the sub-heading 'Planning Balance' in paragraph 9.6. It was not considered to outweigh the harm identified as part of the overall assessment.

Ground 3

- 2.8. The Council again strongly disagrees with the Appellant's assertions here. The Council referred to the previous application and subsequent appeal decision as part of the assessment. This is detailed under subheading '3. Relevant Planning History' and paragraphs 5.4, 8.9, 8.15, 8.16, 8.28, 8.46, 8.47, 8.70, 8.99 and 8.100.
- 2.9. The Council submits that its decision making *is* consistent. The example provided by the Appellant, 18/01894/OUT (Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage), is not wholly comparable to the appeal site, since the proposal was for up to 25 houses, was therefore assessed against Policy Villages 2 of the CLP 2015, and would be

subject to a range of planning obligations to mitigate the development's impact on the village.

- 2.10. The Council submits that it would be inconsistent to have granted planning permission for the appeal proposal given that (a) it has taken a consistent approach to all proposals of less than 10 dwellings outside the built limits of villages, (b) it can currently demonstrate a sufficient housing land supply, and (c) previous applications for similar scale development on this site have been refused and dismissed at appeal.
- 2.11. In relation to the Appellant's paragraph 10(iii), this is not relevant since the proposal is to be considered against PV1 (village categorisation and proposals of less than 10 dwellings) and not PV2 (proposals of 10 or more dwellings).
- 2.12. In relation to the Appellant's paragraph 11, the appeal was dismissed in relation to a proposal for single storey dwellings at the appeal site on the basis of visual effects (see paragraphs 17-19 of decision ref. 3298098); this decision is more relevant than one on the adjacent site in relation to a proposal for 25 dwellings (and see also para 2.9 above).

3. CONCLUSION

- 3.1. The Council submits that its decision to refuse the planning application, for well-founded and appropriate reasons, does not in any way demonstrate unreasonable behaviour nor has it accepted unreasonably in its handling and consideration of the application.
- 3.2. The Inspector is respectfully requested to dismiss the Appellants' costs application.