



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

TOWN AND COUNTRY PLANNING ACT 1990

Land South of Faraday House
Woodway Road, Sibford Ferris

LOCAL PLANNING AUTHORITY REF: 23/01316/F

PLANNING INSPECTORATE REF: APP/C3105/W/23/3329834

January 2024

Appeal by

Blue Cedar Homes Ltd

1. INTRODUCTION

- 1.1. The planning application sought planning permission for the erection of 5no, two storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure. The units comprise 5 detached two storey dwellings, with 2 x 3 bed and 3 x 3-4 bed properties with either a single or double detached garage, with off road parking provision for 2 or more vehicles for each plot. Each property has both front and rear amenity space. The proposal includes a pedestrian access between plots 2 and 3 to the rear of the 5 dwellings allowing access to a shared landscaped amenity space to the west of the site, to be used by residents.
- 1.2. The application was refused on 24th August 2023. The Council's case is set out within the Officer's report, copies of which have already been supplied to the Planning Inspectorate. This Statement of Case seeks to clarify the arguments set out in the Officer Report and to respond to the key issues arising from the Appellant's grounds of appeal.
- 1.3. Upon review of the documents included as part of this appeal it has come to our attention that there are a number of occasions, in both Appellant and Council documents where the previously dismissed proposal for 6 bungalows and the current appeal for 5, 2 storey dwellings cross over and in parts incorrectly referenced. For clarification, this appeal relates to a proposal for 5 two storey dwellings and not 6 bungalows as per the previous application and subsequent appeal.
- 1.4. Whilst there are several complaints from the Appellant in the appeal documents as to how the planning application was managed, these have been considered as part of a separate 'Costs Application' to which the Council has responded, and they are not relevant to the assessment of this appeal.
- 1.5. The Council disagrees with the Appellant's recollections at paragraph 1.5 of its ASoC and the first sentence of paragraph 4.5. The Council's landscape officers do not provide comment on proposals of this scale. In relation to paragraph 1.6 of the ASoC, the Council confirms it fully considered the Counsel briefing note in its determination of the planning application, but submits that the briefing note added nothing of substance.
- 1.6. In relation to paragraph 1.9 of the ASoC, the Council submits that the previous Inspector did not consider that the need for elderly persons accommodation outweighed the harm identified with the previous proposal and the Council has applied the same balance as that Inspector.
- 1.7. Notwithstanding the above, it is reasonable for the decision maker to question whether two-storey dwellings provide suitable accommodation for elderly persons, or are any different in this regard from any other scheme of two-storey dwellings.
- 1.8. The information listed by the Appellant in paragraph 3.5 of the ASoC does not reflect the proposals the Council has since approved under the Reserved Matters application for the site to the south of the appeal site.

2. STATEMENT OF CASE

2.1. The Council concluded that the development should not be supported in this case, for the reasons set out below.

1. *The site is located outside the built form of Sibford Ferris and within an area of open countryside. The Council is able to demonstrate a 5.4-year housing land supply and therefore the housing strategy Policies in the Local Plan are up-to-date, and the proposed development would conflict with the adopted policies in the Local Plan and would undermine the housing strategy in the Cherwell Local Plan. The proposal constitutes residential development in the open countryside, beyond the built-up limits of the nearest settlement, for which it has not been demonstrated that there is an essential need. In its proposed location the dwelling would therefore be an unjustified and unsustainable form of development. The proposed development is therefore contrary to Policies PSD1, BSC1, ESD1 and Villages 1 of the Cherwell Local Plan 2011-2031, Saved Policy H18 of Cherwell Local Plan 1996 as well as the Council's declared climate emergency and would not accord with Government guidance within the National Planning Policy Framework. This conflict with policy and the environmental harm identified significantly and demonstrably outweighs the proposal's benefits.*
2. *By reason of its location, scale, layout and design, the proposal would be out of keeping with the form and pattern of development of the surrounding area, and would have a poor and incongruous relationship with the existing settlement, would have an urbanising impact on the rural setting of the village, appearing prominent in the open countryside and would adversely affect the immediate landscape setting of Sibford Ferris and the character and appearance of the area. The proposed development is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996, the Cherwell Residential Design Guide, National Design Guide, and Government guidance in the National Planning Policy Framework.*

Main Issues

- 2.2. The Appellant's grounds for appeal, primarily listed in part 6 of the Appellant's Statement of Case ("ASoC"), suggests the Appellant considers the main issues are as follows:
- i. Whether the appeal proposal complies with the relevant policies of the Development Plan
 - ii. Whether the proposal adversely impacts character and appearance.
 - iii. Impact of the proposed scale, design, layout of the proposals
 - iv. Whether proposals provide material benefits that outweigh perceived harm.

Compliance with Policies

- 2.3. The Officer's Delegated Report ("ODR") covers all aspects of planning policy criteria and therefore is not repeated. However, there is a fundamental disagreement in the determination of this application. Under 6.2 of the ASoC is the Appellant contends that the previous Inspector considered development on the site to be acceptable in principle and in full compliance with the Local Plan policies, except where it fell on Policy ESD15

of the Cherwell Local Plan 2011-2031 ("CLP 2015") LPP1 and C28 of the Local Plan. The Council disagrees with this view.

- 2.4. Whereas the Appellant believes the scheme should be considered under Policy Villages 2 ("PV2"), the Council submits it is to be considered under Policy Villages 1. PV2 is relevant to proposals of 10 or more dwellings (see the first paragraph of the policy as well as paragraph C.272, page 249, and also the first column of the table in Policy BSC1, page 61), and has always been applied in this way, including by various Inspectors dealing with appeals in the Cherwell district since 2015, whereas PV1 is relevant to proposals of "typically but not exclusively for less than 10 dwellings" (see paragraph C.254, page 245) within the built up limits of villages.
- 2.5. As set out in the ODR: The scheme is for the development of under 10 dwellings. The appeal site ("the site") is undeveloped, agricultural land that, given its physical and visual relationship to the existing built form, is outside of the existing built form of Sibford Ferris village but with existing residential properties to the north, east and approved residential development to the south. The site is bounded on the fourth side by Woodway Road then open countryside.
- 2.6. The undeveloped nature of the site, its rural character, and its relationship with the surrounding built development means that the site is considered to fall outside the built-up limits of the village. The site forms part of the wider open countryside surrounding the village rather than part of the established built form of the village.
- 2.7. The Council submits the site lies outside of the built-up limits of Sibford Ferris and as such is in the open countryside. The development therefore does not find support from Policy Villages 1.
- 2.8. The Appellant refers to saved Policy H18 of the Cherwell Local Plan 1996 (CLP 1996) and that the proposed development would not be contrary to the overarching aims of the policy to protect the open countryside from sporadic development. The Council submits that the refusal of the application does conform to the overarching aim of saved Policy H18 by ensuring the built-up limits of the village are not extended and thus protecting the open countryside beyond from further erosion and ensuring only the most sustainable developments are approved in line with the goals of the NPPF. In addition, saved Policy H18 is to be read in the context of other Development Plan policies, most notably PV1. PV1 confers acceptability on the principle of development within the built up limits of the settlement. PV2 allows for the principle of development outside the built limits of the settlement for schemes of 10 or more dwellings.
- 2.9. Overall, the Council submits, the appeal site is an unsustainable location outside of the built-up limits of Sibford Ferris. Being outside the limits of the village, the proposal conflicts with Policy Villages 1 and, being less than 10 dwellings, it does not find support from Policy Villages 2. The proposals seek residential development which is not for use nor essential for agricultural or other existing undertaking. The development is therefore considered to conflict with these Policies.

- 2.10. At paragraph 6.2 of the ASoC the Appellant emphasises the previous Inspector's conclusion regarding compliance with the housing policies of the Development Plan. The Council notes that at the time the previous decision was reached the Council could not demonstrate a sufficient housing land supply and the tilted balance was engaged. Whereas, it can now demonstrate a sufficient housing land supply, hence the first reason for refusal, which was not relevant to the previous appeal.
- 2.11. In reference to the Appellant's mention of the HELAA, the Council refers the Inspector to paragraph 8.19 of the ODR.
- 2.12. In reference to paragraph 6.10 of the ASoC, the Council's Planning Policy team did not comment on this application.
- 2.13. The Council submits that given PV2 is not relevant to a consideration of the appeal proposal, paragraphs 6.13 to 6.15 and 6.17 of the ASoC are immaterial to a consideration of the appeal.
- 2.14. Re para 6.16 of the ASoC, the Council disagrees with the Appellant that a permission for 25 houses is not a "significant permission".

Housing Land Supply

- 2.15. Local housing need calculated for Cherwell District in accordance with the standard method provides for the requirement against which supply should be assessed for the purposes of NPPF2023 paragraph 74. The CLP 2015 is more than five years old and the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF2023 paragraph 74 and footnote 39.
- 2.16. In February 2023, Cherwell District Council approved a review of its adopted planning policies, carried out under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. Paragraph 74 and footnote 39 of the NPPF requires that, in such circumstances, the five-year supply of land should be calculated using the government's standard methodology.
- 2.17. The Housing Land Supply Statement (HLSS) was published in February 2023 (Appendix 1) and aligned with the latest review of adopted planning policies. The base date of the 5YHLS assessment within the HLSS was 1st April 2022. The application of the standard method as set out in the Council's published position has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply and consequently Cherwell District Council was able to demonstrate a 5.4-year supply.
- 2.18. The Council's current position on five-year housing land supply is reported in the Council's 2023 Annual Monitoring Report (AMR). The 2023 AMR concludes that the District can demonstrate a 5.5 year supply. Whereas more recent calculations carried out due to recent appeal decisions have contested this figure, the Inspectors at both Finmere and Hempton concluded the Council can demonstrate a sufficient housing land supply, which means that the relevant development plan policies are up to date. Whilst

the NPPF states that the requirement to have a 5-year supply is not a cap on development, Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the development plan comprises the CLP 2015 and the saved policies of the CLP 1996. The housing policies of the Development Plan are the starting point for decision making and are afforded full weight

- 2.19. In the case for this application, it is considered necessary to consider the 5YHLS in relation to reason for refusal 1 and whether or not the 'tilted balance' applies.

Impact on Character and Appearance

- 2.20. The Appellant refers to the impact the 6 bungalows would have on the character and appearance of the site and wider landscape character, referring to an earlier scheme and the report written by the previous planning officer. It suggests the earlier scheme "could improve the edge of Sibford Ferris". However, it is also noted in the Inspector's appeal decision as to the reasons that the bungalows scheme was not supported and, whilst landscaping was possible, the rising topography of the site would take considerable time to screen the development and was of a lesser design quality to the scheme allowed to the south of the application site, thus not comparable.
- 2.21. The Council submits that a development of two-storey dwellings would have greater visual impact on its surroundings than a scheme of shallow pitched bungalows. The Council submits that the impact on the character and appearance of the area will be significantly altered if this scheme was to be approved. The reasons of which are detailed in the officer's report from paragraph 8.44.
- 2.22. In relation to the comments on Landscape Character this has been covered in para 8.90 - 8.108. The Council does not consider the conclusions of the previous planning officer referred to in para 6.24 of the ASoC (for 6 bungalows) to be applicable to this scheme for 5 two storey dwellings. In any case, the previous Inspector disagreed, finding harm in this regard.
- 2.23. In relation to the second sentence of paragraph 4.5 of the ASoC, the Council disagrees with the Appellant in relation to the previous Inspector for the appeal site. The Council notes that in relation to the site to the south the Inspector in that case was considering a different site, with a different relationship to its surroundings and was weighing a different planning balance not least given the scale of the proposal (25 dwellings rather than 5 or 6).
- 2.24. It is notable that at para 6.21 of the ASoC under a heading of impact on the character and appearance of the area, the Appellant immediately goes to a discussion of impact on heritage assets and then landscape character. The former is not relevant to that assessment, and in relation to the latter again the Council refers the Inspector back to the previous Inspector's conclusions.

Scale, Design and Layout

- 2.25. It has been suggested that the changes made to the scheme to overcome the Inspectors previous concerns on scale, layout and design had not been appropriately considered. Please refer to paragraphs 8.48 to 8.56 of the ODR whereby the changes are considered, and the design, layout, scale and appearance are reviewed.

Other matters

- 2.26. The Appellant lists a number of benefits of the proposed development which include sustainable development, economic, social and environmental. It has suggested the Council have not appropriately considered the benefits of the proposal before determining the application and that the benefits far outweigh the harm identified.
- 2.27. Whilst not set out under such specific headings the ODR does indeed refer to the need for housing and age restricted housing, thus covering the social aspect that is being offered as part of this proposal.
- 2.28. The ODR covers sustainability under heading Principle of Development and environmental impact under 8.88. The economic benefits are not detailed specifically in the ODR, but the Council submits that while the proposal would yield some economic benefits they would be expected to be limited to short term economic benefits, seen predominantly during the construction of the properties.
- 2.29. The Council submits the appeal proposal would result in any environmental benefits and that the environmental harms identified would significantly and demonstrably outweigh the proposals' benefits.

CONCLUSION

- 2.30. The Council submits that the proposed development for 5 two storey detached dwellings outside the built-up limits of a Category A Village would run contrary to the Council's housing strategy, would be harmful to the character and appearance of the area and would not result in a sustainable form of development. The Council maintains that it can currently demonstrate a 5.5-year housing land supply and that Oxford's unmet need should not be included as per the conclusion of two previous appeal decisions. The benefits of the scheme are considered to be outweighed by the harm caused.
- 2.31. Accordingly, the Inspector is respectfully requested to uphold the decisions made by the Local Planning Authority and dismiss this appeal.

SUGGESTED CONDITIONS

- 2.32. Without prejudice to the preceding statement, if the Inspector is minded to allow this appeal, the Council propose the following conditions. (separately added).