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# Appeal Decision

Site visit made on 1 February 2011

**by Louise Crosby MA MRTPI**

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

**Decision date: 14 February 2011**

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**Appeal Ref: APP/C3105/A/10/2140169**

**Land at Farriers Close, Fringford, Bicester, OX27 8DD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Brandon Gate Homes Ltd against the decision of Cherwell District Council.
  - The application Ref: 10/01220/F, dated 26 July 2010, was refused by notice dated 23 September 2010.
  - The development proposed is 1 x 3 bedroom detached house.
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## Decision

1. I dismiss the appeal.

## Main issues

2. The main issues are
  - i) the effect of the proposal on the character and appearance of Rectory Lane as a result of the development of the site and the loss of protected trees and;
  - ii) whether sufficient information has been provided to enable an adequate assessment of the impact of the proposal on archaeology at this stage.

## Reasons

3. The appeal site consists of a grassed area of land containing trees and hedgerows protected by a Tree Preservation Order. It is located on the corner of Rectory Lane and Farriers Close and is bounded by a mixture of hedges/shrubs and a post and rail fence. The site is elevated above Rectory Lane, a narrow winding lane leading from the village green. Along this lane development is laid out in an informal loose-knit manner. The dwellings are interspersed with informal green spaces like the one before me which results in the lane have a semi-rural feel. By contrast, Farriers Close has the appearance of a modern planned cul-de-sac.
4. This proposal would require the removal of 5 of the 7 individually protected trees with the site. It is agreed that those which are proposed to be felled have structural defects and are not suitable for retention. These are proposed to be replaced by 4 new trees. A new a hornbeam hedge is also proposed along the boundary with two adjacent dwellings. On the basis of the submitted plans it seems to me that there would be sufficient space between the proposed planting and the new dwelling to prevent conflict between the trees and living conditions.

5. However, without the proposed development the trees would be likely to remain for some time. Indeed, the submitted arboricultural report predicts that despite their defects some have a life expectancy of between 10 and 20 years. The appeal site creates a break in development here and is an important and integral part of its established character and appearance. The combination of the loss of the trees, which form an attractive copse and the introduction of a dwelling on this elevated site, would alter its character and appearance and that of the streetscene to a significantly harmful degree, particularly when viewed from Rectory Lane. While I realise tree planting would take place as part of the development it would take some considerable time for the new trees to provide a similar level of amenity to the ones which would be lost.
6. I am aware that Fringford is identified within LP<sup>1</sup> policy H13 as a category 1 settlement, where infilling and minor development is permitted, subject to compliance with other policies. However, in this case I have attached greater weight to LP policy C33 which seeks to ensure that undeveloped gaps of land are retained where they play an important role in, among other things, preserving the character of a loose-knit settlement structure. I conclude on this issue that the development of this site combined with the loss of the protected trees would have a significant detrimental effect on the character and appearance of Rectory Lane contrary to LP policy C33.
7. Turning to consider the matter of archaeology, it is acknowledged by both parties that the site lies within an area of archaeological interest. Prior to the development of Farriers Close, a geophysical survey, evaluation and excavation took place and a multi-period site was recorded. Although this site was not included in those investigations the Council's archaeologist advises that it is highly likely that further aspects of the late Iron Age and Roman sites and a medieval settlement will survive within the application site.
8. An Inspector concluded in relation to an earlier appeal on this site (Ref: T/APP/C3105/A/99/1017667/P7), that because of what is known about the archaeological importance of the adjacent site a Grampian condition would not be sufficient to protect its archaeological potential. She stated that a field investigation should be carried out before the determination of any planning application for development which might affect that interest and I agree. Moreover, paragraph HE6.1 of PPS5<sup>2</sup> advises that 'where an application site includes, or is considered to have the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where desk-based research is insufficient to properly assess the interest, a field evaluation'.
9. In the absence of even a desk-based assessment the proposal fails to comply with national planning policy objectives in this regard. Consequently I find on this issue that insufficient information has been provided to enable an adequate assessment of the impact of the proposal on archaeology at this stage.
10. Regarding, local concerns about highway safety one modest dwelling here would not undermine highway safety on this lightly trafficked lane. Also, the living conditions of nearby residents would be protected given the position of the proposed dwelling in relation to surrounding properties.

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<sup>1</sup> Adopted Cherwell Local Plan

<sup>2</sup> Planning Policy Statement 5: Planning for the Historic Environment

11. The lack of harm in relation to these other matters is far outweighed by the significant harm that I have identified in relation to my main issues and so for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Louise Crosby*

INSPECTOR