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# Appeal Decision

Inquiry held on 28 and 29 February 2012

Site visit made on 29 February 2012

**by Tim Wood BA(Hons) BTP MRTPI**

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

**Decision date: 26 March 2012**

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**Appeal Ref: APP/C3105/A/11/2159619**

**Land at Cotefield Farm, Oxford Road, Bodicote, 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 Banner Homes Ltd against the decision of Cherwell District Council.
  - The application Ref 11/00617/OUT, dated 11 April 2011, was refused by notice dated 12 August 2011.
  - The proposal is for residential development of 82 dwellings.
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## Decision

1. The appeal is allowed and planning permission is granted for residential development of 82 dwellings at Land at Cotefield Farm, Oxford Road, Bodicote, Oxfordshire in accordance with the terms of the application, Ref 11/00617/OUT], dated 11 April 2011, subject to the conditions set out in schedule 1 of this decision.

## Preliminary Matters

2. The terms of the application were amended during its consideration by the Council: the number of dwellings proposed was increased from 80 to 82 and the matters reserved for subsequent approval were corrected such that the application was in outline form with only the means of access to be considered at this stage.
3. A completed S106 Agreement was submitted at the Inquiry which overcomes the Council's second reason for refusal relating to the effects on local infrastructure and services.

## Main Issues

4. Taking account of the above, the main issues in this appeal are as follows;
  - Whether development outside the built up area is justified by a need for more housing in the area
  - If so, whether the appeal site is suitable.

## Reasons

### ***Whether development outside the built up area is justified by a need for more housing in the area***

5. The appeal site forms part of an agricultural field which is located adjacent to the south eastern edge of the village of Bodicote, outside its built up area. Planning Policy Statement 3 (2010) '*Housing*' (PPS3) states that Local Planning Authorities should identify sufficient specific deliverable sites to deliver housing for 5 years. The requirements for the District are set out in the South East Plan (SEP), which states that for the period 2006-2026 a figure of 13,400 houses are required, or 670 per year. The Council's most recent Annual Monitoring Report (December 2011) (AMR) shows that the District has a 2.8 years housing land supply for 2011-2016 and a 2.9 years supply for 2012-2017. The AMR also presents a figure for that part of the District which contains the appeal site as 1.7 years for both 5 year periods.
6. The Cherwell Local Plan (LP) was adopted in 1996 and had an end date of 2001. Policy H13 of the LP states that, in Bodicote and a number of other villages, residential development will be restricted to infilling, minor development of small groups within the built up area and conversions. It is readily accepted that the proposal does not accord with this policy. Policy H18 of the LP seeks to ensure that dwellings beyond the built up areas will only be for agricultural or other existing undertakings. None of these categories apply to the proposal, which is therefore contrary to this policy. However, it is an important consideration that these policies were formulated some considerable time before the SEP, in the context of a now out of date Structure Plan, and can not be expected to provide for an up to date housing provision.
7. The Non-Statutory Cherwell Local Plan (NSCLP) was intended to replace the LP with a plan running until 2011, but was not adopted, but has been approved by the Council for use as interim planning policy. It also pre-dates the SEP and for these reasons I attach limited weight to it in consideration of the appeal.
8. In recognition of the Council's inability to demonstrate a 5 year housing land supply approval was given by the Council's Executive to a Housing Land Supply Position Statement (HLSPS) on 6 February 2012. It is intended that the HLSPS is used until the adoption of the Core Strategy or when the Council can demonstrate a 5 year supply of housing land, whichever is the sooner. The HLSPS summarises the appropriate sources for additional housing land as: i) development in the built up areas of Banbury and Bicester; ii) sites identified for residential development in the NSCLP; iii) mixed use sites in the NSCLP; iv) extensions to the built up areas of Banbury and Bicester which are in accord with or complementary to the emerging Core Strategy; and v) very limited development within the built up areas of villages. I have to agree with the appellant's summary, that only category iv) is likely to identify any new sites and furthermore, there is no assessment of a likely trajectory of delivery arising from any sites which are specifically referred to.
9. The HLSPS also adds at paragraph 34 that "Notwithstanding these considerations, the primary requirement will remain whether or not the proposals are acceptable having regard to the statutory Development Plan and all other material considerations". I agree that this could be invoked to frustrate some further sites coming forward even if they qualified under the 5 categories set out above. With these points in mind, it seems unlikely that the

HLSPS would lead to a timely resolution of the under supply of housing land supply in the District.

10. Whilst there remains an urban focus to the development of new housing set out in the Draft Core Strategy (Draft CS), there is provision for new housing in order to meet the needs of the rural population. Policy RA 2 of the Draft CS shows that a total of 350 new dwellings will be directed to the 4 villages of Adderbury, Bodicote, Bloxham and Deddington. Although individual figures are not produced, the explanatory text states that it is envisaged that the number will be divided broadly equally. Whilst only limited weight can be attached to the contents of the Draft CS, it is telling that the Council accepted at the Inquiry that this could only be achieved by development outside the existing limits of the built up areas.
11. Where local planning authorities are unable to demonstrate a 5 year housing land supply PPS3 paragraphs 69 and 71 state that planning applications for housing should be considered favourably, having regard to the policies in PPS3. In the context of all the factors set out above, there is clear justification for allowing residential development outside the built up area.

### ***Is the Appeal Site a Suitable Location***

12. The site is immediately adjacent to the edge of the existing limit of built up development of Bodicote. The site would have close access to bus routes leading to Banbury and the wider area and these are within a short walk of the appeal site. A local shop and post office would be readily accessible from the proposed footpath/cycle link into the site and the local school is said to be about 1km away.
13. The Council state that the range of shops and services available in Bodicote is limited and would not provide for the full needs of new residents. This would seem to be a function of its place in the settlement hierarchy, despite which the Draft CS envisages additional housing, and secondly, the close proximity to the larger town of Banbury, with its broader range of services. The future residents of the appeal site would have reasonable access to these local services and would have the realistic opportunity to use alternatives to the private car. The site is therefore in a sustainable location.
14. In relation to the visual effects of the proposal, notwithstanding submissions, the Council's witness confirmed that their objection does not relate to the effects on landscape quality but to the visual intrusion into the open countryside. The Council accept that the viewpoints selected by the appellant are representative in reaching a view on the proposal. The Council raise concerns in relation to viewpoints 2 and 9 as set out by the appellant.
15. The site lies within an Area of High Landscape Value, as set out by the Council. Planning Policy Statement 7: '*Sustainable Development in Rural Areas*' states at paragraphs 24 and 25, that criteria based policies utilising such methods as landscape character assessments should provide sufficient protection for these locally designated landscapes. It adds that such designations should only be maintained where it is clearly shown that criteria-based planning policies cannot provide the necessary protection.
16. In relation to viewpoint 2, the existing edge of development is visible adjacent to the appeal site. The rear elevations of properties on Keyser Road, Molyneux Drive and Blackwood Place are visible from the identified footpath. The

photographs show that this is more so in the winter months. The proposed development would bring the built edge of the settlement closer to viewpoint 2, but in terms of the overall distances involved, it would represent only a marginal foreshortening of this gap. Additionally, the details submitted indicate that the proposal would include additional landscaping which would provide a soft edge to the appeal site and would help to screen the proposed buildings. In relation to the existing view from viewpoint 2, the proposal would have only a negligible effect on views and the perception of intrusion into the countryside. I noted at my site visit that the effect of the proposal from this viewpoint would be likely to be less intrusive than the development to the west of the appeal site which, due to the topography, reveals views of a large number of dwellings on rising ground which do not benefit from any screening.

17. Viewpoint 9 is taken from opposite the existing entrance to the site, looking towards the garden centre, with the appeal site beyond. Particularly in the winter months the built forms of the garden centre, the rears of the houses to the north and the industrial/storage buildings to the south dominate the views. In the summer months the existing vegetation offers good screening and lessens the views of the buildings.
18. In the winter months the proposed houses would be visible from this point. Their upper sections would be seen above the sizeable garden centre buildings, against the back-drop of trees beyond. Where a Council accepts development beyond the existing limits of built-up areas, new development will often take place on undeveloped and open land; a change in character is inevitable. In the case before me, the appeal site is seen in the context of immediately adjacent residential development, the large garden centre buildings and, set a short distance away, the large business buildings which, due to their design, size and surrounding car and vehicle storage, give a distinct commercial impression. Whilst views of the proposed development would be gained from viewpoint 9, the context would mean that the proposal would not represent an unacceptable intrusion into the open countryside.
19. The views currently enjoyed by residents of the dwellings at the edge of the settlement would be considerably altered by the proposal. However, when it is accepted that new development is needed, as I do here, the most logical and sustainable locations will often be those immediately adjacent to existing development, and providing that the new development is of an appropriately designed and sited, the effects on the living conditions of those existing residents would not be unacceptable.
20. Therefore, taking the above matters and those considerations in Paragraph 69 of PPS3 into account, the appeal site represents a suitable location for the provision of new housing, within the context of a significant shortfall in housing land supply.

### **Other Matters**

21. The proposal would include the provision of affordable housing which is greater than the local policy requirement. This is an important advantage which the proposal would bring with it.
22. The Council made reference to the lack of a travel plan for the proposed development, which they consider as an important contributor to sustainability.

At the Inquiry, the appellant accepted that, if planning permission is granted, a condition requiring a travel plan would be reasonable.

23. The completed S106 Agreement includes provisions for amenity and play space, a landscape management plan, affordable housing, contributions for transport, school transport, education and museums, and household waste and recycling. On the basis of the evidence submitted at the Inquiry, the provisions of the Agreement are necessary, relate directly to the proposed development and are fair and reasonable in scale and kind. Therefore, it meets the requirements of Regulation 122 of the CIL Regulations and can be taken into account in this appeal.

### **Conditions**

24. I have considered the agreed set of conditions, and the additional one relating to a travel plan in the light of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. Where necessary, I have modified the wording of the conditions in order that they comply with the advice in Circular 11/95.
25. The development is required in order to contribute to the shortfall in local housing supply. The appellant and the Council agreed that the time limits in the standard conditions for outline permissions can be reduced in this case and I agree.
26. It is necessary and reasonable to ensure that the development includes provision for foul and surface water drainage, including compliance with the submitted Flood Risk assessment, and sustainable methods are incorporated into the agreed schemes. An agreed connection point and capacity requirements for a water supply to the development is also necessary.
27. In order to ensure a satisfactory access and exit point for vehicles, the entrance shall be provided with visibility splays to an agreed standard. In order to ensure that a suitable footpath/cycleway is provided for the site a condition is required to ensure its provision. It is also necessary to include a condition to require a suitable archaeological investigation is carried out. In the interests of highway safety it is necessary that a construction vehicle travel plan is agreed and adhered to. As discussed above, it is necessary to require a travel plan for the occupiers of the proposed houses in order that the potential to use means of transport other than a private car is maximised. In respect of those matters not reserved for later approval, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.
28. The agreed list of conditions included a number which relate to landscaping (Nos 6, 7, 8, 9 and 17 in the Statement of Common Ground). As this is a matter which is reserved for later approval it is not necessary to include conditions at this stage. The description of the proposed development includes the proposed number of houses and it is not necessary to require that number to be a maximum by the imposition of a condition.

### **Conclusions**

29. I have taken account of all matters raised at the Inquiry and those made in writing, including the views set out by local residents. The overriding need to address the shortfall in land for housing weighs heavily in this appeal. The

inevitable effects of providing housing development outside the existing limits of the settlement are a matter that the Council has accepted on other sites locally and envisage in the Draft Core Strategy. Within the context of the significant shortfall in housing land supply, the effects on the locality of extending the built form of the settlement onto the appeal site are reasonable. Therefore, the appeal is allowed.

*S T Wood*

INSPECTOR

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr G Lewis of Counsel	Instructed by Mr N Bell, Solicitor
He called	
Mrs L J Griffiths	Senior Planning Officer
BA(Hons) MRTPI	

### **FOR THE APPELLANT:**

Mr I Dove QC	Instructed by Mr D Crofts
He called	
Mr D Crofts	Associate, RPS
BSc DipTP MSc DMS	
MRTPI	
Mr P Ellis	Principal Landscape Architect, RPS
BA(Hons) DipLA LMLI	

### **INTERESTED PERSONS:**

Cllr C Heath	Ward Councillor, Cherwell District Council
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## **DOCUMENTS**

- 1 Completed Planning Agreement
- 2 Email confirming status of matters reserved in the outline application
- 3 Admissions policy for Bishop Loveday School
- 4 Census data showing parishes with populations of around 2000 and above
- 5 Sheet showing corrections of Mr Croft's Appendix 9 – from the Council
- 6 Residential and commercial phasing plan
- 7 Extract from Arun District Council committee report

**SCHEDULE 1: CONDITIONS (12 in number)**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
3. The development hereby permitted shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.
4. The development hereby approved shall not commence until works for the disposal of sewage has been provided to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.
5. The development hereby approved shall not commence until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority. The details shall be in accordance with the submitted Flood Risk Assessment and shall include consideration of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version).
6. No development shall take place until details of the water supply for the proposed development have been submitted to and approved in writing by the local planning authority. Such details shall include a suitable connection point and the impact on the existing water supply infrastructure and any necessary increase in supply capacity. The development shall be carried out in accordance with the approved details.
7. None of the dwellings hereby approved shall be occupied until vision splays have been laid out and constructed at the site access in accordance with details which have been submitted to and approved in writing by the local planning authority. The approved vision splays shall thereafter be kept free of any obstruction above a height of 0.6 metres above carriageway level.
8. Development shall not commence until a construction phase travel plan, which shall also include the provision of wheel washing facilities, has been submitted to and approved in writing by the local planning authority. The approved construction phase travel plan shall be adhered to throughout the construction period.
9. No development shall take place until a travel plan has been submitted to and approved in writing by the local planning authority. The provisions of the approved travel plan shall be adhered to thereafter.
10. No development shall commence until full details of the proposed footpath link to Molyneux Drive have been submitted to and approved in writing by the local planning authority. The footpath shall be provided prior to the first occupation of any approved dwelling and shall be retained in its approved form thereafter.
11. No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation



which has been submitted by the applicant and approved in writing by the local planning authority.

12. The development hereby approved shall be carried out in accordance with the following approved plans; site location plan Rev A and PL.01 Rev F, but only in respect of those matters not reserved for later approval.