



Appeal Decisions

Site visit made on 23 August 2016

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 02 September 2016

Appeal A Ref: APP/C3105/W/16/3150337

Land north of Gaveston Gardens, Banbury Road, Deddington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by David Wilson Homes (Mercia) against the decision of Cherwell District Council.
- The application Ref 16/00141/DISC, dated 22 March 2016, sought approval of details pursuant to condition No 10 of a planning permission Ref 13/00301/OUT, granted on 18 December 2013.
- The application was refused by notice dated 27 April 2016.
- The development proposed is residential development comprising up to 85 dwellings with new access, public open space and associated infrastructure.
- The details for which approval is sought are details of a scheme of landscaping.

Appeal B Ref: APP/C3105/W/16/3150338

Land north of Gaveston Gardens, Banbury Road, Deddington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of an approval.
- The appeal is made by David Wilson Homes (Mercia) against the decision of Cherwell District Council.
- The application Ref 16/00143/DISC, dated 22 March 2016, sought approval of details pursuant to condition No 18 of an approval of reserved matters Ref 14/02111/REM, granted on 26 May 2015.
- The application was refused by notice dated 27 April 2016.
- The development proposed is residential development comprising up to 85 dwellings with new access, public open space and associated infrastructure.
- The details for which approval is sought are details of a scheme of landscaping.

Appeal C Ref: APP/C3105/W/16/3150333

Land north of Gaveston Gardens, Banbury Road, Deddington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by David Wilson Homes (Mercia) against the decision of Cherwell District Council.
 - The application Ref 16/00137/DISC, dated 22 March 2016, sought approval of details pursuant to condition No 4 of a planning permission Ref 13/00301/OUT, granted on 18 December 2013.
 - The application was refused by notice dated 26 April 2016.
 - The development proposed is residential development comprising up to 85 dwellings with new access, public open space and associated infrastructure.
 - The details for which approval is sought are details of a drainage strategy.
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Decisions

Appeal A

1. The appeal is allowed and the landscaping scheme details submitted pursuant to condition No 10 attached to planning permission Ref 13/00301/OUT granted on 18 December 2013 in accordance with the application dated 22 March 2016 and the plans submitted with it are approved.

Appeal B

2. The appeal is allowed and the landscaping scheme details submitted pursuant to condition No 18 attached to approval of reserved matters Ref 14/02111/REM granted on 26 May 2015 in accordance with the application dated 22 March 2016 and the plans submitted with it are approved.

Appeal C

3. The appeal is dismissed.

Preliminary Matters

4. The site has outline permission for 85 dwellings and reserved matters have been approved for that number of dwellings. As set out above, there are three appeals relating to the site. Two of the appeals (A and B) concern a proposed landscaping scheme while appeal C concerns a drainage scheme. The landscaping details were submitted in pursuance of condition 10 on the outline permission and condition 18 on the reserved matters approval. The drainage scheme was submitted in pursuance of condition 4 on the outline permission. To avoid duplication I have dealt with the three appeals together in this document.

Applications for costs

5. Applications for costs were made by David Wilson Homes (Mercia) against Cherwell District Council in respect of all three appeals. Those applications are the subject of separate Decisions.

Main Issues

6. The main issue in respect of appeals A and B is whether or not the landscaping scheme would be acceptable having regard to the character and appearance of the area.
7. The main issue in respect of appeal C is whether or not the proposed foul and surface water drainage schemes would be acceptable.

Reasons

Landscaping Scheme

8. The Council's reasons for refusal do not refer to the design of the Local Equipped Area of Play (LEAP) and so I have not considered this as being a matter at issue between the parties.
9. The reasons for refusal state that insufficient information was submitted regarding the existing trees and hedgerows on the land together with measures

for their protection during the course of development. The applications did not include these details, but the Council has advised that an Arboricultural Method Statement has been approved under condition 20 of the Reserved Matters approval¹. Details in this respect are not before me but because that condition requires details of tree protection measures this requirement is secured elsewhere.

10. Condition 11 of the reserved matters approval requires the submission and approval of details of hard surfacing to roads and footpaths and the absence of these details from the appeal applications does not therefore prejudice the achievement of an acceptable scheme.
11. The site is a field of 3.8 hectares which adjoins the main A4260 Banbury Road. It is in a prominent location at the entrance to the village but is surrounded by tree belts which would substantially screen the development from view across the wider area. The tree belt along the northern boundary of the site is protected by a group Tree Preservation Order. The Deddington Conservation area lies immediately to the south of the site. The development would include a central public open space which is to include a LEAP. An open area with a surface water storage lagoon would also be included in the corner of the site next to the main road and behind the tree belt.
12. The trees around the boundaries of the site provide a strong landscape structure. The proposed landscaping scheme would also provide structure within the site by including trees along both sides of the main access road and around the public open space. The landscaping around the lagoon would be less formal including trees and a wildflower/grass mix.
13. The proposed dwellings would be built close to the road frontages leaving little space for trees or specimen shrubs but shrub mixes would be planted in front of the dwellings. Grass would also be provided on frontages and areas of proposed gravel would be very limited.
14. I have taken into account the concerns expressed by the Council's Landscape Planning Officer including her suggested improvements in terms of bulb planting densities, shrub mixes and the planting of more specimen shrubs to provide additional structure. However for the above reasons I find that the proposed landscaping scheme would be sufficient to achieve a suitably high quality design as required by the National Planning Policy Framework. The scheme would for these reasons be acceptable.

Drainage Scheme

15. Condition 4 requires the submission of a drainage strategy detailing drainage works for foul and surface water. The submitted drawings provide details of the proposed sewers and a surface water storage lagoon.
16. The Flood Risk Assessment (FRA) provided with the outline application includes a preliminary assessment of ground conditions and states that sustainable drainage measures are proposed. No details of such measures are provided with the application but condition 5 of the outline permission requires specific details in this respect.

¹ Ref 14/02111/REM

17. The FRA includes preliminary drainage calculations. Oxfordshire County Council's comments were made without sight of the FRA and while the County Council requested further detailed information it is not clear to what extent the information in the FRA would satisfy that authority. I note that the appellants have re-submitted information in respect of condition 4 but the Council advised in its statement that that application had not been determined.
18. A new foul water sewer is proposed which would connect to the existing public sewer at Horse Fair. The FRA states that the proposed development would give rise to a design flow of 3.7 litres per second and that Thames Water would need to determine an adequate point of connection to the existing foul water system². However Thames Water has raised concern that the existing sewer at Horse Fair is unlikely to have capacity to take the flows from the development and has requested the submission of an Impact Study to ascertain the effect on the existing foul water infrastructure.
19. There is no further information before me to demonstrate the acceptability of the proposed drainage works. Given the outstanding objections from the County Council and Thames Water I find that the proposed foul and surface water drainage schemes have not been demonstrated to be acceptable.

Conclusions

20. For the reasons given I conclude that appeals A and B should be allowed and that appeal C should be dismissed.

Nick Palmer

INSPECTOR

² FRA paragraphs 3.47 and 3.48