



Appeal Decision

Site visit made on 13 November 2018

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18th December 2018

Appeal Ref: APP/D3125/W/18/3207406 **Land at Pinkhill Lane, Eynsham**

- 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 Mr E Costello of Chesside Homes Ltd against the decision of West Oxfordshire District Council.
 - The application Ref 17/03717/OUT, dated 13 November 2017, was refused by notice dated 13 March 2018.
 - The development proposed is residential development.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr E Costello of Chesside Homes Ltd against West Oxfordshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was made in outline with all matters reserved except for access. I have determined the appeal on this basis and have treated all plans that indicate appearance, landscaping, layout and scale as illustrative only.
4. Since the application was refused the council has adopted the West Oxfordshire Local Plan 2031 (the Local Plan). Both parties have had the opportunity to comment on the Local Plan as part of the appeal process.
5. Following refusal of the scheme by the council, further information has been provided by the County Council in relation to the need for primary school places at Eynsham School. The County Council has confirmed that forecasts indicate that the existing primary school would be able to accommodate the scale of development proposed on the site. The Council no longer wishes to defend its reason for refusal relating to school places. On the basis of the County Council's advice in October 2018 I am satisfied that I do not need to consider the matter further.

Main Issues

6. The main issues are:

- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on heritage assets;
- Whether adequate access would be provided to the site; and
- Whether the site is an appropriate location for the development.

Reasons

Character and appearance

7. The site is within the Lower Windrush Valley and Eastern Thames Fringes character area, as identified in the West Oxfordshire Landscape Assessment. It is an open field, and a typical example of the floodplain pasture which contributes to the swathe of countryside wrapping around the edge of Eynsham. There are a number of public footpaths and a bridleway within the vicinity of the site which cumulatively wind their way through the open countryside, and have views of the site through the gaps in the boundary hedgerows.
8. The adjacent industrial area is well screened by mature vegetation and trees, whilst the presence of built form can be identified, the site is largely enclosed and has a very limited visual or physical interaction with Pinkhill Lane and the appeal site.
9. The proposal would introduce a significant level of housing, which would project substantially beyond the narrow linear residential development adjacent to it. This considerable extension into the open pasture land would create a sprawl of built form. The Landscape and Visual Appraisal Report and Landscape Strategy included a visual impact assessment of the proposed development based upon nine representative viewpoints. Whilst the report concluded that the site does not have any features that would prohibit development its approach sought to enhance the existing boundaries, which appears to be an attempt to contain the visual impact of the development within the site and thus reduce its harm.
10. Despite these efforts at mitigating the impact of development in this location, within the wider setting the proposal would be extremely conspicuous. The erosion of this open and undeveloped site would have an urbanising effect on the wider rural setting to which it presently contributes. Any attempt to screen a development of this size would not mitigate the harm of the physical intrusion of built form into this landscape.
11. Whilst appearance, scale, landscaping and layout are reserved matters, it is clear that the proposed development of an open and undeveloped site in this location would cause significant harm to the landscape character and appearance of the area. As such it would conflict with the general principle of policy OS2 of the Local Plan which requires development to be of a proportionate and appropriate scale to its context, and to form a local complement to the character of the area. The level of proposed development would result in considerable harm to the landscape of the area, and would conflict with Policy EH2 of the Local Plan which resists proposals that would result in the loss of features that are important for their visual or historic value.

Heritage assets

12. Eynsham Conservation Area (CA) lies to the north of the site, and is physically separated by the B4449. The settlement of Eynsham is of early medieval origin, the early economy and expansion of the settlement was based in agriculture, with industrial expansion occurring in the 20th and 21st centuries. Extensive development occurred to the north of the CA in the 20th century. To the south and east the setting remained largely as agricultural land, perforated by more recent clusters of developments such as the Oakfields Industrial Estate and the Siemens plant. Therefore the CA is set within a far wider landscape and is not focused purely within the confines of the settlement itself.
13. The present appearance of the site would appear much unchanged to its historical use as pasture land. Whilst the site is physically separated from the CA by the B4449, the openness and historical use of the site does contribute to the overall open, agricultural history of the surrounding area. It follows that although its contribution might be modest, the open character of the site does currently form part of the wider setting of the CA with regards to experiencing the asset as a settlement within a landscape of pasture and agricultural land.
14. The Eynsham Abbey Schedule Ancient Monument lies to the north of the site, adjacent to the extensive churchyard of the Church of St. Leonard. There is some residential development at the northern extent of the site, however it is largely characterised by green space, defined by gardens, small fields and mature trees. The areas to the south of the site remain largely open, and this reflects the historical growth of the village and the function of the abbey within it. Whilst the appeal site may not historically have functioned as part of the abbey grounds it is representative of the wider landscape, with the pasture and grazing land beyond and to the south of the settlement.
15. The Abbey fish ponds are undesignated heritage assets which lie to the southwest of, and outside, the extents of the abbey remains. The ponds are in various states of preservation however all of the fishponds have the capacity to contain archaeological evidence relating to their period of use. The main function of the ponds would have been to contribute to the economy of Eynsham and their remaining presence informs the setting of the abbey and contributes considerably to its overall significance. Whilst the relationship between the ponds and the abbey is quite intimate, and experienced within a limited setting, the presence of the ponds has resulted in an absence of built form. This contributes to the openness of the scheduled monument when the area generally is experienced from long distance views.
16. The B4449 marks the boundary of the CA, and much weight is attached to it by the appellant as creating a physical, visual, functional boundary when considering the wider setting of the CA, the abbey and the fishponds.
17. Whilst I acknowledge that the B4449 has introduced a visual boundary to the CA, and acts as the physical boundary of the CA, I do not consider that the significance of the wider setting of the CA and the Scheduled Ancient Monument are contained within the B4449 and that land beyond that does little to contribute to the setting of the heritage assets. The historical use of the land to the south of the heritage assets, including the appeal site, falls within the established pasture and grazing links associated with the settlement, as acknowledged within the Heritage Assessment prepared on behalf of the appellant.

18. Walking along Pinkhill Lane towards Eynsham, with the industrial estate on the left hand side, the settlement is visible in the distance. The appeal site allows views towards the settlement through gaps in the boundaries. Its openness and relatively flat topography is clearly distinctive as part of its historic function and it forms part of the wider open landscape which is dominant in this area. The presence of sporadic development and the B4449 does not negate this character. As such I consider that the site is not isolated from the CA, and it does actively contribute to the historical experience of the CA and the heritage assets, as part of the wider setting.
19. The CA and Scheduled Ancient Monument are historical assets of high importance, the significance of the ponds is largely associated with their contribution to the history and setting of the Scheduled Ancient Monument.
20. The scheme would provide for up to 52 dwellings on a site that would protrude a considerable distance from the existing built form into the open landscape. This landscape forms part of the rural agricultural landscape to the south of the CA and the introduction of this significant level of built form would have an impact on the setting. The proposal would not directly impact on the Scheduled Ancient Monument, or the fishponds. However, as with its impact on the CA, the scheme would create a level of development that would appear alien within this wider agricultural and rural landscape. Overall, I find that the proposal would have a moderate adverse impact on the heritage assets, and that this would result in less than substantial harm.
21. The National Planning Policy Framework (the Framework) advises that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The proposal would lead to less than substantial harm to the CA, the Scheduled Ancient Monument, and the fishponds, but as set out in paragraph 196 of the Framework this harm needs to be weighed against any public benefits of the proposal.
22. The proposal would increase the supply of housing which would be a benefit of the scheme. There would also be a benefit from the creation of jobs in the construction industry. Moreover, spending locally would be likely to increase as a result of the future residents of the dwellings. However, given the harm that would be caused to the CA, the Scheduled Ancient Monument and the undesignated heritage asset, I do not consider that these benefits would outweigh the considerable weight and importance that must be attributed to the identified harm.
23. As such, the proposal would conflict with policy OS2 of the Local Plan which seeks in general terms to conserve and enhance the historic environment. The proposal would also fail to accord with the Local Plan in respect of Policy EH9 which is in general accordance with the Framework with regards to assessing the impact on heritage. Due to the encroachment of the site into the wider setting of the landscape it would conflict with Policy EH10 which seeks to preserve views into the CA. The proposal would similarly have a harmful impact on the wider setting of the Scheduled Ancient Monument and to a lesser degree the Abbey fishponds. It would therefore conflict with Policies EH15 and EH16 of the Local Plan which seek to preserve heritage assets.

Highways

24. The proposal would be accessed via Pinkhill Lane. The lane does not benefit from street lighting or pavements, and is heavily potholed and in a general state of disrepair.
25. It is not contested that the access in its present form would be unsuitable for the volume of traffic associated with the development once built, or the traffic related to the construction of the scheme. Accordingly improvements would be necessary in order to facilitate the development. In addition, at present walkers currently share the access with farm traffic and those accessing the existing properties, and improvements to the lane would provide a wider benefit.
26. The appellant has suggested a number of works to widen the carriageway and reconstruct the surface as necessary in order to provide a suitable access. Part of Pinkhill Lane is adopted; however the southern part is not and is currently unregistered, the landowner is not known. As such it is not possible for the appellant to secure the landowner's agreement to carry out works to the lane.
27. The appellant has indicated a willingness to either carry out the necessary works to the lane, or to make a payment to the local authority so that the authority would carry out the works. I acknowledge that in principle those owning properties fronting a private street (frontagers) can apply to the authority for works to be carried out, and for the street to be adopted. However, there are a number of matters that would need to be addressed that do not appear to have been resolved. Whilst the appellant would be a frontager, the evidence does not confirm that the other owners of the properties that account for more than half the rateable value of the street would initiate proceedings in accordance with the provisions of the Highway Act 1980. Therefore I am not convinced that the legislation would permit the appellant to secure the works.
28. The Highway Authority suggested a condition as part of the application process. This required the improvement works as shown on drawing no. PLN-001-TC01 to be completed to the satisfaction of the local planning authority prior to occupation of the dwellings permitted. In order to comply with this condition the appellant would either need to carry out the works themselves, for which they do not have the permission of the landowner. I have considered the application of the 1980 Act, however I find that the suggested condition would not meet the tests as set out in the National Planning Policy Framework or the Planning Practice Guidance as it would rely upon works to land not within the ownership of the appellant and this raises serious concerns regarding the enforceability of the condition. Furthermore, it is recognised that the lane is already in a state of disrepair and therefore works would be needed to ensure that the lane could safely accommodate construction traffic, and the trigger for the condition is therefore not suitable in this case. The fact that the Highway Authority has not provided a statement does not lead me to reach a different conclusion on this point.
29. Whilst I am satisfied that there would be safe forward visibility around the bend where Pinkhill Lane joins the spur off the B4449, west of old level crossing, this would be subject to ensuring that works were carried out to Pinkhill Lane with respect to its width.

30. The scheme once completed would be likely to generate 25 two way vehicle in the morning peak hour, and 26 in the evening. Outside of peak hours traffic volumes would be less. Taking into account the limited number of residences along Pinkhill Lane, all of which are set a comfortable distance from the lane, and the industrial estate opposite, I consider that in principle the traffic impact would be negligible.
31. Overall, I find that it has not been demonstrated that a suitable access can be provided to serve the proposal. It is contrary to policies T1 and T3 of the Local Plan which encourage development to be located in areas with convenient access to a good range of services and facilities, and maximise opportunities for walking, cycling and using public transport.

Whether the appeal site is in a suitable location

32. Eynsham is identified as a rural service centre in Policy OS2 of the West Oxfordshire Local Plan 2031 (the Local Plan) and is identified as a settlement capable of contributing towards meeting the council's housing needs.
33. Policy H1 of the Local plan provides an indicative figure of up to 5,596 homes being provided through the Eynsham – Woodstock sub-area during the life of the plan, a proportion of which would contribute to Oxford's unmet housing need. Policy H2 goes on to explain that, with regards to rural service centres, on undeveloped land adjoining the built up area evidence will need to be presented to demonstrate that the proposal is necessary to meet identified housing needs, it is in accordance with the distribution of housing set out in Policy H1 and is in accordance with the other policies in the plan, in particular the general principles in Policy OS2. In respect of meeting an identified housing need examples as set out in Policy H1 include district wide needs, needs identified through a neighbourhood plan, or affordable housing needs specific to a particular settlement.
34. The appeal site is located on the edge of Eynsham Village and is bounded for the most part by hedgerow and trees of varying density. Although located at the end of a row of several detached properties, and adjacent to the Oakfield employment area and south Eynsham business area, the appeal site is located beyond the settlement boundary within the countryside and is some 1000 metres from the centre of the Eynsham village. The adjacent development does not appear as a functional or physical part of the village, and is experienced as a cluster of built form on the edge of Eynsham.
35. Whilst there are residential units within the adjacent industrial unit these were developed through the use of permitted development rights, which have since been restricted by an article 4 direction, and I therefore do not consider the presence of residential use on the industrial site to be a justification for the principal of development in the location generally.
36. Access to and from the site would be via Pinkhill Lane. There are no footpaths along the lane and it does not benefit from street lighting. In order to access the facilities and services in Eynsham residents would need to walk along Pinkhill Lane, and cross over the busy B4449 to then continue along Station Road. Whilst in theory it would be possible to walk into Eynsham, the reality is that the route would not be attractive to those with children, the elderly or the disabled, especially during the winter months. It is therefore likely that

residents would rely on the private vehicle to access services and facilities and the proposal would not integrate into the local infrastructure.

37. There is no convincing evidence that there is an identified housing need which would not be met by the Local Plan. The proposal would not represent sustainable development due to the restrictions on accessing local services and facilities. I therefore find that the appeal site is not an appropriate location for housing and would conflict with the general aims of Policy OS2 with regards to locating housing in sustainable locations. Evidence has not been submitted to demonstrate that the proposal would meet a local unmet need and would therefore conflict with the aims set out in Policy H2 of the Local Plan.

Other matters

38. Reference is made to the provision of a S106 Planning Obligation which would secure 50% affordable housing on the site, contributions to public art, health, leisure, public transport infrastructure and public rights of way. Whilst these would be benefits of the scheme, I do not have a S106 to consider that would secure these matters and therefore attach very limited weight to them.

Conclusion

39. The proposal would not be in a suitable location, it would result in harm to the character and appearance of the area generally and harm to the nearby heritage assets. In addition I am not satisfied that a suitable access could be provided.
40. The appellant has argued that the Council is unable to demonstrate that it has a 5 year supply of deliverable housing land, although the policies of the recently adopted Local Plan should not be out-of-date. Be that as it may, paragraph 11 of the Framework sets out the presumption in favour of sustainable development and the circumstances for allowing development to that end. In any event, paragraph 59 states the need to boost significantly the supply of homes so the proposal would be a benefit with regards to contributing up to 52 dwellings.
41. In this case the proposal is contrary to the policies contained within the Local Plan and national policy, and this Decision has demonstrated that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the scheme.
42. Accordingly, for the reasons above I conclude that the appeal should be dismissed.

J Ayres

INSPECTOR