



Appeal Decision

Site visit made on 25 March 2019

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 4 July 2019

Appeal Ref: APP/Q3115/W/18/3219295

Braze Lane, Benson, Wallingford, OX10 6JB

- 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 Victoria Land against the decision of South Oxfordshire District Council
 - The application, ref. P18/S0181/O, dated 16 January 2018, was refused by notice dated 30 November 2018.
 - The development proposed is the outline application for up to 19 dwellings with all matters reserved with the exception of access on Land adjacent to The Orchard, Benson.
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Decision

The appeal is dismissed.

Application for Costs

1. An application for costs was made by Victoria Land against South Oxfordshire District Council. This application is the subject of a separate Decision.

Procedural Matters

2. The application was made in outline, with access to be determined at this stage; and appearance, layout, scale and landscaping as reserved matters. However, an illustrative concept plan¹ has also been provided to which the Council has had regard. I confirm that I have also dealt with the appeal on this basis.
3. The third and fourth reasons for refusal relate to the failure to provide planning obligations for the provision of affordable housing and on and off-site infrastructure to meet the needs of the development. During the appeal process, a signed Unilateral Undertaking (UU) has been submitted by the appellant to provide the necessary contributions. The Council have had the opportunity to comment upon this UU and in accordance with the Wheatcroft principles², I see no prejudice towards either party in accepting this UU and will base my decision upon it.

¹ Plan No. 3227 100 rev A

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

4. Whilst in the Council's Refusal Reason it is noted that the development of the appeal site is not required for the delivery of the relief road, the Council have sought to clarify this and in their costs rebuttal have rescinded this comment by stating that whilst the appeal site physically is not required to deliver the relief road, that a planning contribution to the delivery of the relief road is still required. As a result, this would benefit the viability of surrounding sites in delivering the relief road. Given these clarifications, I have therefore dealt with the relief road discussion on this basis.

Main Issues

5. The main issues of the appeal are:
 - Whether the proposal would provide a suitable site for development that is well integrated to the village of Benson, having regard to its location within a housing allocation identified in the *Benson Neighbourhood Plan* (NP) and the provisions of Policy NP4; and
 - The effect of the proposal on the provision of best and most versatile agricultural land (BMV).

Reasons

Suitability of the site for development and NP housing allocation

6. The appeal site comprises of a field on the south-western side of Braze Lane and to the north-west of the settlement of Benson, which is defined as a 'larger village' under Policy CSS1 of the *South Oxfordshire Core Strategy 2012* (CS). Whilst the appeal site falls outside the current settlement boundary, the recently made NP allocates the site as suitable for housing development as part of allocation 'Land North and North East of the Sands' (Sites BEN3/BEN4). The Council accept that as a result of this allocation in the NP, that the appeal site would be in conformity with the overall spatial strategy for the delivery of housing growth. Whilst only in draft form, the spatial strategy for housing delivery is also supported by the emerging *Draft South Oxfordshire Local Plan 2033* which seeks that housing be focused in the villages as well as any sites identified via Neighbourhood Plans such as the appeal site.
7. Whilst the accompanying text to Policy NP4 of the NP states that the allocated site should yield approximately 240 dwellings, this is not a ceiling to development, but more of an estimate based upon the stage of development with the allocated sites not having progressed to permission at the examination of the NP. I am also made aware that there is an application being considered by the Council for the remainder of the allocation site to the north of the appeal site for up to 240 dwellinghouses where there is a recommendation to grant approval subject to a S106 agreement³.
8. The Council argues that the additional 19 dwellings above the 240 proposed to the north would be unplanned growth over and above that anticipated for Benson and would place significant pressure on existing infrastructure as planned infrastructure is based upon a provision of 240 dwellings. There has been no convincing evidence submitted which shows that an additional 19 dwellings would cause significant pressure on existing services and facilities. The Committee Minutes of the meeting note that Community Infrastructure Levy

³ South Oxfordshire Council Planning Ref: P17/S1964/O

(CIL) payments from the appeal development could be used to facilitate the expansion of the GP surgery which could cater for these additional residents. The provision of 19 dwellings is therefore, in my view, unlikely to cause any material harm to the existing infrastructure.

9. In terms of functional integration of the appeal site with the settlement of Benson, the illustrative layout of the proposed dwellings, shown to be arranged along a number of cul-de-sacs, would reflect such a layout of modern development that Benson has recently experienced. Benson has a GP Practice, schools, local pubs, a supermarket and small retail shops, restaurants and recreational facilities which would be within reasonable walking distance from the appeal site if a suitable pedestrian link such as shown in the amended plan⁴ could be established.
10. I note that there is no formal agreement between the appellant and the landowner to the north for the provision of a pedestrian linkage to the northern site which would be necessary in order to achieve an acceptable access from the appeal scheme in order to link to Benson and provide a 'comprehensive development.' Without this linkage, the appeal scheme would be isolated from Benson and, in my view, future occupants would be entirely dependant upon vehicular use, given that there are no footways to access the local services and facilities of Benson. There is no guarantee that the pedestrian link could be achieved through reserved matters, as there is no evidence before me to suggest that the Council could reasonably require the adjacent landowner to provide the pedestrian links to the appeal site if it did not wish to do so.
11. Whilst I am aware that a Grampian condition could be imposed, in this particular case, I do not believe that such a condition would meet the guidance set out in the Planning Practice Guidance that such conditions should not be used where '*there are no prospects at all of the action in question being performed within the time-limit imposed*'⁵. As set out above, there has been no evidence provided to suggest that the neighbouring landowner would be prepared to provide a pedestrian link to the appeal scheme within their land.
12. I note comments from the appellant with regards to a suitable access being possible, however due to the lack of any indication from the neighbouring landowner that the delivery of the pedestrian access is possible, this does not give me certainty that the appellant's indicative pedestrian links will or can actually be delivered. Given all of this, the scheme would fail to be suitably integrated to the settlement of Benson and conflicts with Policy NP4 of the NP.
13. Turning to the integration of the proposal in terms of character and appearance, the scheme needs to be reflective of its sensitive location where the site is within the setting of the Chiltern Area of Outstanding Natural Beauty (AONB) and the North Wessex Downs AONB. A Landscape Visual Impact Assessment⁶ (LVIA) details that there will be a noticeable change to the appeal site as a result of the equestrian to residential use, however the impact to landscape is predominantly confined to the boundaries of the site. The report also states that whilst there is some inter-visibility with the Chilterns AONB ridge and Wittenham Clumps within the North Wessex Downs AONB, it would be very difficult to

⁴ Plan No. 3227 100 rev A

⁵ Paragraph: 009 Reference ID: 21a-009-20140306, Revision date: 06 03 2014

⁶ Land at The Orchards, Benson Landscape and Visual Impact Assessment, January 2018, By The Richards Partnership

discern the appeal site from a much wider panorama at key vantage points. I agree with these conclusions.

14. In addition, the appeal site would be well contained by boundary hedgerows and additional landscape planting and would not be particularly apparent in views from the wider countryside or interfere with significant local views such as from Eyre Lane (view 8) or other views as outlined in Figure 11 of the NP and highlighted by Policy NP28 of the NP.
15. Whilst I agree with the Council's Landscape Officer that the appeal site is assessed on the basis that the development to the north gains planning consent, I have no reason to doubt this site coming forward given the site to the north is an essential component of the strategy to deliver housing within Benson, with a willing developer and landowner given that an application is in the process of being determined. The Planning Officer's report also states at Paragraph 6.33 that this site has been recommended for approval, subject to a S106 Agreement.
16. Suggestions given by the Landscape Officer would assist in minimising the impact of the site to the surrounding landscape, such as increased boundary planting and internal greenspace, and a layout which embraces the topography of the site and its relationship to the greater countryside. These could be secured by a suitable planning condition.
17. Consequently, whilst the proposed development would result in a change to the character of the appeal site and the immediate locality which includes the Clay Vale Landscape Character Area, given the landscape treatment required as part of the scheme and the neighbouring development to the north, such a change would result in very limited harm to the character and appearance of the area or countryside.
18. The Council is also concerned that the proposal would result in the unnecessary urbanisation of the open countryside and lead to the coalescence of Benson and Rokemarsh. Policy NP4 of the NP states that in consideration of the layout of allocation sites BEN3/4 that greenspace within the site should provide a significant separation between Benson and Rokemarsh which is also the purpose of Policy NP27 of the NP to avoid coalescence between Rokemarsh and Benson. Rokemarsh is a small hamlet sized settlement north of the appeal site which is separated from the appeal site and Benson by fields. It is contended by the Council that if the development is to adjoin the remainder of the allocation site to the north, that the appeal site should be greenspace, since dwellinghouses on the appeal site would not preserve the significant separation required between Benson and Rokemarsh.
19. That said, Figure 12 of the NP includes indicative areas of greenspace and a greenspace buffer where the main purpose is to ensure adequate open landscape space which is rural in character within the development scheme, as well as to ensure separation between Benson and other neighbouring settlements in accordance with Policy NP27 of the NP. It is not evident to me that the appeal site is designated as open space as the areas for greenspace notated in Figure 12 excludes the appeal site which is marked as 'white' alongside the area to the north which is also earmarked for housing development. Whilst indicative, the proposed layout of the appeal scheme would match the development to the north in terms of the extent of its encroachment towards Rokemarsh. The indicative scheme to the north includes a landscaped buffer which runs from the commencement of the boundary of The Orchard

adjacent to the appeal site. In my view the proposed properties in the northern scheme would be more visible in long distance views from Rokemarsh than the appeal site.

20. Taking these factors into account I am satisfied that adequate greenspace and a landscaped buffer between the appeal site and Rokemarsh could be delivered in order to provide significant separation and to avoid coalescence occurring between Benson and Rokemarsh.
21. Bringing matters together, I have found that the principle of the development of the appeal site to be acceptable, in accordance with Policies CS1 and CSR1 of the CS. Furthermore, the appeal site has a logical layout and character that reflects the modern forms of development within the locality. The site maintains the visual and physical separation between the settlement of Rokemarsh and avoids coalescence. The appeal site will result in a change to the character of the site, however the development of the site when seen in the context of the development to the north would not cause adverse harm to the Clay Vale Character area, or the setting of Chilterns ridge AONB and the North Wessex Downs AONB.
22. The scheme would therefore comply with Policy CSEN1 of the CS (which seeks to ensure developments provide sufficient landscape treatment to integrate into the local area); saved Policies G2 and G4 of the South Oxfordshire Local Plan (LP) (which seeks to control development within the countryside and seek environmental enhancements where appropriate); saved Policy D1 of the LP (which sets a number of design principles for achieving appropriate development); Policy C4 of the LP (which seeks to protect local landscape features and historic character and appearance of settlements); Policy NP28 of the NP (which seeks to ensure developments take into account important views); and NP29 of the NP (which seeks to ensure development on the fringe areas of Benson respect the rural character and setting); Policy NP7 of the NP (which seeks that development should be of high quality design which respects the distinctive character of the locality).
23. However, there is no evidence or agreement with the northern site to support a pedestrian linkage to Benson which is a significant issue in terms of the provision of an acceptable access which is a key element of the appeal scheme's integration with the wider village and its acceptability. As such the scheme would fail to comply with Policy CSQ3 of the CS (which amongst a number of criterion, seeks developments to provide linkages where available); and Policy NP4 of the NP (which amongst a number of criteria seeks to ensure a comprehensive development that integrates well with the rest of the village).

Loss of agricultural land

24. Paragraph 170 of the National Planning Policy Framework (The Framework) seeks to recognise the economic and other benefits of the best and most versatile agricultural land (BMV). The glossary of the Framework defines BMV as land in Grades 1, 2 and 3a according to Agricultural Land Classifications. According to the Officer's report, whilst the Land Classification Maps show the majority of land around Benson to be Grade 1, the recent neighbouring planning application relating to the land to the north of the appeal site provided a Soil Resources Report which categorised the land as Grade 3a. The parties agree that this is likely to also be the case for the appeal site and I have no reason to doubt this.

25. Despite this, the current site is 1.19 hectares in size and is currently utilised as a field for equestrian activities. Whilst I acknowledge the Council's comments that the field could in the future be reverted back to agricultural use, the site would be too small to be an effective small holding in its own right. As there is a proposal for a relief road to the north, and further residential development on all sides, the site would effectively be isolated from surrounding farmland. I am also mindful that the site is in any event allocated for residential development and so has been found suitable for development through the Neighbourhood Planning process.
26. I therefore conclude on this main issue that whilst there would be a minor loss of BMV land, given the above, the proposal would not have an adverse effect. As such, the scheme would be in conformity with paragraph 170 of the Framework.

Other Matters

27. It is noted that the site is north of the RAF Benson base which contains a runway with the appeal site being within the flightpath of aircraft which may cause noise and disturbance for proposed occupants of the development. A noise survey has been submitted⁷ and I am satisfied that subject to planning conditions that would secure the implementation of mitigation measures as recommended in the report, that acceptable living conditions could be provided for future occupiers.
28. I also note comments with regards to mains sewerage capacity and flooding. A Flood Risk Assessment and Drainage Strategy⁸ has been submitted with the original application that show the appeal site is not at risk of flooding and that the site can be developed safely without increasing flood risk elsewhere. Thames Water in their response detail that conditions should be placed on any decision notice which require that any upgrades to accommodate additional flows from the development are implemented. I am satisfied that sufficient drainage and water supply to the site is obtainable and that it will not increase the risk of flooding elsewhere.
29. A Phase 1 Habitat Survey⁹ accompanies the appeal scheme which suggests that there are no likely impacts to any statutory or non-statutory nature conservation sites, however hedgerows on the site are likely to qualify as 'important hedgerows.' It is noted by the Council's Ecology Officer that the site has the potential to avoid causing a net loss of biodiversity via the approval and implementation of a biodiversity enhancement plan for the site. Given these findings, I am satisfied that the appeal scheme would be able to avoid a net loss in biodiversity.
30. Benson Parish Council state that the approval of the appeal site may affect the viability of the adjoining allocations and the delivery of the relief road and services and facilities provision in Benson to cater for the additional development allocated for Benson. I do not agree that this would be the case. The scheme does provide a financial contribution to fund part of the relief road

⁷ Land adjacent to The Orchard Braze Lane Benson, Noise Assessment Report, June 2018, By MEC Acoustic Air

⁸ Flood Risk Assessment & Drainage Strategy, Land at The Orchard, Rokemarsh, Benson, Dated 12 January 2018, by Glanville Consultants.

⁹ Phase 1 Habitat Survey Report, Land at The Orchard Benson, Dated 11/12/2017 by ecoconsult ltd

and makes other provisions to off-set the impacts of the development in relation to such matters.

31. Berrick Salome Parish Council state that the appeal site is a speculative development within open countryside and that the approval of the scheme would set a precedent for further development of fields and open spaces within Rokemarsh. As discussed above, the appeal site is clearly within the boundary of a housing allocation as shown in Policy BEN3/4 of the NP, so whilst it is currently within open countryside, the NP directs where appropriate development should be located. Whilst each application is considered on its own merits, I do not consider that this scheme would set a precedent for the development of fields and open spaces in Rokemarsh, as it is clear to me in this particular case that the appeal site is part of an allocated site for housing delivery.
32. I note comments with regards to the emerging Berrick Salome Neighbourhood Plan, the boundary of which adjoins the appeal site. It is noted that the appeal site is not within the boundary of this NP, and given this Neighbourhood Plan is not 'made' I can only give this plan little weight within this appeal decision.
33. Berrick Salome Parish Council refers to two appeal decisions concerning the erosion of a buffer between settlements¹⁰. I have not been provided with these so have been unable to deduce whether they are similar in circumstances to the proposal before me. As such, they have had no bearing on my decision which I confirm I have in any case considered the appeal on its own planning merits.
34. Benson Parish Council refer to a covenant affecting the appeal site. Covenants are not planning considerations and therefore this does not weigh against the appeal scheme.
35. Berrick Salome Parish Council argues that the approved NP allocation map for BEN3/4 is incorrect and that the correct map should have excluded the appeal site from the allocation boundary. According to the Parish Council, the Examiner of the NP published an addendum map which included the appeal property within the boundary of the allocation which the Parish Council did not notice (or approve of) when it went to referendum. Whether this is the case or not, it is clear that the parties have considered their cases on the basis that the appeal site is within the allocation and I confirm that I have taken the same approach.
36. A number of comments from surrounding residents state that the development would cause a doubling of the number of dwellinghouses in the parish of Rokemarsh. Although the appeal site would be adjacent to the boundary of the Rokemarsh Parish, it would adjoin two dwellings (The Orchards & Porthill House) situated within the Rokemarsh Parish that are detached from the core of the Rokemarsh settlement which is some distance away. However, NP Policy NP27 relates to the coalescence of settlements rather than the coalescence of parishes. The actual impacts of the development such as the provision of services and facilities is catered for by the Benson settlement. As such, I do not consider that the proposal is contrary to NP Policy 27.
37. Surrounding residents comment regarding the tranquillity currently experienced by the Rokemarsh settlement and that the appeal site would interfere with this and cause noise and disturbance towards the Rokemarsh settlement. Given the

¹⁰ APP/Q3115/W/16/3153639 Land east of New Road, East Hagbourne and APP/W1715/A/14/2228566 Land West of Hamble Lane, Hamble, Hampshire

separation distance maintained between the appeal site and the Rokemarsh settlement, I am unconvinced that the noise levels from this development would significantly harm the tranquillity of residents in the Rokemarsh settlement.

Planning Balance

38. I have found that the appeal scheme would result in an isolated development, where future occupants would be reliant on a private motor vehicle for their day to day needs. Furthermore, the scheme would not integrate well with the rest of the village. These matters and their associated development plan conflict weigh substantially against the proposed development.
39. As set out above, the appellant has provided a signed UU that makes provision for: affordable housing; financial contributions for recycling bin provision, street naming, the relief road and public transport; and the management and maintenance of open spaces. Given that I am dismissing the appeal, I have not considered whether these obligations are compliant with CIL Regulations 122 and 123. However, for the purposes of the planning balance, I have considered that they do meet the tests set out in the CIL Regulations 122 and 123.
40. The scheme would deliver some benefits in terms of open market and affordable housing. However, the Council has set out that it can demonstrate a five year housing land supply and this has not been contested by the appellant. Furthermore, I have not been made aware of any acute need for affordable housing. Subsequently, I consider these benefits carry limited to moderate weight.
41. The appeal scheme would make a financial contribution towards the delivery of the relief road. Whilst this would help to ensure its delivery through helping to address the funding shortfall, there is no evidence to suggest that the delivery of the overall relief road is critically reliant on the financial contribution from the appeal scheme or that it would not be delivered without the financial contribution. I therefore, afford moderate weight to this benefit.
42. I consider that the provisions in the UU are necessary to off-set the impacts of the proposed development and therefore attract neutral weight.
43. Given all of this, I do not consider that the benefits of the scheme outweigh the identified harm and subsequent development plan conflict. I conclude that the scheme would conflict with the development plan, when considered as a whole. There are consequently no material considerations that warrant a decision other than in accordance with the development plan.

Conclusion

44. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal be dismissed.

J Somers

INSPECTOR