



Appeal Decision

Inquiry held on 25-28 March 2014

Site visit made on 27 March 2014

by **David Nicholson RIBA IHBC**

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

Decision date: 27 May 2014

Appeal Ref: **APP/C3105/A/13/2208385** **Land off Fringford Road, Caversfield OX27**

- 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. Reuben Bellamy, Cala Homes against the decision of Cherwell District Council (the Council).
 - The application Ref 13/01056/OUT, dated 9 July 2013, was refused by notice dated 4 October 2013.
 - The development proposed is outline planning application for up to 200 residential units, access, amenity space and associated works including new village shop/hall.
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Decision

1. **The appeal is dismissed.**

Procedural Matters

2. The application was originally made in outline form with scale and landscaping reserved but with approval sought for access, appearance and layout. It was confirmed at the Inquiry that this was altered during the application process so that approval was only sought for access.
3. Revised drawings were submitted as listed in the Statement of Common Ground (SoCG). The Council confirmed that it was satisfied that no one would be prejudiced by my consideration of the revised drawings and no other party objected to their being considered. I have therefore reached my Decision on the basis of the revised drawings.
4. A Unilateral Undertaking¹ submitted under section 106 of the Town and Country Planning Act 1990 (s106) would fund contributions towards: adult learning and day care; a new pedestrian crossing to the bus stop on Buckingham Road²; fire and rescue; household waste and recycling; hedgerow maintenance; the provision and maintenance of local and locally equipped areas of play; library improvements; museum resources; primary, secondary and special needs education; rights of way; strategic public transport; refuse bins; sustainable urban drainage maintenance; traffic regulation orders; travel plan monitoring; and administration and monitoring fees. It would also require the village hall land to be offered to Caversfield Parish Council, together with a contribution towards its approvals, construction and maintenance; provide on site affordable housing; and require of site works in connection with the new site access, a shared pedestrian/cycleway along the eastern side of Fringford

¹ Document 31

² Shown on drawing no. 1301-30-/SCG/7

Road, visibility splays at its junction immediately south of the site, speed limit restrictions, street lighting and tactile paving, and associated works.

5. The Council confirmed that previous objections with regard to these matters were withdrawn. I have dismissed this appeal so there is no requirement under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 to consider these matters further and, other than with regard to assessing the sustainability of the proposals, I have not done so.

Main Issues

6. Having regard to all the evidence, and all the representations made, I find that the main issues are the effects of the proposals on:
 - (a) the character and appearance of the area with particular regard to the built up limits of Bicester and Caversfield, the proposed green buffer gap between the planned expansion of Bicester and Caversfield, and housing land supply (HLS);
 - (b) the surrounding landscape;
 - (c) the setting of the RAF Bicester conservation area;
 - (d) the setting of adjacent listed buildings/heritage assets;
 - (e) the quality of design.

In addition, I have considered whether or not the scheme would amount to sustainable development.

Planning policy background

7. The most up to date of the relevant policies in the development plan for the area are those 'saved' from the 1996 Cherwell Local Plan (LP). A non-statutory local plan was not adopted and the most recent emerging plan has not yet been subject to examination. Prior to the Inquiry opening, and with regard to the National Planning Policy Framework (the *Framework*), the Council acknowledged that it cannot demonstrate a 5 year housing land supply (HLS).

Reasons

Character and appearance

8. Fringford Road runs out of Bicester and into open countryside in the parish of Caversfield. The village itself is divided between a very old settlement, comprising Caversfield House, Church and Home Farmhouse; and much more recent 20th Century housing to the east of Fringford Road. The latter includes former accommodation associated with what was RAF Bicester further to the east. The appeal site is a short distance outside the northern limits of Bicester and separates the two parts of Caversfield. There was no agreement between the parties as to whether the site should be considered as on the edge of Bicester or as part of Caversfield. It is a roughly rectangular area of fairly level land which extends to around 7.1 hectares of mainly grassland around a house and equestrian buildings. Extensive new residential development has been permitted to the northwest of Bicester.
9. A concept masterplan in the Design and Access Statement (DAS) provides a layout for illustrative purposes only. The proposed housing would be outside the built up limits of Bicester and Caversfield in an area defined by the LP as

open countryside. Depending on whether the site is considered as within Caversfield (a Category-3 settlement in the LP) or in the open countryside, the scheme would be contrary to Policy H15 or H18 which only permit new dwellings in these villages, or in the open countryside, in circumstances which do not apply here. The emerging local plan identifies a green buffer between Bicester and Caversfield. However, as the emerging local plan has not yet been subject to examination, I give limited weight to any conflict with it.

10. Both the above LP policies serve to restrain housing development. As the Council does not have a 5 year HLS, policy in paragraph 49 of the *Framework* comes into play which requires housing applications to be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. I therefore conclude on this point, and for the purposes of this appeal, that policies H15 and H18 are not up to date and should be given no weight insofar as they restrict housing development³.
11. In the circumstances of the relevant policies being out of date, permission should be granted unless *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*⁴. I therefore find that there would be no conflict with up-to-date housing policies and have therefore assessed the scheme against all other relevant matters before reaching my overall conclusion.

Landscape character

12. The DAS notes that the site has *two character areas which are applicable to the site, the "Oxfordshire Estate Farmlands" lends itself more to the site and its context to the north, with that of "Otmoor Lowlands" being more applicable to the south*. To the north west of the site stand Caversfield House and Church, both of which are separated by a copse of mature woodland within the grounds of the house. The boundaries to the south east and south west are generally defined by mature hedgerows along Fringford Road and a narrow road with no official name but known informally as Aunt Em's Lane. The southern corner adjoins four houses near the junction of these roads. There is an open field between the appeal site and the limit of Bicester along the A4095 (also known as the Bicester ring road) and open fields to north east, one of which is crossed by a public footpath.
13. Most of Fringford Road, near the appeal site, is bounded by hedges and grass verges. However, from new Caversfield to the edge of Bicester there is a footway along the eastern side of the road. Nevertheless, the overall character is of a road running through countryside and, even where they do exist, the houses to the east are generally set back from the road with access from side roads so that they only impinge slightly on the otherwise rural character of the road. There is a public footpath running east-west to the north of the site but there is no public access between the two.
14. As well as housing, and some internal open space and landscaping, the scheme would include new highway works to provide safe access onto Fringford Road

³ See *Framework* paragraphs 215 and 49

⁴ *Ibid* paragraph 14

and improved pedestrian and cycle connections with Bicester. Although subject to conditions, the new footway and lighting would be likely to urbanise this section of Fringford Road.

15. I saw on my site visit that the houses in Bicester can be clearly seen and it is reasonable to assume that the reverse would be true. Although boundary landscaping could mitigate this to some extent, I find that significant harm would be caused to the landscape character of the area as a result of the proposed houses. The proposed pedestrian and cycle improvements would result in a much more urban character to the road and this would also diminish the rural quality of the landscape.
16. On the other hand, the landscape to which the site belongs is not rare or of exceptional quality and the site itself has no particular landscape designation other than as estates land in connection with Caversfield House. The Council was not able to show that the site was of greater landscape importance, or would be significantly more affected, than other sites around Bicester, a town which is likely to be part of the focus of new housing development in Cherwell district.
17. On this issue, I conclude that the proposals would harm the landscape character of the area. They would therefore be contrary to LP Policy C7 which does not normally permit development which would cause demonstrable harm to the topography and character of the landscape. With regard to Policy C8, which seeks to prevent sporadic development in the open countryside, as above, this policy also serves to restrict housing development and so, to this extent, is not up-to-date and should be given no weight in this Decision.

Conservation area

18. The RAF Bicester conservation area extends east from Fringford Road and takes in former ancillary buildings as well as the main airfield. It was designated in October 2008 following a very detailed conservation area appraisal. This identifies the site as *better than any other military airbase in Britain*, preserving aspects of a bomber station from both World Wars. It retains important structures and features. The buildings adjoining Fringford Road and Skimmingdish Lane are referred to as the domestic site. Of these, most are also listed but stand away from the Fringford Road. In my assessment, the significance of the conservation area as a whole mostly stems from the surviving layout and structures although its character also reflects the fact that it needed to be isolated from other development.
19. Despite its length, the conservation area appraisal makes little reference to land outside the area boundary and even then it is in connection with the opposite end of the airfield. The appraisal notes⁵ that the siting of any development outside the conservation area but visible from it should respect the open visual relationships with the adjacent countryside, the setting of the conservation area.
20. The appeal scheme would be built across the road from the domestic site. Subject to conditions, the existing hedgerow on the site could be enhanced to screen it, although highway works around the entrance would be readily visible. While the housing development would blur the definition of the western

⁵ Paragraph 10.1 clause 8, p38

edge of the conservation area, the nearest houses here are set back from the road and screening could ensure that this isolated character would be largely preserved. I agree with the assessment in the appraisal and, given this, find that the proposed development would make little or no impact on the features of the conservation area which contribute to its significance or to its character and appearance, which would therefore be preserved. On this issue, the scheme would not conflict with development plan policies, the *Framework* or the statutory test that the character or appearance of the conservation area should be preserved or enhanced. It would comply with relevant emerging LP policies which echo those in the *Framework*.

Listed buildings

21. Caversfield church probably dates back to the Saxon period with important developments in subsequent centuries. Most recently, its graveyard has been used for airmen who died in WWII. It is listed at Grade II*. Across the road, Home Farmhouse dates from the early 17th century. I was not invited to inspect this building, but note from its listing and from views across the road that it is of a high quality, probably built of local materials, and may still have some of its historic agricultural buildings. I was told that the historic Caversfield House burnt down. However, its range of outbuildings, walled garden and overall layout demonstrate its evolution over time as part of a landed estate with its own church and farmlands.
22. Much of the church's significance lies in the rare survival of early fabric, later alterations and, to a lesser extent, its more recent war graves. The farmhouse is probably notable for its age and quality. While Caversfield House is not listed, in my assessment the layout and extent of survival of historic structures within its grounds represent a significant heritage asset. As confirmed in evidence⁶, an aspect of the significance of the church, farmhouse, outbuildings and garden to the house, is derived from their interaction as a group. The church was probably built for, or by, the landowner strengthening the tie between these buildings. Although now separated by the B4100, I find that the historical association of this grouping, that is the relationship between the house, church and farmhouse, together with the surviving layout and buildings to the house, to amount to a heritage asset of some significance. Evidence at the Inquiry⁷ added the fact that Caversfield House was used as military accommodation during WWII, tying it even more closely to the church.
23. On account of the position of the group of buildings, within estate farmland which was part and parcel of their function, the farmland appearance of much of the appeal site, and the similar role of the area closest to the house in particular, makes a substantial contribution to their combined significance as a heritage asset. The setting of listed buildings is more than just views of, or from, an asset but can include our understanding of the historic relationship between places. Setting is defined in the Glossary to the *Framework* as including the surroundings in which an asset is experienced and may therefore be more extensive than its curtilage.
24. Contrary to the appellant's evidence, I find that the setting to this important group is more than a low contribution but is of particular significance. Even though screened by trees, beyond any immediate grounds or parkland, and

⁶ By Mr Brown, as he must

⁷ Mrs Kleinman

noting that the house is not listed, the combined setting is also of special interest to the group of buildings as a whole, two of which are listed, one at Grade II*. Although the DAS identifies a long list of constraints, the listed buildings are conspicuous by their absence and I find that this is a fundamental omission by both the main parties.

25. From the density and illustrative layout, the proposed houses are likely to extend into, and occupy, most of the site close to the boundary to the house. By comparison, I note that the proposed development to the northwest of Bicester includes a buffer around Home Farmhouse, although I heard no evidence on whether or not this was as a result of consideration of Home Farmhouse as a listed building or otherwise. There was no objection to the scheme from English Heritage or other heritage body but also nothing to suggest that they had visited the site.
26. Regardless of tree screening and the separating road, the proposals would result in extensive built development, and so a dramatic change, within lands which have an historical association with the heritage assets and within an important part of their setting. The scheme would therefore harm the significance of the group as a heritage asset. Indeed, the existence of the busy road, which has already created some separation between the group, means that there would also be cumulative harm to the setting.
27. In line with advice in the recently published planning practice guidance (ppg)⁸, I acknowledge that the impact of the scheme would not reach the high test of substantial harm as defined in the *Framework*. Nevertheless, the houses would cause significant harm to the joint setting and so I have weighed this against any public benefits and will therefore consider this in my overall balance. Moreover, as the listed buildings are designated heritage assets, footnote 9 to the *Framework* indicates that the great weight to be given to their conservation means that the presumption⁹ should not apply.
28. The scheme would also conflict with the test in the statute requiring that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The latter is not simply a matter of the usual planning balance, but sets a presumption in favour of preservation which requires greater than normal force for it to be outweighed.

Design

29. The concept masterplan illustrates a scheme with housing of varying density with feature buildings and groupings arranged around public open space and a village shop/hall. Arrows indicate views and links as well as the main vehicular entrance. However, while the detailed layout and design would be left until the reserved matters stage, evidence at the Inquiry¹⁰ suggested that the shop would be unlikely to find a tenant, that the option of a village hall would not be welcomed by the Parish Council, and that only views out to the north would be exploited, as other boundaries would be screened to preserve views from Bicester and from the conservation area. Although disputed, from the balance of evidence¹¹ and my visit, I find that the secondary link to Aunt Em's Lane

⁸ ID 18a-017

⁹ In the first sub-heading to bullet point two to the third section of paragraph 14

¹⁰ From the Parish Council

¹¹ The Highway Authority witness, Judy Kelly, would not be drawn on whether this would amount to a severe risk

would be dangerous to use as a footpath to the church or to northwest Bicester other than as an emergency access. The link across from the entrance to the fields to the north would be no more than an agricultural easement and not for use by the general public¹².

30. Unlike the list of constraints, the DAS identifies few opportunities, most of which concern trees and/or boundary treatment. It does add one further matter: that the design principles were informed by *an opportunity to create a footpath through the site to link Fringford Road with the off-site legal right of way to the north. This will add to permeability and footfall through the site as well as providing a physical link to the surrounding countryside*. However, as above, evidence at the Inquiry showed that it is unlikely that the site could be linked to the right of way to the north and so there would be no permeability to this side. Access is not a reserved matter. Taken with the limitations with regard to the access onto Aunt Em's Lane, and contrary to the claims of the DAS, I find that there would essentially be a single entry and exit point and no routes to allow for permeability or linkages through the site to anywhere else. I accept that a single access might be appropriate for a small development, as with some parts of new Caversfield to the east of Fringford Road. In this case, however, there would effectively be no permeability through a site of some 200 houses and this is a major shortcoming of the scheme.
31. It was the appellant's evidence¹³ that design is a detailed consideration which should be limited to the reserved matters stage. However, in attaching great importance to design, itself a key aspect of sustainable development and indivisible from good planning, chapter 7 of the *Framework* advises that *securing high quality and inclusive design goes beyond aesthetic considerations, and that decisions should address the connections between people and places and the integration of new development*¹⁴.
32. Advice in ppg, in support of the *Framework*, notes that¹⁵: achieving good design is about creating places or spaces that work well; successful integration of new development with their surrounding context is an important design objective, irrespective of whether a site lies on the urban fringe or at the heart of a town centre; proposals should promote safe local routes by making places that connect appropriately with each other and are easy to move through; a place should have an appropriate number of routes to and through it; and that designs should ensure that new and existing buildings relate well to each other, that spaces complement one another.
33. Given the advice in the *Framework*, and the supporting text in the ppg, while I accept that attributes such as the layout within the site and the appearance of individual buildings can be left to a later stage, the access is not reserved. I do not accept that design is necessarily limited to reserved matters but consider that it should embrace wider aspects which, in this case, would be inevitable consequences of permission being granted and could not be subsequently altered. As above, any harm to the landscape and the conservation area could be limited by the proposed screening. On the other hand, the extent of hedgerows and new planting surrounding the site would also tend to isolate the scheme further from both Caversfield and Bicester.

¹² Undisputed evidence of Mrs Kleinman

¹³ Mr Bateman in answer to Inspector's questions

¹⁴ Paragraphs 56 and 61

¹⁵ Ppg refs. ID 26-001, 26-007, 26-008 and 26-024, all dated 20140306

34. The upshot of this is that the proposed housing would not only be at a fair distance from Bicester, including Bure Park and Holm Square on its north side, albeit with a safe footway/cycle route, but also rather cut off from adjoining existing and future settlements. Accessibility would be essentially limited to routes to and from Bicester and safe travel to the new development to its northwest would involve going via the edge of Bicester anyway. Rather than being easy to move through and contribute to the functional character and quality of the area, and regardless of its ease of access to Bicester, it would be an isolated housing estate tenuously linked to the north of the town. Without any meaningful connections, other than the single entry point, there would be no permeability or movement through the site. On this point I find that the proposals would be poorly integrated into the fabric of the built environment of the area. They would be contrary to policy in the *Framework*.
35. For the above reasons, and notwithstanding safe access to Bicester, the scheme would be likely to result in an isolated bubble of housing development, separated from the rest of Caversfield and with no community facilities or services of its own. On this issue, I find that the lack of integration, and the inability to move through the site in particular, would render the scheme a poor design. It would therefore fail to comply with policy in the *Framework* and would not amount to sustainable development, and I give considerable weight to this shortcoming.

Other matters

36. The DAS noted, at the time it was written, that the site was occupied by the South Lodge Riding & Equestrian Centre. The site was granted planning permission on appeal¹⁶ for the erection of a dwelling house and single storey annex for a groom subject to a condition limiting their occupation to persons solely employed at that establishment, or their dependants. The *Framework*¹⁷ promotes community facilities, such as sports venues and places of worship, in order to deliver the social, recreational and cultural facilities and services the community needs.
37. The appellant suggested that the equestrian use had lapsed and that the land and buildings were now only used by the present owners. This evidence was contrary to that from the CPRE, the level of activity during my inspection of the site, and with the DAS. If the site no longer has a business use then that would also be at odds with the reasons that planning permission was granted for the house. To my mind, if the use has altered then it has done so recently, might revert, and the change should be given little weight. It should therefore be considered as a sports venue and its loss would count against the sustainability of the development, contrary to policy in the *Framework*.
38. As originally conceived, the access arrangements were of concern to the highways authority. Although still not satisfying local residents, it is common ground between Oxfordshire County Council and the appellant¹⁸ that the proposed amendments and package of agreed mitigation measures, which could be controlled by conditions and the provisions of the undertaking, would overcome the highways authority's concerns with regard to sustainability, to suitable pedestrian and cycle links, and access to bus services. Nevertheless,

¹⁶ Ref. T/APP/C3105/A/89/121228/P8

¹⁷ Paragraph 70

¹⁸ Document 6

as above, the physical implications of the works on the appearance of Fringford Road would be significant and this does not alter my conclusions with regard to the use of the emergency access.

Benefits

39. The scheme would include housing and 35% affordable housing and this would be a positive benefit to which I give substantial weight. Subject to reserved matters, the scheme could also include a new village hall/shop, enhanced biodiversity and sustainable urban drainage, but the former may well not come to fruition and the latter would be no more than mitigation. As above, the s106 undertaking would secure improved infrastructure, and the Council accepted that this would make the scheme sustainable in terms of accessibility but, under the CIL Regulations and the tests in the *Framework*¹⁹, can do no more than make the development acceptable in planning terms. The Highway Authority also accepted that the improvement offered would reduce the risk to highway safety to an acceptable level, with particular regard to visibility at the proposed access and nearby junctions, but again this is a matter of mitigation.

Overall conclusion

40. Assessing whether or not the proposals would amount to sustainable development requires consideration of the three dimensions to this²⁰. With regard to the economic role, there was no dispute that the construction of new housing would create jobs and support growth.
41. Housing, and affordable housing in particular, would contribute to the social role in the *Framework* and this should be given extra impetus in the light of the Council's lack of a 5 year HLS. However, the probable lack of any new facilities or local services, the loss of an existing sports use and, in particular, the poor design as a result of a large development with a single point of access, would clearly outweigh these benefits and count heavily against the scheme.
42. Finally, the harm to the landscape and the setting of the listed buildings, with extra weighting to the latter from the statutory need to have special regard, would count against the proposals. Looked at jointly and simultaneously, I conclude that the scheme would not amount to sustainable development. Taken in the round and when assessed against the policies in the *Framework* as a whole, and even before considering the exemption for policy on designated heritage assets, I find that the adverse impacts of granting planning permission for the scheme would significantly and demonstrably outweigh the benefits.
43. For the reasons given above, and having regard to all other matters raised, including the question of land ownership along the eastern side of Fringford Road and to flooding, I conclude that the appeal should be dismissed.

David Nicholson

INSPECTOR

¹⁹ Paragraph 204

²⁰ *Framework* paragraph 7

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Gwion Lewis of Counsel	instructed by Nigel Bell of the Council
He called	
David Huskisson DipLA CMLI	David Huskisson Associates
Rebecca Horley BSc MRTPI	Cherwell District Council

FOR THE APPELLANT:

Satnam Choong of Counsel	instructed by Pegasus Group
He called	
Michael Fuller BSc IEng MCIHT	Transport Planning Associates
MSoRSA	
Kevin Charsely BA DipLA CMLI	Aspect Landscape Planning Ltd.
Andrew Brown BA BArch MSc	Woodhall Planning and Conservation
MRTPI IHBC	
Anthony Bateman BA MRICS	Pegasus Group
MRTPI MCMi MIOd FRSA	

INTERESTED PERSONS:

John Nevill	Caversfield Residents' Action Group
Dr Adrian Ager	Caversfield Residents' Action Group
Judy Kleinman	Caversfield House
Rowland Whitford	Local resident
Roger Shipway	Local resident
June Nisbet OBE	Vice Chair, Caversfield Parish Council
John Broad	CPRE
Maureen Kelly Miller	Local resident
Judy Kelly MEng	Oxfordshire County Council

DOCUMENTS

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