The Planning Inspectorate

Appeal Decision

Site visit made on 17 January 2017

by JP Roberts **BSc(Hons), LLB(Hons), MRTPI**

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

Decision date: 7 March 2017

Appeal Ref: APP/C1760/W/16/3158067
Ash House, Orange Lane, Over Wallop, Hampshire SO20 8HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Mark Glover against the decision of Test Valley Borough Council.
- The application Ref 15/02733/FULLN, dated 6 November 2015, was refused by notice dated 9 March 2016.
- The development proposed is for the erection of two dwellings – Cottages A and B; two garage/log store buildings; access from Orange Lane/bridleway; three passing places in Orange Lane and Klargester sewage plant.

Decision

1. The appeal is allowed and planning permission is granted for the erection of two dwellings – Cottages A and B; two garage/log store buildings; access from Orange Lane/bridleway; three passing places in Orange Lane and Klargester sewage plant at Ash House, Orange Lane, Over Wallop, Hampshire SO20 8HT in accordance with the terms of the application, Ref 15/02733/FULLN, dated 6 November 2015, subject to the conditions set out in the Annex to this decision.

Main Issue

2. The main issues are:

   i) the effect of the proposal on the character and appearance of the surrounding area, including the setting of the Over Wallop Conservation Area, and

   ii) whether the contributions towards children's play space and affordable housing are required to make the development acceptable in planning terms.

Reasons

Character and appearance

3. The appeal site lies to the north and east of the Over Wallop Conservation Area boundary, and within the defined village development boundary(VDB) in the Test Valley Revised Local Plan (RLP) 2011-2029. It forms part of the approved curtilage of Ash House which lies to the south of the appeal site, and is nearing completion.

4. The site was until recently occupied by substantial farm buildings. However, it does not meet the definition of previously developed land in the National

Planning Policy Framework (the Framework) which excludes land that is or has been occupied by agricultural or forestry buildings. That in itself does not preclude development. RLP Policy COM2 provides that new development within VDBs will be permitted subject to meeting other policies in the plan.

5. The dwelling at Ash House was approved on the western part of the site, with a condition that the northern and eastern parts of the large curtilage should be landscaped. Whilst the landscaping would help to provide a buffer between the house and the open countryside, it would still have a semi-domestic appearance, and would be readily distinguishable from the open countryside on the northern side of the bridleway. The proposal would change the appearance of the site, but this is not axiomatic of planning harm. Houses are found along the length of Orange Lane, both along the stretch leading from Wallop Road and the part where it turns to the north-west leading off the junction with the bridleway which fronts the site. The proposal would accord with this general pattern.

6. The site is not one which is widely or clearly visible and the proposed houses would not block important views into or out of the village. Although the houses would be seen on the ridge when viewed from the south, they would have a lesser impact than does Ash House, which the Council deemed to be acceptable. They would also be less intrusive than would the large barns which until recently stood on the site.

7. The Council alleges that the proposal would cause harm to the significance of heritage assets, including a number of listed buildings. However, this assertion is not supported by clear evidence, and in respect of listed buildings, the Council has not identified which ones would be harmed or how. The nearest listed building is Vine Cottage, on the western side of Orange Lane. The proposal would have no effect on the building itself; although the site lies within its setting, that setting also encompasses other dwellings along the lane, as well as Ash House. The proposal would have a similar relationship. The roadside hedge which contributes to the rural character of the lane is of importance to the setting, and is to remain. I therefore find that the proposal would have no material impact on the setting.

8. There are a number of other listed buildings nearby, but further away than Vine Cottage, and this distance and intervening development and planting would mean that the proposal would have little impact on their setting. The most important listed building locally is St Peter's Church, to the south-west of the site, set well back from Wallop Road. Views of the tower from within or from the north of the appeal site are scant, being both distant and heavily filtered by trees in the copse to the south and within the churchyard, even when they are not in leaf. Views from the church towards the site are similarly affected by trees. I therefore consider that the proposal would have no material effect on the setting of the church.

9. In terms of the wider conservation area, the Council's character appraisal describes the sub-area containing the west side of Orange Lane as having an enclosed urban character to the street scene, with little opportunity for views over the surrounding countryside, apart from the northern boundary of Orange Lane. Although outside of the conservation area, the proposal would broadly accord with this characterisation. Houses in spacious grounds, like Ash House, are not typical of the area, and the closer spacing of the proposed houses

together with Ash House would be more in keeping with the general pattern of development.

10. The Council also criticises the central drive serving the three houses, likening it to an urban estate. However, the plots are relatively spacious; in my view, a sensitive and well-designed landscaping scheme, using tree planting and native hedgerow species could pay sufficient regard to the semi-rural location, and avoid an unduly urban appearance. The houses would be lower than Ash House and I am satisfied that the materials would pay adequate regard to their context.

11. Whilst the proposal indicates that the access along the bridleway would be surfaced in tarmac, the appellant indicates that a more appropriate surfacing could be used which could be achieved by the imposition of a condition. No alternative is suggested, but I agree that tarmac would be unsympathetic and that a more appropriate material could be devised which could be the subject of subsequent agreement. I shall include such a requirement in a landscaping condition.

12. The site was specifically included within the VDB following an objection to the RLP which excluded it. The Council agreed to its inclusion on the basis that it formed the curtilage of an existing dwelling, and the examining Inspector concluded that the Council's judgements were reasonable and that the boundaries were sound. Whilst devising a development plan boundary cannot be the subject of the same rigour that would be required when assessing a specific planning application, in considering whether or not to acquiesce to the objection, it was clear that no insuperable landscape or conservation objections were foreseen at that stage, and this adds weight to my conclusion on this issue.

13. I therefore conclude on this issue that the proposal would not result in material harm to the character and appearance of the surrounding area, and would preserve the setting of the conservation area and nearby listed buildings. It would not conflict with RLP Policies E1, E2 or E9, which respectively deal with high quality development, landscape and heritage matters.

Contributions

14. The Council seeks a contribution of £2370.05 for local play equipment. The officer report refers to a Public Open Space audit as having identified deficiencies in the ward, but the report does not say exactly what those deficiencies are, and whether they relate to the provision of play equipment. I consider that the evidential basis for seeking contributions is insufficiently robust to show that the requested payment is necessary to allow the development to proceed. It therefore fails the test of necessity set out in paragraph 204 of the Framework.

15. Policy COM7 of the RLP requires a contribution equivalent to 10% of the dwellings to be made towards affordable housing. However, since the adoption of the RLP, the Court of Appeal[1] quashed a challenge to the Government's Written Ministerial Statement (WMS) of 28 November 2014 which set out the Government's intention that contributions should not be sought for sites of 10 units or fewer, and which have a maximum combined gross floor space of

[1] Ref: *Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council* [2016] EWCA Civ 441

1,000 square metres. The Planning Practice Guidance has since been revised to reflect the approach taken in the WMS.

16. Determinations must be made in accordance with the development plan unless other material considerations indicate otherwise. The Government's WMS and the Planning Practice Guidance are considerations of significant weight. Whilst the recently adopted development plan policy highlights the importance of providing affordable housing to meet local needs in an area of high house prices, it is the Government's clear intention that the need to encourage new house building should outweigh the contribution that small sites make towards providing affordable housing.

17. Whilst local circumstances may justify no thresholds as an exception to the national policy, the Council has not put forward any evidence to show that compelling circumstances exist in this case. I therefore find that WMS and the PPG advice is a factor which justifies my not determining this issue in accordance with the RLP policy.

18. I therefore conclude on the second main issue that the proposal need not make contributions to play equipment or affordable housing and although it would conflict with Policy COM7, the material considerations referred to above justify my not determining this issue in accordance with it.

Other matters

19. I have had regard to concerns about overlooking, and harm to the outlook of occupiers of Harvest Barn to the south of the site. However, even accounting for the difference in levels, I am satisfied that there would be sufficient distance between the nearest of the two proposed dwellings and the end elevation of Harvest Barn to ensure that there would not be an unacceptable extent of overlooking. In terms of outlook, whilst the difference in levels would result in the buildings standing out on the skyline from certain viewpoints, the dwelling at Ash House would be taller and closer and would have a more marked impact on outlook, as would the dairy building which previously existed on the site. I consider that the impact on outlook would not give rise to material planning harm.

20. The proposal would result in cars using the bridleway; however, the likely number of movements would be relatively small and would be likely to be fewer than would have been the case when the farm was in use. Vehicles also use the bridleway in connection with adjoining fields, so that users of the bridleway would be alert to the presence of vehicles using it. The Highway Authority had no objections to the proposal and I see no reason to take a different view.

21. I have also taken into account concerns about sewage pollution, but this is a matter which falls to be dealt with under the Building Regulations.

Conditions

22. The Council has suggested a number of conditions which I have assessed in the light of national guidance. Conditions relating to landscaping and levels are required in the interests of appearance. A condition regarding warning signage for users of the bridleway is justified in the interests of highway safety, and a requirement that parking and turning be provided prior to occupation is needed

for the same reason. A condition to require the development to be carried out in accordance with the approved plans is needed to ensure certainty.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

ANNEX

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Layout- Plan Ref no. SHEET 2 - 15/12/15
Site Location Plan- Plan Ref no. PL/001/01- Version A- 03112115
Site Layout - Plan Ref no. PL/01 - Version A - 03/12/15
Site Location Plan - 05/11/15
Site Location Plan - 13/11/15
Sections- Plan Ref no. PL/17 -13/11/15
Site Location Plan- Plan Ref no. PL/01 - 05/11/15
Proposed Elevations- Plan Ref no. PL/02 - 05111/15
Proposed Site Plan- Plan Ref no. PL/03 - 05/11/15
Site Layout- Plan Ref no. PL/04 - 05/11/15
Composite Plan- Proposed- Plan Ref no. PL/05 - 05111115
Composite Plan- Proposed- Plan Ref no. PL/06 - 05/11/15
Composite Plan- Proposed - Plan Ref no. PL/07 - 05/11/15
Proposed Elevations - Plan Ref no. PL/08 - 05/11/15
Proposed Elevations- Plan Ref no. PL/08 - 05/11/15
Proposed Elevations - Plan Ref no. PL/09 - 05/11115
Composite Plan- Proposed- Plan Ref no. PL/1 0 - 05/11/15
Sections - Plan Ref no. PL/11 - 05/11/15
Site Layout - Plan Ref no. PL/12 - 05/11/15
Proposed Site Plan -Plan Ref no. PL/13 - 05/11/15
Proposed Site Plan - Plan Ref no. PL/14 - 05/11/15
Street Scene- Plan Ref no. PU16 - 05/11/15

3) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours, means of enclosure and hard surfacing materials including those to be used in the proposed driveway and the surfacing of the bridleway. Soft landscape works shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.

4) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the implementation programme agreed with the local planning authority. No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

5) No development shall take place until details of the existing and proposed land levels have been submitted to and approved in writing by the local planning authority. These details shall include an existing topographical

land survey including comprehensive spot levels across the site, proposed finished floor levels of the proposed dwelling and proposed grading and mounding of land areas including the levels and contours to be formed showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall be carried out in accordance with the approved details.

6) No works on the site shall take place until a scheme of suitable signage warning contractors and delivery drivers of the presence of walkers, horse-riders or cyclists on the bridleway and of the requirement to give way has been implemented in accordance with a scheme that has been previously submitted to and approved in writing by the local planning authority.

7) Neither of the proposed dwellings shall be occupied until space has been laid out for the parking and manoeuvring of vehicles to enable them to enter and leave the site in forward gear in accordance with the approved plans and this space shall thereafter be reserved for such purposes at all times.