



Appeal Decision

Site Visit made on 21 June 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2021

Appeal Ref: APP/P0430/W/21/3269545

Park Hill Farm, Bletchley Road, Little Horwood, MK17 0NT

- 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 Churchill Waste Management Ltd against the decision of Buckinghamshire Council - Minerals and Waste (County wide).
 - The application Ref CM/0033/20, dated 16 June 2020, was refused by notice dated 23 October 2020.
 - The development proposed is Recontouring of Agricultural Land using Inert Clays and Soils.
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Decision

1. The appeal is allowed, and planning permission is granted for the Recontouring of Agricultural Land using Inert Clays and Soils at Park Hill Farm, Bletchley Road, Little Horwood MK17 0NT, in accordance with the details in application Ref: CM/0033/20, dated 16 June 2020 and subject to the conditions in the attached schedule.

Preliminary Matter

2. Following the submission of the appeal, a revised National Planning Policy Framework (the Framework) was published. The views of the main parties were sought following this, and any representations received have been factored into my assessment of the appeal.

Main Issues

3. The main issues are:
 - i) the suitability of the appeal site for the development proposed, having regard to the waste management requirements of local policy; and
 - ii) the effect of the proposal on the character and appearance of the area.

Reasons

Suitability

4. The Buckinghamshire Minerals and Waste Local Plan (2019) (MWLP) establishes the spatial strategy for waste management in the County. Although no specific capacity needs are established through the MWLP, the policies are consistent in their requirements regarding inert waste. This being that the deposit of inert waste should be focused at mineral extraction sites with extant planning permissions to facilitate restoration.

5. The appeal site does not meet this requirement. Instead, it represents an open field with a sloping topography which the appellant seeks to regrade. This would bring certain benefits for the appellant, which will be discussed further below, however, when judged explicitly against the requirements of the MWLP, based on the evidence before me, the site does not meet the requirements of the development plan. Moreover, evidence has been presented by the Council that other sites in relatively close proximity to the appeal site are actively receiving inert waste as part of an extant permission. The volume of waste referred to in this proposal is a fraction of that required at the Calvert Landfill site, and therefore, the effect of the proposal on the completion of the extant consent would be limited. However, sequentially, the Calvert site is preferable and accords with the requirements of local policy.
6. As a consequence, having regard to the waste management requirements of local policy, I conclude that the appeal site would not be suitable for the development proposed. Accordingly, it would fail to comply with Policies 11, 12, 13, and 14 of the MWLP, and emerging Policy S1 of the Draft Vale of Aylesbury Local Plan (2013 – 2033) (DVALP), which taken together, promote sustainable development and establish the spatial strategy and development principles for waste management.

Character and Appearance

7. The appeal site represents a large parcel of land that is located within the Whaddon-Nash Local Landscape Area (LLA). Accordingly, the site represents a valued landscape for the purposes of the Framework. The topography of the land is such that it slopes significantly in a concave manner, to create a central bowl-like form, and it is currently used for grazing. The site forms part of a rolling landscape, and due to its form, current use, and the presence of mature landscaping around its perimeter, it is entirely consistent with the landscape character of the LLA.
8. The proposal has been supplemented by detailed landscape evidence which seeks to consider the effect on the local landscape through four sub-sections. Due to the nature of the work, the appellant concedes that in the short-term, the proposal would cause a moderate adverse effect to landform, vegetation, land use, and landscape character. This cannot be disputed as the works would result in significant disturbance to the appeal site. However, this would only be temporary, with the project likely to be completed within 18 – 24 months, and accordingly, I find that the temporary harm that would be caused does not weigh against the proposal.
9. In response to the appellant's evidence, the Council suggest that the effects on landform have been underplayed, and the effect on land use and the vegetation benefits have been overplayed. Based on the evidence before me, I agree with the Council's assessment regarding land use and vegetation. Although the appeal site is large, in the context of the larger LLA, it is a small component. Therefore, although the proposed orchard might not be a typical landscape characteristic, due to the size of the site and the broader context of the LLA in which it sits, in my judgement, the proposed vegetation would become an incidental feature within the more established landscape. Accordingly, I do not consider that it would have a major/moderate beneficial effect on the surrounding environment, or the appeal site. For the same reasons, the land use would not be more appropriate than the existing use for

grazing. On this basis therefore, regarding land use and vegetation, I find that the proposal would have a neutral effect on the LLA.

10. Regarding landform, the proposal would materially alter the shape and topography of the site. However, the field would still be experienced as part of the broader rolling landscape. Although the contours would be different, in my judgement, this would be neither beneficial nor harmful to the landscape character of the LLA. In this respect, I agree with the Council's view that the completed landform would likely have a neutral effect on the area.
11. Consequently, for the reasons identified above, although the proposal would cause some temporary harm to the local landscape, overall, it would have a neutral effect. I therefore conclude that the proposal would not harm the character and appearance of the area. Accordingly, it would comply with Policy RA.8 of the Aylesbury Vale District Local Plan (2004), Policies 20 and 25 of the MWLP, and emerging Policies NE5 and S1 of the DVALP. Taken together, these seek amongst other things, sustainable development which protects valued landscape and delivers high quality restoration of land.

Planning Balance

12. Due to the topography of the site, the evidence before me suggests that it can only be used for extensive grazing by livestock due to the hazards for agricultural machinery. Accordingly, in its current form, the field is somewhat peripheral in the financial performance of the farming operations. The evidence also states that due to the phasing out of farming subsidies, which will cease by 2027, the farm will lose approximately £17,000 per annum. This forms a substantial part of the farming turnover and as a consequence, the appellant seeks alternative funding streams from their land.
13. The financial standing of the operation is therefore a fundamental driver for the development proposed, and the orchard that would be planted following the regrading work would help to compensate for the loss of the existing subsidies. This is an important consideration in my assessment of the appeal.
14. Paragraph 81 of the Framework states that significant weight should be placed on the need to support economic growth and productivity. In addition, Paragraph 84 states that policies and decisions should enable the development and diversification of agricultural and other land-based rural businesses.
15. The Council state that permission is not required for an orchard or for diversification. However, it is the levels of the site that are preventing this from occurring. Accordingly, the proposed regrading work is a necessary component to enable the farm to accrue the financial benefits which, based on the evidence before me, are necessary. In this respect therefore, they cannot simply be disregarded. Without the regrading, in my judgement, the field would continue to be used for extensive grazing and therefore the future of the farming activities could be put in jeopardy.
16. The proposal would conflict with the waste management strategy within the MWLP. However, due to the scale of the proposal, this conflict would not be significant, and would not put at risk other sites from being completed. Consequently, I only give moderate weight to the conflict with the MWLP. However, having regard to the economic benefits that the proposal would generate, and in light of the requirements of the Framework, I find that this

matter is fundamental in my assessment of the appeal, and as a consequence, it is a matter to which I give significant weight.

17. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. On the basis of the evidence before me, I find the other material considerations in this case compelling. Accordingly, for the reasons identified above, I am satisfied that they indicate a decision contrary to the development plan.

Conditions

18. In light of my findings set out above, conditions 1 and 2 are necessary to establish the time limit for the commencement of development, and to set out the approved drawing numbers. Conditions 3, 4, and 5 are necessary in the interests of highway safety, and conditions 6, 7, 8, and 9 are necessary to control the nature of the development allowed. Conditions 10 and 11 are necessary to ensure the proper and sustained restoration of the land, and condition 12 is necessary to protect the visual amenity of the surrounding area.
19. Conditions 13 and 14 are necessary to ensure suitable tree protection as well as a suitable landscaping scheme, and condition 15 is necessary in the interests of conserving biodiversity. Conditions 16 – 20 are necessary in the interests of highway safety, and finally, conditions 21 – 31 are necessary to comply with the specific policy requirements of the MWLP.
20. Where conditions require details to be provided prior to the commencement of development, the appellant has confirmed their agreement in writing.

Conclusion

21. Despite the conflict with the MWLP, for the reasons identified above, the appeal is allowed.

Martin Chandler

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development shall commence no later than three years from the date of this consent. No later than seven days before the date of commencement, written notification shall be provided to the Local Planning Authority.
- 2) Unless agreed otherwise in writing by the Local Planning Authority, the development hereby permitted shall not be carried out other than in complete accordance with the following details submitted with the application other than as amended by the conditions of this permission:
CHURPHF-1-5-001A Site Location Plan dated 12th June 2020;
CHURPHF-1-1-001 Existing Site Plan dated 21st May 2020;
CHURPHF-1-1-003D Proposed Site Plan; CHURPHF-1-1-004 Proposed Orchard Plan dated 3rd June 2020; CHURPHF-1-4-001 Existing and Proposed Site Sections dated 26th May 2020.
- 3) The total HGV movements in and out of the site shall not exceed 50 per day (25 in, 25 out) throughout the duration of the development.
- 4) No laden heavy goods vehicles shall access or egress the site without being securely sheeted.
- 5) For the duration of the development, the operator shall keep a record of the tonnage of material being imported to the site and the number of daily vehicle movements. The records kept pursuant to this condition shall be made available to the Local Planning Authority no later than one week after any request to view them has been made.
- 6) No processing or screening of material shall be carried out on site under this planning permission.
- 7) No operations authorised by this planning permission shall be carried out other than between 07:30 to 17:00 Monday to Friday. No operations shall occur on Saturdays, Sundays, Bank or Public Holidays.
- 8) No more than 37,900m³ of inert clay and soil shall be imported to and deposited on the site to complete the development. Only inert clays and soils shall be imported to complete the development.
- 9) Final restoration shall be completed, and all plant, machinery and equipment, other than that required for the maintenance of the approved afteruse shall be removed from the land no later than 24 months from the date of commencement.
- 10) Prior to commencement, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall:
 - a) Detail how certain activities will be limited in time, location or noise level to minimise the risk of disturbance;
 - b) Detail how it will be ensured that no materials, machinery or work should encroach into root protection areas;
 - c) Detail dust suppression methods to be carried out for the duration of works;

- d) Include a fully detailed scheme for handling soils informed by the details set out within in the Planning Statement;
- e) Set out how sampling of topsoil and subsoil for final restoration will be carried out to confirm suitability;
- f) Detail blending arrangements for existing and imported topsoil;
- g) Detail phasing and landfilling methods to create a stable landform;
- h) Detail programme for subsoil and topsoil placement (including depths);
- i) Detail land drainage and interception of springs;
- j) Detail remedial works and monitoring post restoration;
- k) Detail seed mixes, sowing rates and management of all bunds during the storage period.
Thereafter the development shall be carried out in accordance with the approved CEMP.

- 11) Prior to the commencement of the development, a detailed aftercare plan shall be submitted to and approved in writing by the Local Planning Authority and subsequently adhered to for a duration of 5 years following completion of the restoration. The aftercare plan shall include:
- a) Details for annual aftercare works including the remediation of any low spots, areas of compaction and the removal of large stones (or similar);
 - b) Details for the planting of the proposed orchard including the species, density and number;
 - c) Details for the protection and management of the orchard;
 - d) Details for the management of weeds.
- 12) No other machinery than one 360 excavator and a bulldozer shall be utilised on site throughout the duration of the development. All plant and machinery used at the site shall be properly silenced and maintained in accordance with the manufacturer's specification.
- 13) Prior to commencement a fully detailed landscaping scheme for the site, informed by approved drawing Proposed Site Plan Drawing No: CHURPHF-1-1-003 and the Arboricultural Impact Assessment & Method Statement Ref: OAS 20-164-AR01, shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved scheme thereafter. The scheme shall include:
- a) Detailed planting plans including schedule of plants, noting species, plant sizes and proposed numbers/densities;
 - b) Planting of locally occurring indigenous species of local provenance;
 - c) The establishment of a management and maintenance programme for a minimum of five years for all new landscape works, and during the programme period the replacement of all failed plants (irrespective of cause) in the planting season immediately following failure.
- 14) No works shall commence until the Tree Protection Plan (Drawing number: OAS 20-164- TS01) has been revised in accordance with standing advice from the Forestry Commission and Natural England and submitted to and approved in writing by the Local Planning Authority. The revised plan shall include that buffer zones around veteran trees shall be provided at least 15 times larger than the diameter of the tree trunk and buffer zones shall be provided 5 metres from the edge of the tree's canopy if that area is larger than 15 times the tree trunk's diameter. Should the proposed haul

route encroach the updated buffer zones detailed within the updated Tree Protection Plan, no works shall commence until a revision of Proposed Site Plan Drawing No: CHURPHF-1-1-003D is submitted to and approved in writing by the Local Planning Authority. The plan shall detail a realigned route avoiding the buffer zones or suitable ground protection to be provided for the duration of the development. The approved plan shall be adhered to for the duration of the development.

- 15) No external lighting shall be erected on site.
- 16) Prior to commencement, details of the surface construction and visibility at the haul route crossing of Footpath WHA/9/4 shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved scheme throughout the duration of the development.
- 17) The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.
- 18) No other development shall begin until the existing means of access has been sited and laid out in accordance with the approved drawing and constructed in general accordance with the Buckinghamshire Council guide note "Commercial Vehicular Access Within the Public Highway". For the avoidance of doubt this shall include the concrete barriers to restrict right turn movements.
- 19) Prior to commencement a suitable signage and lining scheme shall be erected in general accordance with the plans set out in the appendices attached to Transport Statement V4 dated October 2019.
- 20) No vehicle shall leave the site unless its wheels are sufficiently clean to prevent mud, debris or any other substance being deposited on the public highway.
- 21) Five working days' notice shall be given of any operation associated with the stripping, regrading or spreading of top or subsoils. Such operations shall not be carried out if the Local Planning Authority notifies the operator that soil conditions are not suitable.
- 22) Topsoil shall be stripped to full depth and shall be stored for subsequent placement in the locations shown on the plans approved pursuant to condition 2 of this consent.
- 23) Indigenous upper subsoils shall be stripped to full depth and shall be stored separately in the location shown on the plans approved pursuant to condition 2 of this consent.
- 24) Both when being moved to storage locations and when being moved to final surface position, topsoil and subsoil shall be transported and not bladed.

- 25) Soil stripping or movement of soil shall not be undertaken other than between 1 May and 30 September inclusive, unless otherwise agreed in writing by the Local Planning Authority. During this period, soil shall not be moved other than when the soil is in a dry and friable condition.
- 26) All stored topsoil, subsoil over or under burden mounds shall be constructed with the minimum of compaction necessary to ensure stability. The storage mounds shall be shaped to avoid the collection of water in surface undulations.
- 27) Except for the purposes of soil stripping or replacement operations, no topsoil or subsoil shall be traversed by heavy vehicles and no storage mounds shall be traversed by heavy vehicles or machinery except where essential for purposes of mound construction or maintenance.
- 28) The topsoil and subsoil material storage mounds once constructed shall not be subsequently disturbed until required for restoration purposes unless otherwise agreed in writing with the Local Planning Authority.
- 29) All storage mounds that remain in situ for more than six months, or over the winter period, shall be grass-seeded. Weed control and other maintenance measures provided for in the landscaping scheme shall be carried out for the duration of restoration material storage.
- 30) No subsoil or topsoil shall be exported from the site.
- 31) The top one metre of fill prior to the replacement of soils shall consist of either overburden or clean fill.