
Appeal Decision

Site visit made on 24 August 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2021

Appeal Ref: APP/H1705/W/21/3272407

Land at Little London Road, Silchester, Hampshire. Easting: 462670, Northing: 161638.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr and Mrs Ken Moss against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 20/01285/PIP, dated 20 May 2020, was refused by notice dated 7 October 2020.
 - The development proposed is residential development of up to nine dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. It is the granting of technical details consent that would have the effect of granting planning permission for the development.
4. The residential development proposed in this case is expressed as a range between a minimum of 5 and maximum of 9 dwellings². A site plan³ has been provided, illustrating how 7 dwellings might be accommodated on the site but given the scope and nature of the application before me, this is an indicative layout and there may be alternative ways of accommodating the proposed development. I have determined the appeal having regard to these procedural matters.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

² Section 3, Application form dated 20 May 2020.

³ Drawing Number P1-02 Rev D, Appendix B, Appellants' Statement of Case

5. The Government published its revised National Planning Policy Framework (the Framework) on 20 July 2021. The parties have had the opportunity to make comments in relation to the revised Framework as part of the appeal process.

Main Issues

6. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development. In so far as is relevant to the principle of the development, this includes the effect of the proposal on the character and appearance of the area, the significance of designated heritage assets and if harm arises, whether this is outweighed by other material considerations.

Reasons

Location, land use and amount of development

7. Policy SS1 of the Basingstoke and Deane Local Plan (2011-2029), May 2016 (LP) sets out the local strategy for housing delivery across the borough. It seeks to direct development to within the defined Settlement Policy Boundaries (SPB) and allocated sites in the development plan. It states that sites outside of the SPBs will be considered to lie in the countryside. Policy SS6 of the LP seeks to restrict new housing in the countryside to specific exceptions. The supporting text explains that it is the intention to maintain the existing open nature of the countryside, prevent the coalescence of settlements and resist the encroachment of development into rural areas.
8. Although the use of SPB's is not required by paragraphs 78-80 of the Framework, the approach in policy SS1 broadly aligns with the general thrust of national policy which states that rural housing should be located where it will enhance or maintain the vitality of rural communities, with policies identifying opportunities for villages to grow. The parties agree that for the purposes of the LP that as the site lies outside of an SPB, it is within the countryside. However, given the proximity of the site to residential development on the other side of the road, both parties accept that the proposed dwellings would not constitute isolated homes within the meaning of paragraph 80 of the Framework, and so need not be avoided on that basis.
9. The exceptions listed in policy SS6 include, subject to further provisions, permitting housing on previously developed land and small scale residential proposals of a scale and type that meet a locally agreed need.
10. The appellants refer to some of the site being previously developed land. The Framework defines previously developed land as including land which is occupied by a permanent structure, including the curtilage of the developed land. My attention is drawn to an appeal decision⁴ where the inspector found a paddock area to be within the curtilage of a stable building, hardstanding and manege and therefore, previously developed land. However, the interpretation of what constitutes the curtilage of a building in any given case requires a judgment for the decision-maker which will normally be a matter of fact and degree. The details upon which the Inspector in that case made his judgement are not before me, which inhibits a direct comparison with the circumstances of the appeal proposal.

⁴ Reference APP/Y0435/W/17/3178790, Appendix H, Appellants' Statement of Case

11. My observations were that there was a small scale equestrian building, various sheds and greenhouse near to the western boundary but the main part of the appeal site was a larger grassed paddock area. As such, whilst I accept that the sheds and stable do have a curtilage, this is contained to the western part of the site. It follows that the majority of the land would not constitute previously developed land. As the proposal would not realistically be accommodated on the small part of the site that is previously developed land, the proposal would not fully accord with policy SS6a.
12. Furthermore, as the range of dwellings proposed is between 5-9 in number, it would exceed the small scale residential proposals envisaged by policy SS6e that meet a locally agreed need, which is defined as four dwellings or fewer. In any event, as the representation from Silchester Parish Council⁵ confirms, a specific locally agreed need with the parish council has not been demonstrated.
13. It is not shown that the proposal would meet any of the other exceptions for housing in the countryside permitted by policy SS6. Therefore, the proposal would conflict with the local strategy for housing delivery across the borough in the LP.
14. This is reinforced by the relatively poor accessibility of the site to local facilities and public transport. Silchester has a public house, village hall, primary school and some recreational facilities but otherwise local facilities are generally limited. This is commensurate with the village not having a SPB in the LP. Accordingly, future residents would generally need to travel further afield to access work, education (other than primary level), shopping, health services and wider leisure opportunities. Whilst a bus service between Basingstoke and Pamber Heath runs close to the site and there is a bus stop adjacent, the information provided suggests that it is infrequent with buses arriving/departing three times a day Monday-Friday⁶. No mention is made of any service at the weekends.
15. Moreover, even if a pedestrian refuge were to be provided, the distance and nature of the unlit road routes with little footway provision to services at Pamber Heath and Tadley would be likely to deter pedestrians from using them routinely. Similarly, only confident cyclists would be likely to be comfortable in these conditions. Taking these factors together, future occupants of the proposed dwellings would have a limited choice as to modes of travel. As such, they would be likely to rely significantly on the private car as their principal means of transport. Therefore, contrary to paragraph 112 of the Framework, the location of the development would not give priority first to pedestrian and cycle movements nor facilitate access to high quality public transport.
16. The northern tip of the appeal site lies within the Silchester Conservation Area (CA) with the remainder of the site adjoining to the south. The CA covers most of the historic eastern section of the settlement and its significance is largely derived from how the buildings and spaces within it have evolved over time from their Roman origins. The CA includes areas of open land, fields and woodland reflecting how the village is closely aligned to the surrounding countryside. The Silchester Conservation Area Appraisal, Supplementary Planning Guidance 2003, refers to the surrounding landscape as part of the setting of the CA and notes that in contrast to the predominantly woodland and

⁵ Dated 5.6.20

⁶ Paragraph 6.16 Appellants' Statement of Case

suburban setting to the north and west, to the south and east is an area of more open countryside. An important general view of the wider landscape setting from within the CA is noted near to the north of the appeal site on the Silchester Townscape Appraisal map, March 2000.

17. The appeal site falls within the North Sherborne Landscape Character Area⁷. I observed the characteristics of this area to include a gently undulating landform with a pattern of predominantly arable farmland, improved grassland, and hedgerows.
18. There is a palpable difference in character either side of the section of Little London Road nearest the appeal site. To the west is residential development, whereby the arrangement and presence of buildings and gardens has an obvious domestic character. In contrast, on the opposite side of the road, there is an established hedgerow allowing some glimpses of the open generally undeveloped countryside beyond.
19. The appeal site is located on this eastern side, the majority of which is open land used as a paddock. There is an established hedgerow along the western boundary of the site which provides some screening from Little London Road. Although in equestrian use rather than arable production, the small scale buildings are generally confined to the western edge which together with the fencing and access have a low key, informal presence in keeping with the rural character and appearance of the area nearby.
20. As such, it possesses a strongly rural prevailing character and appearance, which aside from some inconsequential ancillary structures is generally free of built form. Hence, the site forms part of the wider landscape setting of a vista identified as an important general view from the CA. It also makes a positive contribution towards the character and appearance of the CA, with the northern tip of the site comprising part of the CA, and the remainder of the site being part of the surroundings in which the CA is experienced.
21. I am mindful of my statutory duty⁸ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Whilst the duty refers only to land and buildings in the CA, paragraph 200 of the Framework stipulates that any harm to the significance of a designated heritage asset, including development within its setting should require clear and convincing justification. Moreover, PPG states that the contribution that setting makes to the significance of a heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting⁹.
22. The proposal would introduce between 5 and 9 dwellings onto land where, aside from some small rural buildings and equine vehicles, there is generally an absence of built form. The presence of the structures together with the associated lighting, activity, vehicles, residential paraphernalia, fences and domestic garden planting would significantly and adversely change the mostly undeveloped, low key character of the land. The indicative layout provided reinforces my concerns in this regard. Despite the potential for alternative low density layouts using quality materials, I am not persuaded that the development would avoid appearing as an incongruous domestic enclave on the

⁷ Landscape Team Consultation Response dated 11.6.20

⁸ Section 72, Planning (Listed Buildings and Conservation Areas) Act 1990

⁹ Paragraph 013 Reference ID:18a-013-20190723

eastern side of the road. Hence, the location, land use and amount of development would have an urbanising effect that would be harmful to the rural qualities of the site.

23. Whilst the existing hedgerow along Little London Road would screen views from the road to a certain extent, the development would nevertheless be likely to be seen in glimpses through gaps in the hedgerow. This is illustrated in a photograph provided by the appellants¹⁰. This would be particularly the case in darker winter months when the hedgerow would not be in full leaf, and the dwellings are likely to be internally illuminated.
24. On this basis, the presence of the development would detract from the important general view from the CA, as well as its general setting. Although the appellants describe the site as being peripheral, the proximity and pronounced different character of the proposed development would represent a distraction that would draw the eye in the wider view. Furthermore, glimpses would be possible on the approach into the settlement from the south. It is pointed out that glimpses of the countryside would still be possible either side of the development. Even so, it would harmfully fragment the existing impression. As such, the proposal would conflict with principle CA01 f) of the Heritage, Supplementary Planning Document, March 2019 which states that proposals should preserve or enhance important views and vistas in conservation areas.
25. The Council raise concerns that the proposal would also be harmful to the settings of listed buildings, to which I am required to have special regard¹¹. The Grade II listed Culham's Farmhouse lies approximately 140m north of the site and on the other side of the road. Its significance primarily derives from its historic and architectural interest as a former farmhouse. Modern development situated close to the farmhouse lies between the appeal site and listed building. Based on the separation distance, intervening development and historic maps provided, there is little to show that the appeal site has a notable historic connection with this farmhouse. As such, although I could observe the upper part of the building from parts of the appeal site, in these circumstances I am not persuaded that the proposal would be harmful to the significance of Culham's Farmhouse.
26. Silchester House (Grade II listed) is approximately 300m north-east of the site with an intervening belt of woodland. Silchester Farmhouse and Granary (both Grade II listed) lie well over 300m to the south of the site. Their significance is mostly due to their historic and architectural interest. Given the considerable separation distance from the appeal site and absence of evidence to show a specific historic association, the proposal would not be harmful to the significance of these designated heritage assets.
27. A further designated heritage asset, Flex Ditch, a Scheduled Monument is about 25m north-west of the site at its nearest point. Its historic interest stems primarily from its physical archaeological remains. The proposal would not physically encroach onto the heritage asset but is close enough such that it would be within its setting. The County Archaeologist¹² considers that the setting of the monument would influence the detailed aspects of the proposal

¹⁰ Plate 16, Preliminary Heritage Statement, prepared by Pegasus Group, February 2021, Appendix F, Appellants' Statement of Case

¹¹ Section 66, Planning (Listed Buildings and Conservation Areas) Act 1990

¹² Consultation response dated 2.6.20 & further comments dated 29.7.21, Appendix 4, Council's Statementm,.

but need not preclude the principle of development. Given his expertise, his view attracts considerable weight. On the evidence before me, I see little reason to disagree and consider that the issues raised could be considered as part of any technical details consent.

28. Therefore, in relation to heritage assets overall, I find that the proposal would not preserve or enhance the character or appearance of the CA, or its setting. However, given the modest scale of the proposal, it would result in less than substantial harm to this designated heritage asset.
29. Paragraph 202 of the Framework advises that in such circumstances the harm should be weighed against the public benefits of the proposal. The main benefit would be the provision of between 5-9 additional dwellings in an area where there is unmet need. It would also make more efficient use of the land, a small proportion of which is previously developed. However, whilst the Framework encourages making effective use of land, paragraph 124 states that the desirability of maintaining an area's prevailing character and setting should be taken into account.
30. In addition, there would be economic benefits associated with the construction, the economic activity of future occupants and the development would generate some revenue for the Council. Future residents may also assist in supporting local facilities and services and play an active part in the local community. However, there is little firm evidence in relation to these aspects and it is not quantified nor guaranteed. Given the modest scale of the maximum number of dwellings proposed, the extent of such benefits would be limited. Overall, these public benefits attract moderate weight.
31. Although less than substantial, paragraph 199 of the Framework indicates that the harm to the significance of the CA as a designated heritage asset attracts great weight. Therefore, the limited public benefits identified would not outweigh the harm.
32. The appellants point out that the site does not lie within a designated landscape. Nevertheless, it does not follow that there are no qualities worthy of protection. Policy EM1 of the LP requires development proposals to respect, enhance and not be detrimental to the character or visual amenity of the landscape likely to be affected. This is not confined to designated landscapes, rather the policy requires regard to be given to the qualities identified within the council's landscape character assessment. This approach is reinforced by the Landscape, Biodiversity and Trees, Supplementary Planning Document, December 2018 (Landscape SPD).
33. I have had regard to four recent appeal decisions granting permission in principle¹³ elsewhere in the borough that have been brought to my attention. I have been provided with the decision letters but not the details of the schemes. My approach to the scope of permission in principle is generally consistent with the Inspector in those cases. However, I note in some of them the parties were not in dispute as to the impact of the proposals on the character and appearance of the area. This clearly distinguishes them from the case before me. In the cases where this was an issue, no mention was made of a conservation area being affected. Furthermore, each parcel of land is unique

¹³ References APP/H1705/W/20/3247113; APP/H1705/W/20/3257015; APP/H1705/W/20/3256370 and APP/H1705/W/20/3261247, Appendix E, Appellants' Statement of Case

and so will have differing qualities and context that will be relevant to the assessment made. As such, they are of limited weight in my assessment, which in any event, I have determined on its own merits.

34. Accordingly, I find that the location for the amount of residential development proposed would be contrary to the housing delivery strategy in policies SS1 and SS6 of the LP. In addition, it would fail to preserve or enhance the character or appearance of the CA and would be harmful to the rural qualities of the area. Therefore, it would conflict with policies EM1, EM10 and EM11 of the LP. Taken together, these, amongst other things, seek to conserve or enhance landscape character and heritage assets, and require development that positively contributes to local distinctiveness and the sense of place.

Other matters

35. Refusal reason 4 on the Council's decision notice states that insufficient information has been submitted to demonstrate the presence, or otherwise of protected species on the site, or the affects that the development may have upon the ecological interests of the site. The appellants have provided a Preliminary Ecological Appraisal¹⁴. This provides a basic level of information regarding the likely level of biodiversity at the site and establishes that the proposal would not be habitats development which would be problematic for permission in principle. This contrasts with the appeal decision¹⁵ highlighted by the Council which concerned a Special Protection Area habitat site under the Conservation of Habitats and Species Regulations 2017. Furthermore, I am unaware of what level of ecological evidence was before the Inspector in that case, but reference is made to the absence of technical survey information¹⁶. These factors represent different circumstances to those before me.
36. The assessment provided in this case indicates that the appeal site is within 2km of two Sites of Special Scientific Interest, but due to the separation distance and scale of the proposed development, it would not have an impact on these national statutory sites¹⁷. No technical evidence is provided by the Council to show otherwise or undermine these findings. It further states that the site has the potential to support roosting bats, nesting birds, dormice and hedgehogs. It also recommends further survey work for great crested newts and reptiles. The parties dispute whether this survey work is necessary for a determination to be made for permission in principle, or whether it is a matter that could be left to a technical details consent stage.
37. Policy EM4 of the LP, amongst other matters, seeks to avoid significant harm to biodiversity resulting from development. The policy requires applications for development to include adequate and proportionate information to enable a proper assessment. This is reiterated in the introduction to the Landscape SPD which states the Council will seek information proportionate to the scale of the development proposed.
38. It follows that the nature and scope of the application are relevant when considering the adequacy of information provided. As already outlined, the scope of permission in principle applications is confined to certain issues and only limited information is necessary to make the application valid. No specific

¹⁴ Prepared by Pro Vision, dated July 2020

¹⁵ Reference APP/M3645/W/19/3241571 Dormans Park, Appendix 5(a), Council's Appeal Statement

¹⁶ Paragraph 21

¹⁷ Paragraphs 3.14-3.15

layout is put forward and therefore, the detailed implications cannot be fully assessed. Moreover, planning conditions cannot be imposed to secure enhancement or protection measures at this stage. PPG confirms that it is the granting of technical details consent that has the effect of granting planning permission for the development rather than permission in principle. As such, other statutory requirements may apply at this later stage such as those relating to protected species¹⁸.

39. In these circumstances, the amount of information provided by the appellants with regard to protected species and ecology is reasonable and proportionate for an assessment on permission in principle to be made. Insofar as is relevant to the matters of location, land use and amount of development, the proposal would accord with the information requirements of policy EM4 of the LP.

Planning balance and conclusion

40. The Council does not dispute that it cannot demonstrate a 5-year supply of deliverable housing sites. The evidence before me indicates that it has in the region of 4.44-4.83 years supply¹⁹. In these circumstances, footnote 8 of paragraph 11 of the Framework deems that the policies which are most important for determining the application are out-of-date. The presumption in favour of sustainable development means that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or (ii) that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (the tilted balance). The appellants consider that the tilted balance should apply in this case.
41. However, I have found, having undertaken the heritage balancing exercise set out in paragraph 202 of the Framework, that the proposal would adversely affect the significance of the CA, a designated heritage asset. Footnote 7 to paragraph 11 stipulates that the policies in the Framework relating to the protection of designated heritage assets provide a clear reason for refusing the proposal. As such, the tilted balance in paragraph 11d)(ii) is not engaged and the presumption in favour of sustainable development would not apply in this instance. Likewise, neither would the similar presumption set out in policy SD1 of the LP apply.
42. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise²⁰.
43. The proposal would provide between 5-9 additional dwellings, thereby boosting the overall supply of housing in an area where there is unmet need. I am mindful that paragraph 69 of the Framework recognises that small and medium sized sites can make an important contribution towards meeting the housing requirement of an area and are often built out relatively quickly. The proposal would make more efficient use of the land, a small proportion of which is previously developed. These are factors generally encouraged by local and

¹⁸ Paragraph 003, Reference ID:58-003-20190615

¹⁹ Paragraph 6.4, Appellants' Statement of Case & Paragraph 6.2 Council's Appeal Statement

²⁰ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

national planning policy. Furthermore, as outlined earlier, there would be some limited economic and social benefits arising from the development. Overall, these benefits attract moderate weight.

44. Reference is made to the potential for biodiversity improvements at the site. However, it will be seen from my reasoning, that I accepted it was appropriate for the more detailed ecological aspects of the proposal to be considered as part of any technical details consent stage. It follows that no specific tangible biodiversity benefit has been demonstrated, nor could they be secured at the permission in principle stage. Hence, this is a neutral factor rather than a benefit in my overall balance.
45. Balanced against this is the harm that would arise from the conflict with the housing delivery strategy in the development plan. In view of the shortfall in housing supply, it is appropriate that this attracts reduced weight. Nevertheless, given the relatively poor accessibility of the site to local facilities and public transport, future occupants would be likely to rely substantially upon the private car. Consequently, the development would not realistically offer a genuine choice of travel, nor promote sustainable transport modes. As such, moderate weight is attributed to the conflict with policies SS1 and SS6 of the LP.
46. Furthermore, the location of the development would result in harm to the rural character and appearance of the site due to increased urbanisation. This would be harmful to the significance of the CA and an identified important general view from the CA. Paragraph 199 of the Framework confirms that great weight should be given to the conservation of designated heritage assets, and paragraph 174 of the Framework indicates that planning decisions should recognise the intrinsic character and beauty of the countryside.
47. Therefore, the conflict with the relevant policies in the LP are broadly consistent with the Framework in these respects and hence, attract significant weight. Taking these factors together, significant weight is given to the harm arising from the conflict with the policies of the development plan taken as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector