
Appeal Decision

Site visit made on 6 September 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Appeal Ref: APP/V3120/W/21/3269306

Land at Park Farm, East Challow

- 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 Miss A Chew of Crest Nicholson (Chiltern) against the decision of Vale of White Horse District Council.
 - The application Ref P20/V1395/FUL, dated 9 June 2020, was refused by notice dated 24 November 2020.
 - The development proposed is residential development of 39 dwellings, comprising a partial re-plan of details approved under application reference P18/V0744/RM, to include an uplift of 13 no. additional dwellings, revised housing mix across the relevant development parcels and associated development works.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of 39 dwellings, comprising a partial re-plan of details approved under application reference P18/V0744/RM, to include an uplift of 13 no. additional dwellings, revised housing mix across the relevant development parcels and associated development works at Land at Park Farm, East Challow in accordance with the terms of the application, Ref P20/V1395/FUL, dated 9 June 2020, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Crest Nicholson (Chiltern) against Vale of White Horse District Council. This is the subject of a separate decision.

Procedural Matters

3. The Council has advised that there is an error on the decision notice. The reference within the third bullet point of Reason for Refusal No.1 to 'Plot 68' should read 'Plot 66'. I have determined the appeal on that basis.
4. Subsequent to the Council's decision, a revised National Planning Policy Framework ('the Framework') was published. The parties have had an opportunity to comment on the implications for the appeal.

Main Issues

5. The main issues in this case are:
 - a) whether the scheme has an acceptable design, with particular reference to the street scene in the vicinity of Plots 66-68; and

- b) whether the development would provide acceptable living conditions for its occupiers, with regard to the size of gardens for Plots 64, 68, 89 and 90, and the internal floor space of Plot 60.

Reasons

Background

6. The site forms part of a larger development which has planning permission for 88 dwellings. The scheme is well advanced with a significant number of units complete and occupied. Permission is being sought to re-plan the central and northern parts of the site to amend the dwelling mix and accommodate an additional 13 dwellings, bringing the total on the development to 101 units.

Design

7. The proposal would reflect the approved development inasmuch as the road layout and pattern of perimeter blocks would be identical. The difference between the schemes lies in the detail of the individual plots whereby larger detached houses have been replaced with a variety of smaller sized detached and semi-detached dwellings. The Council raises no objections in principle to the increased density which, at 31 dwellings per hectare, complies with Core Policy 23 of the Vale of White Horse Local Plan 2031 Part 1 (LPP1). There are also no specific concerns regarding the design and appearance of the house types used within the new layout.
8. The dispute on design relates to one particular building within the scheme's layout, specifically Plots 66-68. The Council is concerned that Plot 66 does not 'turn the corner' to provide frontage to both adjoining streets. The relationship of the dwelling to the junction would be similar to that of other plots¹ within the approved development. However, in those cases the flank walls contain window openings which help to break up the elevation. As proposed, Plot 66 would present an unrelieved brick gable towards the road.
9. Principle DG53 of the Council's Design Guide (2015) recommends that corner buildings are designed so that they turn the corner and provide frontage to both streets. It states that exposed blank gable ends with no windows fronting the public realm should be avoided. The design of Plot 66 conflicts with this advice and represents a missed opportunity to achieve better design. The planting of a hedge would provide some visual relief, but it would not compensate for the lack of fenestration on the gable end.
10. Concerns have also been raised regarding the blank side elevation on Plot 68 which it is argued would be overly dominant. This is not a corner plot and, whilst it may have been preferable for the wall to include fenestration, I do not consider that the absence of openings would have a significant detrimental effect on the local street scene. This dwelling would not have the same visual prominence as a corner plot.
11. Overall, I conclude that there would be some conflict with Core Policy 37 of the LPP1, albeit only in relation to a very specific part of the scheme. The design of the remainder of the development would be acceptable.

¹ Plots 15, 16, 52, 59 and 60.

Garden sizes

12. Core Policy 37 of the LPP1 requires developments to provide high quality Green Infrastructure and landscaping, but makes no reference to private outdoor space. Principle DG63 within the Design Guide states that all development should have private open space appropriate to the development and the size of the dwelling. The accompanying text explains that the level of provision will depend on context; large, detached houses within rural areas should have large gardens whereas the space requirement/expectation for compact housing or apartments in an urban area will be significantly less. Depending on context, the guidance recommends 50 m² for 2 bedroom houses and 100 m² for houses with 3 or more bedrooms.
13. All except four plots within the appeal scheme would have gardens exceeding the sizes suggested in the Design Guide. Of those four plots, three fall short by a modest² margin whereas Plot 64 would provide 59.9 m² against a recommended figure of 100 m². Although the deficit in the latter case is not ideal, the outdoor amenity space would still be of adequate size and shape to accommodate everyday activities such as sitting out and clothes drying. I am mindful that some households may prefer smaller gardens for ease of maintenance. I have also taken into account the fact that the development as a whole has good provision of public open space in excess of the policy expectation. This open space is well located in relation to those plots identified by the Council as being underprovided with private garden.
14. The appellant's evidence demonstrates that 20 rear gardens on the approved reserved matters scheme for 88 dwellings fall below the sizes suggested in the Design Guide. The extent of the shortfalls is directly comparable to the appeal scheme, and involves a higher percentage of plots. This lends significant weight to the appellant's case and the argument that the recommendations within the guidance should not be applied slavishly.
15. The Council justifies its position by reference to Covid-19 which highlighted the importance of private gardens for health and wellbeing. Although this cannot be disputed, the proposed gardens would provide adequate opportunity for outdoor leisure and relaxation.
16. I conclude that the development as a whole would meet the needs of its residents in relation to outdoor space, both public and private. Despite the conflict with the Design Guide in relation to the garden sizes on certain plots, there is no substantive conflict with LPP1 Core Policy 37.

Internal space standards

17. Development Policy 2 of the Vale of White Horse Local Plan Part 2 (2019) (LPP2) stipulates that proposals for one and two bedroom market homes and all affordable housing should meet the Technical Housing Standards - Nationally Described Space Standard. The Council is concerned that Plot 60 within the appeal scheme falls below the relevant standard by 8 m².
18. Plot 60 has already been approved under the 2018 reserved matters application and the dwelling was substantially complete at the time of my visit. This house type is used extensively within the wider development, accounting for almost a third of the units permitted under the 88 unit approval. The design would not

² Deficits of 5.6%, 8.8% and 17.6% against the garden sizes recommended within the Design Guide

meet the Technical Housing Standards, and therefore the requirements of the development plan, but has been delivered as part an extant permission and this is the developer's fallback position. This being the case, there is no justifiable reason to dismiss the appeal on the grounds of substandard internal floorspace.

Section 106 Agreement

19. The submitted Section 106 agreement (S106) has been entered into by the main parties and Oxfordshire County Council. This deed is supplemental to an earlier legal agreement and should be read in conjunction with it. The S106 makes provision for 4 affordable homes on-site, together with a financial contribution in lieu of the balance of 0.55 units. Contributions are also secured in relation to education capacity³, improved bus services serving East Challow, waste and recycling bins and street naming.
20. The original development of 88 dwellings included provision for affordable housing. To prevent double counting, the affordable housing calculation for the appeal scheme has been applied to the uplift of 13 dwellings. This ensures compliance with Core Policy 24 of the LPP1 which requires 35% of the proposed dwellings as affordable homes. The remainder of the contributions relate principally to physical infrastructure and services requirements to support the development and the promotion of sustainable transport, in line with Core Policies 7, 33 and 35 of the LPP1 and Development Policies 28 and 33 of the LPP2. The County Council has provided robust evidence to justify the education and public transport contributions.
21. Having regard to the information presented, I am satisfied that the planning obligations contained within the S106 are necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development. They meet the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Other Matters

22. Many of the objections to the proposal concern the principle of additional dwellings on the site, both in relation to the need for housing and the ability of East Challow to support this scale of development. However, there is no compelling evidence to support the assertion that further housing is not required. The Framework's objective is to significantly boost the supply of homes and the settlement hierarchy in the LPP1 identifies East Challow as a larger village where development in the built-up area would be acceptable.
23. The proposed development would be contained within the boundaries of the existing development and it would not extend the built-up area of East Challow. The public open space agreed for the 88 unit scheme would be retained within the approved landscape framework. As I have explained above, the proposed housing density would accord with the development plan.
24. There is no substantive evidence to demonstrate that the existing site access arrangement is unsuitable for the modest increase in homes being proposed, or that the development would cause detriment to highway safety or the efficient operation of the local road network. The highway-related objections are not supported by the Highway Authority.

³ Nursery, primary and secondary

25. The proposed development would provide drainage infrastructure to prevent flooding and it would fund additional capacity in local schools through the S106. Disruption from construction is often unavoidable, but the impacts can be mitigated using a planning condition to require the developer to submit a Construction Method Statement for the Council's written approval.
26. I have taken into consideration all other concerns raised, including those objections summarised in the officer report to committee. However, no matter is so significant as to alter my overall conclusions.

Planning Balance

27. There would be some conflict with LPP1 Core Policy 37 stemming from the design of Plot 66. Revisions to the Framework mean that the Design Guide can be given significant weight. However, the harm to the street scene would be minor and localised, and this limits the weight I have attached to the policy conflict. The remainder of the scheme constitutes good design.
28. There is also conflict with LPP2 Development Policy 2 in respect of the internal floor space of Plot 60 which falls below the Nationally Described Space Standard. I have attached very limited weight to this conflict in recognition of the fact that the dwelling already benefits from an extant planning permission. There would be no substantive policy conflict in relation to garden sizes.
29. Against the above harms I must balance the scheme's benefits. The proposal would make effective use of land by delivering an additional 13 new homes, including affordable housing. The extra units would be accommodated within the boundaries of the approved development without detriment to the wider area. The proposed dwelling mix includes a greater number of smaller units which better accords with the findings of the Strategic Housing Market Appraisal.
30. Although there are conflicts with two policies of the development plan, these are not sufficient to bring the scheme into conflict with the development plan taken as a whole. Even had I taken a contrary view, the social and economic benefits of the scheme would outweigh the limited harm identified.

Conditions

31. The Council has provided a list of suggested planning conditions which I have considered against the tests set out in paragraph 56 of the Framework and the Planning Practice Guidance. The appellant has had chance to comment on the conditions and I have taken their comments into account.
32. In addition to the standard commencement condition, I have attached a condition specifying the approved plans to provide certainty. In the interests of the character and appearance of the area, conditions are needed to ensure the provision of all planting, hard landscaping and boundary treatments. For the same reason, I have attached a condition regarding tree protection measures.
33. Conditions are needed to ensure satisfactory provision of roads and footways, and parking and turning facilities, prior to the occupation of each dwelling. The Council's suggested condition to ensure that garage accommodation is retained for parking motor vehicles is reasonable and necessary. To encourage use of sustainable transport modes, I have attached conditions requiring the provision of a Travel Information Pack to the first occupier of each dwelling and the installation of charging points for electric vehicles.

34. To ensure that development takes without detriment to local residents or highway safety, a pre-commencement condition is necessary to require the submission of a Construction Method Statement for the Council's written approval. I have amended this condition to control construction working hours.
35. The application is accompanied by details of surface water and foul drainage and ecological mitigation and enhancement measures. Conditions are needed to ensure that the development is carried out in accordance with these details, to prevent flooding and secure a net gain in biodiversity respectively.
36. Finally, to ensure adequate provision for children's play, a condition is needed to require the submission of details of the play area shown on the plans, including a management plan and provision for future maintenance.

Conclusion

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

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 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 Location Plan - PL101
Proposed Site Layout - PL103 E
Proposed Boundaries Plan - PL104 C
Proposed Materials Plan - PL105 B
Proposed Affordable Housing Plan - PL106 B
Storey Heights Plan - PL107B
Waste Collection Strategy - PL108 B
Proposed Car Parking Plan - PL109 B
Proposed Adoptable Highways Plan - PL-117B
Garage Plans & Elevations - PL125 C
Cromer house type - PL130D
Evesham house type V1 - PL131D
Evesham house type V2 - PL132D
Romsey house type - PL133D
Marlborough house type - PL134D
Roydon house type - PL135B
Seaton house type - PL140A
House type Affordable - PL136 B AFF2B4P
House type Affordable - PL137 B AFF3B5P
House type Affordable - PL138 B AH852
House type Affordable - PL139 B AH1001
Levels Layout Sheet 1 of 2 - 5617-P300-P2
Levels Layout Sheet 2 of 2 - 5617-P301-P2
Lighting layout - 5617-P3503-P1
Planting Plan Overview 1 of 4 - 6211.RP101_PP_1.0E
Planting Plan Overview 2 of 4 - 6211.RP101_PP_1.1E
Planting Plan Overview 3 of 4 - 6211.RP101_PP_1.2E
Planting Plan Overview 4 of 4 - 6211.RP101_PP_1.3E
LAP/Play space Detail - 6211.RP101_PS.2.0D

except as controlled or modified by conditions of this permission.

- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- a) the programme and phasing of works on site;
 - b) site offices and other temporary buildings;
 - c) temporary access to the site for construction vehicles, site operatives and visitors, and if relevant, the timing and closure of the temporary access and a scheme of restoration;
 - d) the parking of vehicles of site operatives and visitors;
 - e) loading and unloading of plant and materials;
 - f) storage of plant and materials used in constructing the development;
 - g) the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 - h) wheel washing facilities;
 - i) measures to control the emission of dust and dirt during construction;
 - j) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - k) construction vehicle routing and access (construction traffic shall not use Letcombe Hill).
 - l) the timing of construction works, which shall not take place outside the hours of 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. Works shall not take place at all on Sundays or Bank Holidays.
- 4) Development shall not commence until tree protection barriers and signage has been erected in accordance with the details and in the locations shown in the arboricultural addendum technical note (TN01 dated 2 June 2020), which accompanies the application. The barriers shall be retained throughout the construction period and at all times during construction, the tree protection areas shall not be used to park or manoeuvre vehicles, site temporary offices or other structures, store building materials or soil, mix cement/concrete or light bonfires.
- 5) Prior to the first occupation of the penultimate dwelling all hard and soft landscape works shall be carried out in accordance with the details shown on the following approved plans and drawings:
- Planting Plan Overview 1 of 4 - 6211.RP101_PP_1.0E
 - Planting Plan Overview 2 of 4 - 6211.RP101_PP_1.1E
 - Planting Plan Overview 3 of 4 - 6211.RP101_PP_1.2E
 - Planting Plan Overview 4 of 4 - 6211.RP101_PP_1.3E
 - LAP/Play space Detail - 6211.RP101_PS.2.0D
- Thereafter, the landscaped areas shall be maintained for a period of 5 years. Any trees or shrubs which die or become seriously damaged or

- diseased within 5 years of planting shall be replaced by trees and shrubs of similar size and species to those originally planted.
- 6) Prior to the occupation of any dwellings, a management plan for the provision (including timing), future maintenance and layout of the children's play area shall be submitted to and approved in writing by the local planning authority. The play area shall be provided and thereafter maintained in accordance with the approved management plan.
 - 7) All of the site's internal and external boundaries shall be enclosed in accordance with the details shown on approved drawing number PL104 C. The approved boundary treatments for each building shall be completed prior to the occupation of that building, and all of the approved boundary treatments shall be completed prior to the occupation of the last building on the site.
 - 8) No dwelling shall be occupied until that part of the roads and footways which is to serve that dwelling (apart from the wearing course) have been provided. The wearing course shall be provided prior to the completion of the penultimate dwelling.
 - 9) Prior to the first occupation of each dwelling, the associated garage, parking area or parking spaces, and where relevant, private turning spaces shall be provided including the wearing course. Thereafter, the parking and turning areas shall be kept permanently free of any obstruction to such use.
 - 10) Prior to the first occupation of any dwelling within the development hereby approved a Travel Information Pack shall be submitted to and approved by the local planning authority. The first occupier of each dwelling shall be provided with a copy of the approved Travel Information Pack.
 - 11) Prior to first occupation of any dwelling with on-plot car parking, a dedicated active charging point for electric vehicles shall be provided for that dwelling (either internal or external) in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.
 - 12) The surface water and foul drainage scheme shall be implemented in accordance with the following particulars:
 - Drainage Strategy Plan No. 5617:P302
 - Development Foul and Surface Water Statement (MJA Consulting) (May 2020)
 - Flood Risk Assessment & Drainage Strategy (Clive Onions) (May 2016) (V3)
 - 13) The development hereby permitted shall be implemented in accordance with the Mitigation and Enhancements included within appendix 5156/POU2 of the supporting Updated Ecological Survey Information Report (Aspect Ecology Ltd, 27/08/2020, Ref: 5156 POU v4 CL). Any variation shall be agreed in writing by the local planning authority before such change is made.

- 14) Prior to the first occupation of any dwelling six bat boxes shall be erected on existing trees at the site edges in accordance with details that shall first be submitted to and approved in writing by the local planning authority. Thereafter the bat boxes shall not be removed unless by direct replacement.
- 15) Notwithstanding the provisions of Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), the garage accommodation forming part of the development shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose.

*** END***