



Appeal Decision

Site visit made on 23 March 2021

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2021

Appeal Ref: APP/P0430/W/20/3256435

Land north side of lane leading to Cholsey Grange, Ibstone Road, Ibstone Buckinghamshire HP14 3XT

- 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 C Kelly (Light Space Land Limited) against the decision of Wycombe District Council.
 - The application Ref 19/07695/FUL, dated 21 October 2019, was refused by notice dated 27 March 2020.
 - The development proposed is the erection of four 3 bed, 2 storey, traditional dwellings comprising a terrace of three cottage style properties and a single detached dwelling (barn style dwelling), and associated soft and hard landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of four 3 bed, 2 storey, traditional dwellings comprising a terrace of three cottage style properties and a single detached dwelling (barn style dwelling), and associated soft and hard landscaping at Cholsey Grange, Ibstone Road, Ibstone HP14 3XT in accordance with the terms of the application, Ref 19/07695/FUL, dated 21 October 2019, subject to the conditions on the attached schedule.

Application for costs

2. An application for costs was made by Mr C Kelly (Light Space Land Limited) against Buckinghamshire Council. This application will be the subject of a separate decision.

Procedural matter

3. The decision on the application was made by Wycombe District Council. However, since then it has merged with other local planning authorities, including Buckinghamshire County Council, to form Buckinghamshire Council.
4. The address in the banner heading and decision above is the same as that used by the Inspector who determined a previous appeal on the site in August 2019 (Ref: APP/K0425/W/19/3226658) ('previous appeal'), as it more accurately describes the site location than that used on the application form.
5. As in the previous appeal, I have referred to the lane leading to the site from Ibstone Road as 'Cholsey Grange'.

Background

6. In the previous appeal the Inspector found that the scheme would not harm the character and appearance of the area; that it was in an appropriate location having regard to securing sustainable development; that it would not have an unacceptably adverse effect on highway safety; and that, subject to appropriate mitigation and enhancement measures, it would not have an unacceptably adverse effect on ecology. However, he dismissed the appeal given that a potential risk of localised flooding arising from inadequate drainage could not be ruled out.
7. In order to address that concern, the appellant submitted the similar proposal the subject of this appeal, with the same access and highways arrangements, but with additional drainage details. However, the Council refused the application on the grounds of the alleged danger and inconvenience it would cause to people using Cholsey Grange and to highway users in general.
8. In support of its decision, it referred to additional evidence that it states has come to light since the previous appeal regarding vehicular speeds on Ibstone Road. Highway Planning Limited on behalf of Ibstone Parish Council ('IPC') and local residents also state that the visibility splay available at the junction of Cholsey Grange with Ibstone Road is less than was claimed and referred to in the previous appeal.
9. It is in that context that I have dealt with this appeal and identified the main issue.

Main Issue

10. The main issue is the effect of the proposed development on the safe and efficient use of the highways, including the site access.

Reasons

Highways and Access

11. Cholsey Grange is a hard surfaced lane which serves a number of properties, including dwellings, a farm, equestrian and other businesses, and caravan pitches. Although single track, it widens at its junction with Ibstone Road. The proposed dwellings would be located a little way back from that junction.
12. Ibstone Road is a C-class road, which in this location is subject to a 30mph speed limit. It does not benefit from pedestrian footways or street lighting. Vehicular movements on it were limited and sporadic at the time of my visit, although I appreciate that, as reported by local residents, it may be busier at other times. Having regard to the views expressed by the Council, including in its role as Highway Authority ('HA'), I have no reason to disagree with the Inspector in the previous appeal, that the scheme would generate up to about 24 vehicular movements per day.
13. Starting with the visibility splay at the junction of Cholsey Grange with Ibstone Road, it is agreed by the principal parties that there is good visibility in a south-easterly direction. However, the owners of Cholsey Cottage maintain that as they own the lawn area to the front of their cottage, the available visibility splay to the north-west of the junction is significantly less than the 2.4m x 28m claimed by the appellant.

14. However, in its Written Statement, the HA confirms at section 5.2 that, following the removal of overgrowth, the claimed 2.4 x 28 metre visibility splay would be achievable in that direction.
15. On the basis of the available evidence, members of the public can, and do, use Cholsey Grange, and I understand that the first 30 metres of it is Common Land, to which the public have a right of access. On that basis, I have no cogent reason to conclude that Cholsey Grange is not a highway, nor to conclude that the HA could not use its powers under the Highways Act 1980 to require alterations if the adjacent landowners obstruct visibility around the junction. Indeed, according to the appellant, the HA has already intervened in this location to have an existing hedge cut back and a new bush removed from private land.
16. I have therefore proceeded on the same basis as the Inspector in the previous appeal, that visibility to the north-west falls around 15 metres below the 43 metre distance recommended in Manual for Streets ('MfS') for a road with a 30 mph speed limit.
17. Turning to actual traffic speeds on Ibstone Road, the HA maintains that vehicular speeds above 30mph are an enforcement issue, rather than a planning issue. However, it also refers to data provided by IPC, which shows that the 85th percentile vehicular speed approaching this junction along Ibstone Road from the north-west is 36.5mph. It continues that the 2.4m x 28m visibility splay achievable to the north-west is unacceptable as it is commensurate with traffic speeds of just 22mph.
18. The appellant maintains that IPC's data is not 'new', as its consultation response to application Ref: 18/07602/FUL included summarised Movable Vehicle Activated Sign ('MVAS') data for 2018. Whilst that information was in graphic form, with no precise figures available, he maintains that it would have taken little effort to extrapolate that average speeds were marginally below 30mph, whilst the 85th percentile speeds would be in the higher 30s mph (he calculates this at 36.8mph). The appellant also points out that the data is for a point roughly 95 metres north-west of the junction.
19. Whilst he did not cite 85th percentile speeds in his decision, at paragraph 35 the Inspector in the previous appeal clearly acknowledged interested parties' concerns about speeding traffic. Nevertheless, given that the previous appeal was also dealt with by an exchange of written representations, there would have been no scope for the Inspector to ask for more detail; and I have more data before me now than he had at that time.
20. That said, the additional data supplied by Highway Planning Limited on behalf of IPC using an Automated Traffic Counter, found the 85th percentile southbound speed, at a point calculated by the appellant to be around 30 metres north of the junction, was 34.4mph, thus broadly comparable to the MVAS data for 2018, and not greatly dissimilar to the MVAS data for 2019, which recorded 85th percentile speeds in the range of 34.7 to 37mph.
21. In summary, I have been presented with a range of figures for vehicular speeds on Ibstone Road, which is unsurprising given that the surveys were carried out at different times, at slightly different points, and using different technology, including MVAS, which the HA acknowledges is not the most accurate data collection method. Nevertheless, from the evidence before me, I

- accept that whilst the average speed north-west of the junction is likely to be at or below 30mph, the 85th percentile speed is likely to be in the mid-30s mph.
22. However, it is unclear how the HA has concluded from the data that vehicles speed up as they approach the junction with Cholsey Grange. Indeed, in my view, it is not unreasonable to conclude, as did the Inspector in the previous appeal, that drivers approaching along Ibstone Road from the north west may typically slow as they approach Cholsey Grange, given the presence of the crossroads, the slight curvature of the carriageway, and the presence of a highway sign indicating that the road narrows on both sides.
 23. For those reasons, and as the MVAS recorded traffic speeds a little way to the north-west, vehicles may therefore typically be travelling slower than suggested by that data when they reach this junction.
 24. Additionally, whilst I have found that visibility looking right from Cholsey Grange would be limited and below that recommended in MfS, drivers seeking to exit the junction are likely to edge cautiously forward; and drivers approaching along Ibstone Road from the north-west would be likely to slow down on sighting the front portion of a vehicle waiting to emerge from it.
 25. MfS is clear that reliance on emergency braking is inappropriate for junction design, but for the above reasons I do not accept that vehicles exiting from Cholsey Grange would be reliant on vehicles approaching along Ibstone Road from the north-west performing such manoeuvres.
 26. Manual for Streets 2 allows for a flexible, evidence-based approach in assessing visibility requirements when applying the standards set out in MfS. Indeed, it states that unless there is local evidence to the contrary, a reduction in visibility below the recommended levels will not necessarily be a problem.
 27. Whilst residents have reported accidents and near misses at or around this junction, I have few details of those or their precise causes. For all the above reasons, whilst I have carefully considered all the local evidence presented to me, I have no persuasive reason to disagree with the previous Inspector's findings that the proposed development would not have an unacceptably adverse effect on highway safety. That Cholsey Grange is already used by various properties, without any Personal Injury Accidents having been recorded in the most recent 5 year period, supports my conclusion on this matter.
 28. For the above reasons, I conclude that the development proposed would not be harmful to highway safety and access. The scheme would not therefore conflict with Policy DM33 of the Wycombe District Local Plan 2019 ('WDLP') which sets out that development shall be provided with safe and convenient access to the local highway network, nor with the broadly similar stance in the Buckinghamshire County Council Local Transport Plan 4 (2016) and in its Highways Development Management Guidance 2018.
 29. The proposal would also be consistent with the National Planning Policy Framework ('Framework'), which states at paragraph 109 that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

30. The application was accompanied by a revised proposed drainage layout plan (drawing no. 2019/98/01/A) by Civil Engineering Services, which included design and construction details. It shows the provision of deep borehole soakaways and storage tanks capable of attenuating flows for storms up to a 1:100 year event, with additional capacity for climate change.
31. The Lead Local Flood Authority concluded that, subject to conditions, including lifetime maintenance, the scheme would not increase the risk of flooding, and that it would maintain water quality. Given that the drainage strategy followed percolation tests, I agree that the proposed drainage solution would be acceptable, and I have no reason to conclude that it did not take account of local conditions.
32. Interested parties have raised a number of other concerns and objections. However, I have no reason to disagree with the Inspector in the previous appeal, that the scheme is an appropriate location for development, which would not harm the character and appearance of the area, including the Area of Outstanding Natural Beauty; and that it would not have an unacceptably adverse effect on ecology.
33. The proposed dwellings would be sited between Cholsey Cottage and The Lodge, but with a gap to both dwellings. Cholsey Grange is already used by vehicular traffic, and the limited increase in vehicular movements on it as a result of this scheme would not result in significant noise and disturbance to the adjacent occupiers, nor would reasonable domestic use of the properties themselves.
34. Subject to a condition requiring the first floor windows in the flank elevations of the dwellings to be obscurely glazed, and to the removal of permitted development rights for the installation of further windows or doors in those elevations, the scheme would not impact adjacent occupiers' living conditions to a harmful degree.

Conditions and Conclusion

35. I have carefully considered the suggested conditions, including various pre-commencement conditions, against the Framework's tests, making amendments where necessary to improve precision, clarity and enforceability. I have imposed the standard time limit condition, and, in the interests of certainty, a condition requiring that the development be carried out in accordance with the approved plans.
36. Drawing no. 2019/98/01/A includes design and construction details of the proposed drainage system; and there are plans of the proposed crate storage and deep borehole soakaways. Details of drainage and waste disposal are also addressed by the Building Regulations.
37. Consequently, whilst the Council has suggested a pre-commencement condition requiring the submission and approval of a surface water drainage scheme for the site, having carefully considered this matter, I am not persuaded that that is necessary. In the interests of ensuring appropriate surface water drainage, I have however imposed a condition requiring that the scheme be carried out in accordance with the submitted drainage details.

38. Drawing no. 2019/98/01/A sets out that the maintenance of the surface water drainage system is crucial to its long-term performance and that this will be the responsibility of a management company. I have no cogent reason to conclude that suitable access for maintenance could not be achieved. Consequently, to ensure appropriate maintenance of the approved surface water drainage details, I have imposed my condition no. 4. However, I agree with the appellant that imposing this as a pre-commencement condition would unnecessarily delay implementation of the development, and my condition therefore requires the submission and approval of these details prior to the first occupation of the proposed dwellings.
39. The application was accompanied by a Preliminary Ecological Appraisal ('PEA') undertaken by Ecoconsult Limited. This found that, other than a species-rich hedgerow on the south-eastern boundary, the site is of very low ecological value, and that other than nesting birds, there was not a reasonable likelihood of protected species being affected by the proposed development. However, it recommended that new native hedgerows and a small area of traditional orchard be planted to ensure a positive impact on biodiversity.
40. Appendix B of the PEA includes details of the proposed hedgerow planting and fruit trees are annotated on drawing no. 04C. Consequently, rather than the Council's suggested pre-commencement condition no. 8, I have imposed my condition no. 5 requiring that the proposed landscaping and ecological mitigation be carried out in accordance with that drawing and the PEA.
41. My condition no. 6 is necessary in the interests of the safety and convenience of highway users; whilst condition nos. 7 and 8 are necessary in the interests of the character and appearance of the area.
42. Condition no. 9 is necessary, in accordance with WDLP Policy DM41, in the interests of water efficiency. I have imposed condition no. 10 in the interests of protecting adjacent occupiers' living conditions and ensuring appropriate living conditions for the future occupants of the proposed dwellings.
43. In the previous appeal, the Inspector stated that operating space for a fire appliance could be secured by a condition with a minor modification to the layout in front of plots 1 and 2. I have very limited evidence before me on this matter, but I have no reason to conclude that fire appliances could not adequately access the site to attend to an incident, and I am not therefore persuaded that a modification to the layout is required to address such an infrequent event.
44. The HA's statement includes a recommended condition requiring the submission of details of off-site highway works to provide carriageway narrowing on the approach to the junction. However, for the reasons set out in this decision, that is unnecessary.
45. I conclude that the scheme would not have an unacceptably adverse effect on highway safety and that it would not conflict with the development plan. Consequently, having regard to all other matters raised, including all representations by interested parties, the appeal is allowed.

Chris Couper

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: 001/A; 02/C; 03/B; 04/C; 01/A; 05; 2019/98/01/A; 2019/98/02; 2019/98/03; 27431_02_e/0; and 27431_01_p/0.
3. Prior to first occupation of the dwellings, the foul and surface water drainage details as set out on drawing no. 2019/98/01/A and the accompanying deep borehole and attenuation tank drawings by Civil Engineering Services, shall be fully implemented in accordance with those approved details and shall be retained as such thereafter.
4. Prior to the first occupation of the dwellings, a whole-life maintenance plan for the site's drainage system shall be submitted to and approved in writing by the Local Planning Authority. The plan shall set out how and when to maintain the full drainage system, with details of who is to be responsible for carrying out the maintenance. The plan shall also set out how the full drainage system will be accessed for maintenance purposes for the life time of the development. The plan shall subsequently be implemented in accordance with the approved details.
5. All planting, seeding or turfing comprised in the approved details of landscaping as set out in drawing no. 04C and in the Preliminary Ecological Appraisal by Ecoconsult Limited, shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. The parking, garaging and manoeuvring areas depicted on the approved plans shall be laid out prior to the first occupation of the dwellings, and shall thereafter be retained for their intended purposes.
7. Notwithstanding any indication of materials provided in the application, a schedule and/or samples of the materials and finishes for the development shall be submitted to and approved in writing by the Local Planning Authority before any work to the external finish of the development takes place. The development shall be carried out in accordance with the approved details.
8. Prior to the first occupation of the dwellings, details of all external lighting shall be submitted to, and approved in writing by, the Local Planning Authority. All external lighting shall be installed as approved, and no other external lighting shall be installed without the prior written consent of the local planning authority.
9. The development hereby permitted, shall be designed and constructed to meet a water efficiency standard of 110 litres per head per day.

10. All side windows, at first floor level, in the approved dwellings shall be inserted with obscure glazing and retained as such for the lifetime of the development. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows or doors other than those expressly authorised by this permission shall be constructed on the flank elevations of the approved dwellings.