



Appeal Decision

Site visit made on 16 January 2024

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 25th January 2024

Appeal Ref: APP/C1760/W/23/3319471

Test Valley Farm, Little Drove Road, Chilbolton SO20 6AN

- 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 Chris Rees, Alfred Homes Limited against the decision of Test Valley Borough Council.
 - The application Ref 21/02241/FULLN, dated 21 July 2021, was refused by notice dated 14 October 2022.
 - The development proposed is demolition of existing building and erection of seven residential dwellings with associated access, landscape and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Part of Test Valley Farm (the TVF), including the appeal site, was included within the Settlement Boundary as defined in Policy COM2 of the Test Valley Borough Revised Local Plan Development Plan Document 2016 (the LP) when earlier Settlement Boundaries were revised. I have seen no evidence that the Chilbolton Settlement Boundary would be altered in any emerging Local Plan which in any case would be at a very preliminary stage and would not carry much weight for this appeal. I acknowledge the strength of local feeling about the development plan status of the site. However, I must decide the appeal based on the development plan policy at the time of my Decision.
3. The main Parties have had the opportunity of commenting on the implications of the revised National Planning Policy Framework (the Framework) published in December 2023. I have taken account of the responses made.
4. A revised planning application Ref 22/02668/FULLN for four dwellings on the appeal site has been submitted to the Council. This is accompanied by an Off Site Ecology Land Biodiversity Management Plan that the appellant considers would equally apply to this appeal. I understand that the Council Ecologist considers the Management Plan addresses previous ecological comments. However, I have no evidence that the Council has accepted this by way of granting, or resolving to grant, permission.
5. A Unilateral Undertaking (the UU) under s106 of the Town and Country Planning Act 1990 (as amended) was provided with the appellant's Final Comments. This provides for an off-site affordable housing contribution, management of the Off Site Ecology Land, an adjoining three hectare wood pasture field, owned by the same landowner, for Biodiversity Net Gain, and provision to achieve nitrate neutrality. The Council has not indicated that such

obligations would resolve their concerns and I have seen no evidence of title of the appeal site or of the Off Site Ecology Land. As such, despite the obvious willingness of the appellant to make these provisions, there is no certainty the obligations are deliverable. In view of my other conclusions, it was not necessary or appropriate for me to seek clarification of title¹.

Main Issues

6. The main issues are:

- whether safe and convenient access and parking facilities would be provided;
- whether appropriate provision would be made for protected species, habitats and biodiversity;
- whether satisfactory living conditions would be provided for future occupiers of Plot 1 taking particular account of privacy;
- the effect of the proposal on the character and appearance of the area; and
- whether or not appropriate provision would be made for affordable housing.

Reasons

7. Chilbolton is a rural village in the settlement hierarchy set out in Policy COM2 of the LP where some additional development may be appropriate. Policy HD1 of the Chilbolton Neighbourhood Development Plan 2021 (the NP) provides for about 20 dwellings within the Settlement Boundary. As the appeal site is in the Settlement Boundary residential development is acceptable in principle provided other planning policies and material considerations are satisfied.

Access and parking

8. Access would be from the TVF drive at the end of the Little Drove Road where Public Rights of Way meet. There is no turning head and the single lane carriageway of Little Drove Road means vehicles cannot easily pass without moving off the carriageway. The extent of highway land is wider than the carriageway and planting, posts and block paving have encroached within it.
9. The proposal would be likely to generate some 4 to 5 traffic movements in peak periods and about 40 over the day because of the lack of convenient alternative modes of travel. In mitigation two passing places are proposed within highway land opposite Pathways and to the side of Morningside. These are acceptable in principle to the Highway Authority with the proviso that these would need to be larger than shown. It is also not clear as to what provision has been made to prevent obstruction to drives on the other side of Little Drove Road. The Highway Authority would also require parking, loading and unloading to be controlled by way of a Traffic Regulation Order (TRO) and expresses reservations about whether a TRO would garner the support required through the associated public consultation process.

¹ In written representations cases the appellant will need to provide evidence of title to the Inspector. Normally this is in the form of an up to date copy entry or entries from the Land Registry as set out in the Procedural Guide–Planning Appeals–England

10. The shared drive would have no separate footpath and would end in the courtyard between Plots 5-7. The demonstrated swept path tracking plan shows the turning of a refuse freighter in the courtyard between Plots 6 and 7 then reversing around the front of Plot 7 to leave in a forward direction. This would be an improvement compared to the current arrangement, which requires the refuse vehicle to turn at the junction of Station Road and Little Drove Road, and reverse along Little Drove Road to collect refuse.
11. The Highway Authority and the Council's Refuse Team accept the principle of the tracking shown. However, both express reservations about conflict with landscaping such as hedges, both initially and into the future, and suggest control of parking through a TRO would be needed.
12. No detailed measurements are stated on the plan and it is not clear what account has been taken of the front porch at Plot 7 or the tree and hedge planting proposed in front of it. The turning movements into the site close to the corner of the house at Plot 1 and between Plots 6 and 7 as shown would appear to be very tight and not as safe as might be expected in a new development. There would also appear to be the potential for conflict between vehicles reversing quite tightly around the corner of the Plot 7 house and those using its front door.
13. No passing places are proposed along the shared drive. Passing vehicles would encroach on front gardens/parking spaces or need to reverse a significant length of sinuous drive. Any parking on the access or in the courtyard would further impede the convenient flow of vehicles. Nor is it the case that future residents will always cooperate amicably in such matters whether or not they are party to a future management company. I consider access arrangements proposed would not function particularly well and the need to rely on double yellow lines in a small residential development would not be attractive and would not amount to a good layout design.
14. Parking in excess of the required standards would be provided in garages/carports and parking bays to either side of the access. Two spaces would be provided directly next to the house at Plot 1. Policy HD5 of the NP seeks an additional space in part for visitor parking and also because of the local lack of public transport. The distance to the space, a little further along the shared drive, is not excessive but could result in inconsiderate parking which could contribute to obstruction of the private drive. This would conflict with the aims of Policy HD5(2)(a) and adds to my concerns about the way in which the development would function.
15. I conclude that it has not been demonstrated that refuse and other larger vehicles would be able to manoeuvre within the site safely and efficiently without conflicts arising with the proposed buildings and/or landscaping and other users of the access. Accordingly safe, attractive and convenient access and parking facilities would not be provided for all. Accordingly, there would be conflict with Policy T1(c) of the LP and Policy HD5 of the NP in this respect although the amount of parking provided would meet the requirements of Policy T2 and Annex G of the LP of the LP.

Protected species, habitats and biodiversity

16. Chilbolton Common Site of Special Scientific Interest (SSSI), West Down Nature Reserve and the River Test SSSI are within some 500m of the site.

Together these areas contain ancient common, part of the classic chalk River Test, fen and meadows with species-rich and ecologically diverse flora and chalk downland, a Biodiversity Action Plan Priority Habitat.

17. The houses would largely replace grazed grassland and the building which are generally areas of less environmental value. There are bat roosts in a number of trees but none in the building. Artificial features to encourage wildlife occupation would be installed on houses and trees.
18. A high, primarily leylandii, hedgerow provides cover, shelter and a dark corridor along the southern boundary for flight and foraging routes which also cross the site. It's loss would cause disruption but the similar hedge on the other side of the TVF drive would remain and provide sufficient cover in the shorter term. A new native hedgerow would be planted which would diversify habitat in the longer term.
19. Many of the other trees on the site would be retained with a tree management regime to maximise longevity and understorey and other planting introduced. However, it is likely there would be pressure for removal of oak trees to improve light and solar gain particularly for Plots 1 and 7 where tree canopies would overhang much of the gardens.
20. A lighting strategy which includes down lighters, special tinted glass and restrictions on illumination, would minimise light spill. Species other than bats react differently to lighting but I have seen no specific evidence to conclude that other lighting measures would be required. However, the extent of lighting restrictions required might be difficult to retain into the future particularly for Plots 1 and 7 where tree canopies would overhang much of the gardens.
21. The Biodiversity Net Gain Assessment and Metric 3.1 identifies a slight increase in hedgerow units but that there would be some 35.59% net loss of habitat units even taking into account habitat retention creation and enhancement. In mitigation Biodiversity Net Gain is proposed through retaining and enhancing on-site woodland, the installation of artificial wildlife habitats on site and tailored management with selective grazing of the Off Site Ecology Land over target times of 20 years and 30+ years respectively. These measures would also increase connectivity with West Down Nature Reserve and the wider area, enhancing wildlife corridors and habitats.
22. Management of the Off Site Ecology Land could be secured under the UU but it is not certain that the proffered obligations are deliverable. In any case, the preference is to firstly avoid loss of habitat but, if this cannot be done, to create habitat on-site or off-site. I have seen no evidence that there is no alternative layout or scale of development that would have a lesser impact on protected species or habitats. A five year on-site management scheme secured by condition as proposed by the appellant, or even the ten years provided for under the Holly Lodge permission, would be insufficient to secure the ecological enhancements in the longer term.
23. I conclude appropriate provision has not been made for protected species, habitats and biodiversity. I find conflict with Policy E5 of the LP; Policy HD4 of the NP and the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) and those principles of the Framework that seek to minimise impacts on protected species and habitats and provide net gains for biodiversity.

Privacy Plot 1

24. The rear garden of Plot 1 would adjoin the Right of Way. Hedges are frequently used for garden boundaries especially in countryside areas and pre-grown plants could provide an instant hedge up to 1.8m high on planting. Subject to conditions about the species, numbers and size at planting, and appropriate management and replacement, I consider satisfactory living conditions in terms of sufficient privacy would be provided for future occupiers of Plot 1. There would be no conflict with Policy LHW4(a) of the LP or Policy HD4(n) of the NP in this respect.

Character and appearance

25. Chilbolton, historically a more nucleated settlement, expanded south in the 20th century. The appeal field with its mature trees is separated from gardens of this later development by a Right of Way. The large dilapidated agricultural building within the field has a low roof profile and, being set in a hollow, is not overly prominent. The surrounding landscape is dominated by open common, large fields and woodland with dispersed farmsteads and settlements.
26. Many of the protected oak trees, which are a significant site feature, would be retained within communal green open space adjacent to the Right of Way. With appropriate precautions during construction the incursions into the root protection areas should not harm the retained trees. Some pruning works would help maintain the health of the trees irrespective of whether the development takes place.
27. However, some protected trees would be within, or very close to, the curtilages of Plots 1 and 7. Notwithstanding the amended plans large parts of these gardens would be beneath the canopies of the protected oaks. The garden of Plot 1 would be similarly affected by the proposed planting of field maple, oak and wild cherry along the site boundary. The separation from the houses themselves from the canopies might be within reasonable limits for the purposes of the British Standard 3998:Tree Work Recommendations, but it seems likely to me there would be pressure for works to or, removal of, these trees, which would be harmful to the appearance of the site and which is indicative of a constrained layout. The Council's Tree Team did not object to the amended plans but this was qualified by the recognition that a different layout and density of development would enable better separation of development from the trees.
28. Replacing the line of conifers with a native mixed species hedge would over time improve the appearance of the area. Some other lower grade trees would be removed but this would be mitigated by new tree planting. However, within the developed part of the site there would be little opportunity for meaningful landscaping as front gardens would be very small and the frontages would be dominated by the hard surfaces of the shared drive and parking areas. This would contrast sharply with the appearance of the retained trees on the other side of the shared drive.
29. There is a broad range of house types sizes and forms in the village with a wide variety of architecture and materials. The proposed houses would mainly not be seen together with existing houses so there would be no need to fit in with existing house styles. Accordingly, a bespoke design with rustic materials would not be inappropriate.

30. The detached house denoting the entrance to the site and the larger detached house at the end of the shared drive and would be redolent of scattered houses in a rural landscape. The proposed buildings at Plots 2 to 6 would be in a line. However, the setback of the garages and the somewhat discordant rhythm of the gaps between the buildings together with the top heavy roof forms of the two large and identical building blocks at Plots 2-5 mean the character would appear more akin to a suburban style development rather than that of the traditional farmstead envisaged in the design philosophy.
31. Different documents cite different materials² for the surfacing of the shared drive so there is clarity of the resultant appearance of the drive or materials to be used. The Landscape Plan 1421-0101 Rev B specifies a bitmac surface for the first part of the shared drive. This together, with any TROs necessary to secure the flow of vehicles, would have an unfortunate appearance for a small new residential development in a rural area.
32. The gross density of development of the nearest housing areas varies between about 10 and 15 dwellings per hectare although there is little by way of green space in these areas. The comparative gross density of following development would be about 4.2dph but excluding green space the developed area would have a density closer to 16dph. Such a density would not be so out of character with the local area as to justify refusal on such grounds alone even though development would be concentrated in the southern parts of the site.
33. However, whether a proposal would be cramped and over intensive is not only a function of density but also of the way in which the development would function. The layout maximises south and south westerly aspect rear gardens with opportunities for passive solar gain, and would create a positive active frontage towards the Right of Way. However, the layout does not provide safe and convenient access for vehicles or enough separation from trees at Plots 1 and 7 in terms of gardens and effects on habitats, or allow for more meaningful gardens and landscaping in front of and between the buildings on the developable part of the site. The developable area of the site would therefore appear cramped and over-intensive as the consequence of too many larger buildings and the extent of hard surfacing within it.
34. For the reasons set out above I find that the development would not function well and would not achieve a well-designed and beautiful place. I conclude the proposal would have a harmful effect on the character and appearance of the area. I find conflict with those parts of Policies E1 and E2 of the LP; Policies EN2 and HD4 of the NP; and those principles of the Framework that seek developments appropriate to the character of the area and which emphasise the need for good design.

Affordable housing

35. Policy COM7 of the LP and the Affordable Housing Supplementary Planning Document 2020 seek affordable housing to meet identified housing needs. The appellant is willing to make a policy compliant financial contribution towards off-site provision. Although the preferred option is for provision to be made on-

² The Planning Design and Access Statement specifies gravel with block paving in front of Plots 4 and 5; the landscape plan states a bitmac surface would change to reinforced gravel with a strip of setts across from Plot 3 and a second strip across from Plot 5; the Final Comments refers to reinforced buff gravel with no markings

site the Council agrees this approach. However, I cannot be certain such provision would be deliverable through the obligation.

36. A mix of two and three bed houses would technically comply with Policy HD1(2) of the NP. However, the proposed layouts have been reconfigured from four bed units to three bed units with no apparent reduction in overall floor space and the appellant's Market Research Report considers the houses to be oversized in terms of the bedroom/total area ratio. The proposal therefore would not comply with the intentions of Policy HD1 of the NP which seeks smaller more affordable units to re-balance the stock in the village.
37. It has not been proven that appropriate provision for affordable housing would be made. I conclude there would be conflict with Policy COM7 of the LP and the aims of Policy HDI(2) of the NP in this respect.

Other Matters

38. In the absence of mitigation, the proposed dwellings in combination with other plans and projects would be likely to have a significant effect on designated sites³. An overall net increase in population would create additional levels of nitrogen and phosphorus and have an adverse impact on water quality in these important marine and estuarine habitats. However, in view of my conclusions on the main issues it is not necessary for me to undertake an Appropriate Assessment under the Regulations or to consider these matters further.
39. There have been various amendments to the proposal. Concerns regarding residents' parking on the road or planting by households, are not unique to the appeal site. However, generally planning layouts would not require such tight turning movements within shared access schemes. These matters do not lead me to any different conclusions in respect of the scheme before me.
40. The Sparsholt Winchester development differs from the proposal before me as that site was almost fully occupied by large buildings and is surrounded by other buildings. In that case the development of a full courtyard arrangement was appropriate to its surroundings. It does not lead me to any different conclusion in respect of this appeal.
41. The appellant considers the Council has taken an inconsistent approach compared to other applications and that the Case Officer should have followed the professional advice from other Officers. This does not go to the heart of the planning merits of the proposal and I have reached my own Decision based on the planning merits and evidence before me.

Planning Balance and Conclusion

42. The developer is a small and medium housebuilder of bespoke housing with no standard house types. The Framework recognises the important contribution small and medium sized sites make in speedy delivery of housing. The proposal would make efficient use of land and add to the stock of housing as encouraged by Government policy irrespective of whether the Council can demonstrate a five year supply of deliverable housing land. The appellant is clearly willing to contribute towards affordable housing, although the weight given to this benefit is reduced by the lack of certainty about deliverability. The proposal would

³ Chichester and Langstone Harbours, Solent and Southampton Water and Portsmouth Harbour Special Protection Area and Ramsar sites and the Solent Maritime Special Area for Conservation

make efficient use of land and would provide employment and economic benefits during the construction period. Taken together these are substantial benefits in favour of the proposal.

43. There would be safety benefits arising from the provision of passing places on Little Drove Road and a turning facility within the site. However, it is not certain that these are deliverable and it has not been clearly demonstrated that larger vehicles could turn without conflict or that vehicles could conveniently flow on the shared access. Accordingly, I give these benefits little weight in favour of the proposal.
44. I have found that safe, attractive and convenient access and parking facilities would not be provided for all, the proposed layout and appearance of some of the buildings would be less than satisfactory and the proposal would not amount to the good design given the highest priority in the Framework. Nor has it been satisfactorily demonstrated that appropriate provision would be made for protected species, habitats and biodiversity. These are matters of very great weight and, taken together these adverse impacts outweigh the benefits of the proposal.
45. In failing to comply with Policies of the LP and the NP, as set out above, the proposal cannot be said to comply with the development plan as a whole. I have found insufficient material considerations to outweigh the conflict with the development plan. The appeal should be dismissed.

S Harley

INSPECTOR