



Appeal Decision

Site visit made on 20 November 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2024

Appeal Ref: APP/W0530/W/24/3347379

Land off Leaden Hill, Orwell, Cambridgeshire, SG8 5QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Hawkswren Ltd against the decision of South Cambridgeshire District Council.
 - The application Ref is 23/02966/OUT.
 - The development proposed is 9 self build plots with access and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for 9 self build plots with access and associated infrastructure at Land off Leaden Hill, Orwell, Cambridgeshire SG8 5QH in accordance with the terms of the application, Ref 23/02966/OUT, subject to the following conditions set out in the schedule below.

Preliminary Matters

2. During the course of the appeal, a new National Planning Policy Framework has been published (the Framework). The policies which are most relevant to the determination of the appeal have not been subject to substantive changes and I am satisfied that the parties have not been prejudiced by my taking it into account.
3. A Section 106 agreement has been submitted with the appeal, dated 17 October 2024 (the S106) which relates to the delivery of self build plots and financial contributions for infrastructure. This has been taken into account in determining the appeal.
4. The proposal seeks outline permission, with details of access submitted for consideration. I have considered the appeal on this basis and have treated any plans in relation to matters of appearance, landscaping, layout and scale as illustrative.

Main Issues

5. Information relating to the agricultural land classification of the appeal site has been submitted with the appeal. The Council do not dispute its findings and as such it accepts that its reason for refusal in this respect has fallen away. As this matter is not in dispute between the main parties, I have dealt with it under Other Matters, rather than as a main issue of the appeal.
6. The main issues are:

- Whether the site is suitably located for new housing, having regard to the Council's spatial strategy and sustainable transport means, and;
- The effects of the proposal on the character and appearance of the area.

Reasons

Location for Housing

7. Policy S/6 of the South Cambridgeshire Local Plan 2018 (the LP) sets out the Council's development strategy to 2031 and describes where new development should be located. It explains that development in the rural area will be limited, with allocations for jobs and housing focused on Rural Centres and Minor Rural Centres, with rural settlement policies providing for windfall development for different categories of village consistent with the level of local service provision and quality of public transport access to Cambridge or a market town.
8. The appeal site is at the edge of Orwell, which is identified by Policy S/10 as a Group Village. The LP defines this as a village with fewer services and facilities than large settlement types, allowing only some of the basic day-to-day requirements of their residents to be met without the need to travel outside the village. Policy S/10 accordingly identifies an indicative maximum for residential development.
9. Policy S/7 refers to development frameworks, which are described as frameworks to define where policies for the built-up areas of settlements give way to policies for the countryside. Part of the appeal site adjoins the boundary of the development framework for Orwell and the access of Leaden Hill lies within it. Nonetheless, the area of the proposed houses lies outside the development framework and the appeal site steps away from its boundary at its north eastern edge. Accordingly, the second part of Policy S/7 is applicable. This sets out that outside development frameworks, only allocations within Neighbourhood Plans that have come into force and development for agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside or where supported by other policies in this plan will be permitted. The proposal is not for any of those uses listed, and it is not apparent that it would necessarily need to be located in the countryside. Neither is there evidence before me that the use is supported by other policies in the plan.
10. In addition to the above, Policy TI/2 requires development to be located to reduce the need to travel, particularly by car, and contains criteria where development likely to give rise to increased travel demands would be acceptable. As above, the LP acknowledges that Orwell is capable only of meeting some of the basic day-to-day requirements of residents without needing to travel further afield. I observed that Orwell has some services and facilities, including a school, public house and shop which are a reasonable walking or cycling distance of the appeal site. While Leaden Hill lacks a designated footpath and is reported as having been used by agricultural vehicles, this is unlikely to cause a significant deterrent to pedestrians using this route given its width.
11. Other facilities, however, are a greater distance away, for example in Royston or Cambridge. Given the distances involved and the rural nature of those

routes, they are very unlikely to be accessed on foot and may not appeal to cyclists on a regular basis throughout the year. Some limited bus services operate through Orwell towards other settlements, although these are fairly infrequent based on the evidence. Therefore, while some alternatives to car use do exist, a degree of reliance on the private car by future occupants is very likely. For these reasons, the development cannot be described as one located to reduce the need to travel by car and would not provide real travel choice, contrary to Policy TI/2.

12. Overall, and in conclusion on this main issue, the site is not one suitably located for new housing having regard to the Council's spatial strategy and its sustainable travel options. It would conflict with policies S/6, S/7, S/10 and TI/2 summarised above. There would also be a degree of conflict with the objectives of the Local Plan set out in Policy S/2 of the LP, which includes that land should be provided for housing in sustainable locations.

Character and Appearance

13. The surrounding area is subject to several landscape character designations, as set out in the appellant's Landscape and Visual Appraisal (LVA). The site is within the East Anglian Chalkland National Character Area, which defines this area as having a visually simple and uninterrupted landscape of smooth, rolling chalkland hills with large regular fields enclosed by hedges with few trees, straight roads and expansive views. The site also lies close to the boundary with the Bedfordshire and Cambridgeshire Claylands to the north, characterised by a broad, gently undulating, lowland plateau dissected by shallow river valleys. The South Cambs Design Supplementary Planning Document 2010 (the SPD) goes on to describe the area surrounding the appeal site as having a mostly strong rural character and similar characteristics of the area are recognised by the Greater Cambridge Landscape Character Assessment.
14. The appeal site lies at the south west extremity of Orwell. As set out above, it adjoins the settlement boundary and the settlement broadly follows the lines of Town Green Road and High Street and includes a number of intervening smaller roads and cul-de-sacs, giving the settlement an irregular shape. More recent developments have also extended from Hurdleditch Road closer to the appeal site. By contrast to much of the village, Leaden Hill has a more rural character, derived from the absence of development on its southern side, predominantly generous plot sizes and abundance of soft landscaping together with the unmade road. Together this gives an open and spacious character to Leaden Hill, which contributes positively to the transition of the village to the surrounding countryside. The appeal site adjoins open farmed land to all except its north-eastern edge, however, it is visually well contained in the landscape by virtue of the tall hedgerow which encloses it.
15. While the resulting plot sizes would likely be smaller than many of those along Leaden Hill, the proposal would be capable of maintaining the boundary hedgerows as well as trees to the front of the site, which would assist in maintaining a more rural and verdant character. They would also assist in visually containing the development and maintaining its distinction from the surrounding open countryside.
16. Details of scale, layout and appearance are not among the matters for which approval is sought, although details of intended design passports have been

provided. This suggests that building heights could rise above the height of the enclosing hedgerow. However, even if the proposal were visible from surrounding view points, including from the adjacent footpath, views along Leaden Hill and wider views from the north and south, it would appear among the context of other houses along Leaden Hill. It would appear as an extension to the village and, given the particular characteristics of the site and its enclosure, it would protect the attributes of the landscape which contribute positively to its character. Given the varied character and appearance of properties on Leaden Hill, I have no reason to believe that a design solution could not reasonably be achieved which would sit comfortably in this context. Subject to its final detailing, it is capable of providing an enhancement to the village setting.

17. In conclusion on this main issue, the proposal would have acceptable effects on the character and appearance of the area including the landscape character. It would comply with policies NH/2 and HQ/1 of the LP which relate to respect for the context and landscape character. Insofar as this main issue is concerned, neither do I find conflict with Policy S/7, which relates to the development frameworks.

Other Matters

Planning Obligations

18. Policy TI/8 of the LP requires proposals to make suitable arrangements for the improvement or provision of infrastructure necessary to make the scheme acceptable in planning terms. In addition, Policy SC/4 requires, among other things, that all housing development contribute to the provision of the services and facilities necessary to meet the needs of the development.
19. As well as securing the proposed self-build plots, the S106 would secure financial contributions to various local infrastructure including: an Allotments and Community Orchard Contribution (£1,596), Burial Space contribution (£1,470), Community Facility Contribution (£9,822.41), Green Infrastructure Contribution (£10,353.42), Household Waste Receptacle Contribution (£765), Off-site Childrens Play Space Contribution (£33,716.37), Off-Site Indoor Sports Contribution (£5,683), Off-site Informal Open Space Contribution (£3,176.86), Swimming Contribution (£6,337) and Off-site Sports Contribution (£21,635.26). I have considered these in light of the relevant tests for obligations.
20. In the case of each contribution, other than the Household Waste Receptacle Contribution, the Council have detailed why such contributions are necessary and related to this proposed development, including reference to formula used to ensure they are related in scale to the proposal. This makes reference to associated studies carried out by the Council, including the Nature Network Report 2021, Community Facilities Assessment of 2009 and its Open Space in New Development Supplementary Planning Document 2009, and details how the contributions would be used. The main parties are not in dispute on these matters and both have signed the S106. Based on the evidence I am satisfied that those contributions, other than the obligation relating to waste, meet the requirements for a planning obligation and should be taken into account.
21. The exception to the above is the Household Waste Receptacle Contribution as there is not substantive evidence as to how that contribution is calculated. As

such I cannot be satisfied that it is related in scale and kind to the proposal. Similarly, the S106 includes a contribution of £2,200 towards the monitoring of the obligation. While it is generally accepted that such a fee can be charged, it is not apparent here how the contribution is fairly and reasonably related to the scale and kind of the development and would not exceed the authority's estimate of the cost of monitoring. Those obligations would therefore fail to meet the appropriate tests and I have not taken them into account in determining the appeal.

Biodiversity Net Gain

22. The application pre-dates the statutory requirement for biodiversity net gain¹. LP Policy NH/4 requires development to maintain, enhance, restore or add to biodiversity and opportunities taken to achieve positive gain. Those objectives are shared by the Council's Biodiversity Supplementary Planning Document 2002. A condition has been suggested to secure biodiversity enhancements as discussed below, and I find this would be adequate to address the policy requirement if the appeal scheme were found to be acceptable.

Agricultural Land

23. The appellant has provided an Agricultural Land Classification dated June 2024 which considers the condition of the appeal site for agricultural purposes. The Council have withdrawn its objections in respect of this issue as the report includes a detailed assessment and consideration of soil cores. It concludes the site to be Grade 3b and accordingly its development would not conflict with Policy NH/3 of the LP. While details of positions of the test pits are not provided, I have no strong reason to dispute the appellant's findings or reach a contrary view.

Further Issues

24. I have had regard to the issues raised by third parties. A number of these issues are addressed within the Council's Officer Report and informed by relevant consultee responses. This includes the matter of local traffic and highway safety, and I have no strong reason or substantive evidence which would lead me to reach a different conclusion on those matters. I note the issues relating to the carriageway of Leaden Hill and that it may be privately maintained, however, this would be a matter for the relevant parties. Planning conditions would be capable of assisting in addressing some of those concerns raised.
25. I note concerns for local infrastructure in the village, including drainage. Details of foul drainage could be secured by condition and I have no strong reason to believe that a solution could not reasonably be achieved for a scheme of this size. I note errors which have been highlighted among some of the supporting documents, however I find the information provided to be adequate for my assessment of the appeal. I similarly find no strong reason to doubt the ownership certificate completed with the application.
26. Given the flood risk zone of the site, as the Council report no surface water flood risks on the main part of the site, taken together with the findings of the appellant's flood risk assessment, I find the development would be acceptable in terms of its effects on flooding and drainage, subject to the imposition of

¹ Schedule 7A of the Town and Country Planning Act 1990

conditions. While noting surface water flooding has occurred on neighbouring land, including on Leaden Hill, it is not apparent that this would be worsened by the proposal.

Planning Balance

27. It has been found that the proposal would conflict with the development plan in that it is contrary to the spatial strategy for the District and would not be located to reduce the need to travel by car.
28. As set out, the site is nonetheless well connected to the existing village of Orwell and the few facilities it provides, as well as its limited public transport links. As such the site's location is not entirely unsustainable. The Framework acknowledges that rural housing should be located where it will enhance and maintain the vitality of rural communities, which would be the case here and residents of the proposal would support the existing local services. It also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. For these reasons together, the conflict arising with the development plan relating to the site's location attracts moderate weight.
29. To be weighed against this is the provision of 9 self-build plots which the proposal would provide. Paragraph 73b) of the Framework supports small sites to come forward for self-build and custom-build housing. The provisions of the Housing and Planning Act 2016 also include that authorities must give development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area, and I note that South Cambridgeshire District Council was a Right to Build Vanguard Authority with a statutory duty under section 2A of The Self Building and Custom Housebuilding Act 2015.
30. The Council acknowledge that, following changes in the way in which demand for self build plots is calculated, a total of 1,055 people have been added to the self-build register since the first base period. It states that a total of 322 plots have been permitted in the same time and consequently there is an identified need in the District for 733 plots. This is therefore a very substantial shortfall in self-build plots. Planning Practice Guidance acknowledges that these registers are likely to be a material consideration in decisions involving proposals for self and custom housebuilding.
31. It is alleged that the Council are able to demonstrate an appropriate housing land supply. While there is little evidence regarding the current position, even if that were the case this would not alter the above position in respect of self-build plots. The Council have identified a number of major development sites allocated for residential development to include self-build plots, and there is the possibility of other sites coming forward elsewhere for this purpose. However, based on the evidence before me, there is not substantive evidence of the extent of plots that they would provide or when they would be provided. As such, there is not certainty that they would satisfy the identified need.
32. The S106 would secure the housing for self-build purposes and I consider this would suitably secure the delivery of this type of housing. While this is only a modest contribution to the identified shortfall, it would nonetheless make a positive contribution with some tangible effect. Taken together with the uncertainty as to how the shortfall will otherwise be addressed, and the site's

location at the edge of an existing settlement, I ascribe this benefit very significant weight.

33. Other benefits may arise from the proposal which attract some weight, including the economic benefit associated with the construction process and ongoing expenditure by future residents. The financial contributions set out in the S106 however, would provide mitigation for the effects of the development, rather than amounting to a benefit.
34. Overall, I conclude that the very significant weight given to the benefit of self-build housing on this particular site would outweigh the conflict with the relevant development plan policies which deal with the location of new housing. There are therefore material considerations of sufficient weight to outweigh the conflict identified with the development plan.

Conditions

35. The Council have suggested conditions that it considers would be appropriate in the event that the appeal were to be allowed, and these have been commented on by the appellant. I have considered these in light of the advice contained in the Planning Practice Guidance.
36. A condition is necessary to secure matters of appearance, landscaping, layout and scale, with the standard conditions specifying when the reserved matters applications must be submitted and when the development must be commenced by. A condition listing the approved drawings in relation to access is also necessary to provide clarity.
37. For reasons of highway safety, a construction traffic management plan is necessary. To ensure protection of areas of ecological interest on the site, an ecological management plan for the construction process is also necessary, as are details of investigation and treatment of any archaeological remains. Similarly, details of the means of protecting retained trees and hedgerows are necessary, alongside a timetable for their implementation according to the phasing of the development. While details of sustainable drainage means have been provided by the appellant, it nonetheless acknowledges that, other than in the case of the attenuation pond, details will depend on layout, landscaping and appearance of the houses. As such it is necessary to secure final details and I have simplified the condition in the interests of conciseness as the Council will have the opportunity to assess the adequacy of the submitted details. These conditions need to be satisfied prior to commencement of development as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measures which could be used. Given the proximity to other residential properties and the nearby school, restrictions are imposed on the construction process for reasons of amenity and highway safety.
38. A condition covering the eventuality of unexpected contamination being found would be appropriate here, given the concerns raised by a third party. Details of renewable energies and water use are necessary for environmental reasons, as well as internet connections to meet the relevant policy requirements.
39. Biodiversity enhancements should also be secured. However, given the wording of the development plan policy and based on the evidence, I am not satisfied that securing a legal agreement for off site enhancements is

reasonable or necessary here, beyond the measures which could be provided on the site. For ecological reasons, and given the suitability of the site for bats, details of any external lighting are also conditioned.

40. It is not apparent why details of the management or maintenance of the proposed street would be necessary to make the development acceptable in planning terms. As the acceptability of reserved matters would fall to be considered at a later stage, and could be subject to their own conditions accordingly, neither do I find a condition securing details including car parking layouts, planting or housing standards would meet the test of necessity.
41. Details of plot passports have been provided, which contain relatively specific details of scale and layout. These would be subject to consideration at the reserved matters stage and I see no reason why the acceptability of this outline application should be dependant on those details, given the site's circumstances. As such, a condition to secure compliance with those passports is not necessary.

Conclusion

42. The proposal would conflict with the development plan, however, there are material considerations of sufficient weight to indicate a decision other than in accordance with it. For the reasons given, the appeal is allowed.

C Shearing

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application(s) for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with drawing nos PL(01)01 and PL(90)01 only insofar as they relate to site access. At the point of access onto Leaden Hill, pedestrian visibility splays of 2m x 2m shall be maintained free of obstruction above the height of 0.6m from the ground level of Leaden Hill at all times.
- 5) No development shall commence until a construction traffic management plan has been submitted to and approved in writing by the local planning authority. It shall include, but not be limited to:
 - Arrangements for management of deliveries, loading and unloading, and control of muck away lorries;
 - Parking arrangements, and;
 - Means of controlling dust, mud and debris from the construction process.

The development shall be carried out only in accordance with the approved details.

- 6) No development shall commence, including site clearance, until a construction ecological management plan has been submitted to, and approved in writing by the local planning authority. This shall include details of the following:
 - A risk assessment of potentially damaging construction activities including identification of any biodiversity protection zones;
 - Measures to avoid or reduce impacts during construction, including details of any sensitive works, times when an ecologist may need to be present and the use of protective fences and/ or signage where appropriate.

The construction process shall be carried out in accordance with those approved details.

- 7) The construction process shall adhere to the following provisions:
 - Construction works, excluding internal works, shall only be carried out between 08:00 and 18:00 Monday to Friday, 08:00 and 13:00 on Saturday, and at no time on Sundays, Bank or Public Holidays.
 - No construction vehicles over 7.5t shall service the site between 08:30- 09:00 and 15:00- 15:30hrs Monday to Friday (during term times).

- No piling shall take place unless a method statement containing details of the piling and its effects on local residents, monitoring and mitigation measures, if required, has first been submitted to and approved in writing by the local planning authority. Any piling shall be carried out only in accordance with the approved details.
- 8) No development including site clearance shall commence until details have been submitted to, and approved in writing by the local planning authority, to demonstrate how the trees and hedgerows to be retained on the site shall be protected throughout the construction process. Those details shall include the protection of the hedge along the southeastern boundary other than a section necessary for the access. It shall also include a timetable for implementation and maintenance of the protection methods during the construction phases, and the development shall be carried out only in accordance with the approved details.
- 9) No development shall take place, other than site clearance, until a written scheme of investigation for archaeology has been submitted to and approved in writing by the local planning authority. This shall include a statement of significance and research objectives; methodology of investigation and recording including nomination of an appropriate competent person; timescales for field evaluation and for analysis, publication and dissemination and deposition of any resulting material. The development shall be carried out in accordance with the approved details and timescales.
- 10) Prior to the commencement of development, other than site clearance, final details of a scheme for surface water drainage shall be submitted to and approved in writing by the local planning authority. This shall include, but not be limited to, details of:
- existing drainage and run-off rates;
 - the proposed drainage system for the site as a whole, including the areas which will drain into that system;
 - attenuation and flow control measures, maintenance measures, including details of agreement from any third parties if necessary, and;
 - measures to prevent pollution of the receiving groundwater or surface water.

The development shall be carried out and maintained in accordance with the approved details.

- 11) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development, or relevant phase of development, shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

- 12) Prior to the commencement of development above the slab level of any new dwelling, details shall be submitted to and approved in writing by the local planning authority of a scheme for biodiversity enhancements for the development. Those enhancement measures shall be installed in accordance with the approved details not later than 6 months following the first occupation of the plot to which they relate.
- 13) Prior to the commencement of development above the slab level of each new house, details of how the development on that plot shall reduce carbon emissions by a minimum of 10% (calculated by reference to a baseline for the anticipated carbon emissions for the property as defined by Building Regulations) through the use of on-site renewable energy and low carbon technologies shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 14) Prior to the commencement of development above the slab level of each new house, details shall be submitted to, and approved in writing by the local planning authority, to demonstrate that the dwelling is capable of achieving water use of no more than 110 litres/person/day. The development shall be carried out in accordance with the approved details.
- 15) Prior to the first occupation of any new dwelling, details of foul water drainage arrangements for the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 16) No external lighting shall be installed to any part of the site unless details have first been submitted to, and approved in writing by, the local planning authority. Those details shall show how the lighting proposed takes account of bat movements and habitats. Any external lighting shall be installed only in accordance with the approved details.
- 17) Each new dwelling shall have access to suitable ducting to the public highway that can accept fibre optic cabling or other emerging technology.

End of Schedule