
Appeal Decision

Site visit made on 14 January 2025

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th February 2025

Appeal Ref: APP/M1710/W/24/3349565

Land at Telegraph Lane, Four Marks, Alton (Grid Ref Easting: 467907, Grid Ref Northing: 134800)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jonathan Edwards (Thakeham Homes Limited) against the decision of East Hampshire District Council.
 - The application Ref is 60040.
 - The development proposed is construction of 10 detached dwellings with associated access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 10 detached dwellings with associated access and landscaping at land at Telegraph Lane, Four Marks, Alton (Grid Ref Easting: 467907, Grid Ref Northing: 134800) in accordance with the terms of the application, Ref 60040, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised description was agreed by the Council and the appellant before the application was determined. I have considered the appeal on the same basis and have used the revised description in the banner heading and my decision above.
3. The National Planning Policy Framework (the Framework) was updated in December 2024. I invited the parties to consider whether the revised Framework had relevance to this appeal and have taken account of their comments in my decision.
4. The Council is preparing a draft Local Plan, which has been the subject of consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. This is an early stage in the preparation process, and I am not aware of the extent of unresolved objections or whether the draft policies will be considered as consistent with the Framework. Consequently, in accordance with Framework paragraph 49, I give this emerging Plan little weight.
5. The appellant submitted additional documents with the appeal in relation to ecology, landscape impacts and affordable housing. These documents provide further supporting information about, but do not fundamentally alter, the proposed development. Interested parties were given an opportunity to comment on the appeal. I am therefore satisfied there would be no injustice if I were to take these documents into account in my decision.

Main Issues

6. The main issues are:

- whether the proposal would be a suitable location in respect to adjacent settlements;
- the effect of the proposal on biodiversity and protected species; and
- whether the proposal would make adequate provision for affordable housing.

Reasons

Location

7. Policies CP2 and CP10 of the East Hampshire District Local Plan: Joint Core Strategy 2014 (JCS) set out the spatial strategy and settlement hierarchy for the District. New housing development is directed to locations within defined settlement boundaries and allocated sites.
8. There is no dispute the appeal site, which is unallocated, lies outside the defined settlement boundary of Four Marks. It is therefore in the countryside for planning policy purposes.
9. JCS Policy CP10 states small scale development outside settlement boundaries will be permitted where it meets all of four criteria. There is no suggestion the proposal would satisfy all of these, or that the development would provide affordable housing for rural communities in accordance with all the requirements under Policy CP14. Further, the parties agree the proposal would not accord with JCS Policies CP19 and CP6, which support development outside settlements if it can demonstrate a genuine need for a countryside location. Policy 1 of the Melstead & Four Marks Neighbourhood Plan 2016 (MFMNP) supports development on land within the settlement boundary. The proposal would therefore conflict with these Policies.
10. However, the appeal site adjoins the boundary of Four Marks, which is identified as a Small Local Service Centre (SLSC) in the JCS. The settlement's services and facilities would be within some 15 to 20 minutes' walk of the site along Telegraph Lane and Winchester Road, which have footways, or via an existing footpath. I consider this to be a reasonable walking distance for many people, even if it is slightly longer than recommended in guidance such as the Manual for Streets and notwithstanding that the route is partly unlit. The cycling time for the same routes would be significantly shorter. Some existing dwellings in Four Marks are already located at a similar or greater distance from the services. There are also bus-stops on Winchester Road within about 10 minutes' walk along Telegraph Lane, serving a bus route to the much larger conurbations at Alton and Winchester.
11. Although there is no footway or speed restriction on Alton Road, the development would provide a foot/cyclepath link onto Telegraph Lane with a dropped kerb and tactile paving, which could be secured via condition.
12. Taking all this together, I find the proximity of the SLSC would help reduce the need to travel, and the accessibility of the location would be acceptable with a genuine choice of transport modes. Therefore, although many journeys could be made by

car including for work, there would be real alternatives. This would be broadly consistent with the overarching objective of JCS Policy CP2 to direct development to the most accessible locations. It would also support the objective in both JCS Policy CS31 and the Framework to promote sustainable travel.

13. Consequently, whilst I conclude the proposal would not be in a suitable location with respect to adjacent settlements, contrary to JCS Policies CP2, CP6, CP10, CP14 and CP19 and MFMNP Policy 1, I ascribe only moderate negative weight to the resulting harm.

Biodiversity and protected species

14. The Council initially found insufficient information to demonstrate an acceptable impact on biodiversity and protected species, based on a series of questions raised by its ecology advisor. The appellant has responded to these questions in the additional material submitted with the appeal and the Council has confirmed in a signed statement of common ground (SoCG) that it is now satisfied with the information provided. On the evidence before me, I see no reason to disagree.
15. The additional information includes confirmation that there would be no adverse impact from the proposed access arrangements on Alton Road to the Roadside Verge of Ecological Importance or Site of Importance for Nature Conservation (SINC).
16. The SoCG includes a slightly revised layout plan for the proposed development, showing how the garage at Plot 10 could be moved a few metres away from the boundary with 86 Telegraph Lane to accommodate a wider buffer between the garage and existing hedgerow. This buffer is necessary because the hedgerow is a priority habitat. The parties agree the revised layout would be a minor non-material change to the proposed development. I concur. The change would also result in a modest improvement to the effect of the development on the living conditions of the neighbouring occupiers. I am therefore satisfied no injustice would result from the repositioning of the garage on Plot 10 if it were secured via condition.
17. A wildlife protection and mitigation plan and a habitat enhancement plan could also be secured by condition. These would be necessary to protect the hedgerows, SINC, mature trees, breeding birds and protected species, including hazel dormice and bats, on and around the site; and to remove non-native invasive species.
18. For the above reasons, and subject to the aforementioned conditions, I conclude the proposal would have an acceptable effect on biodiversity and protected species. It would therefore accord with JCS Policy CP21, which requires development proposals to maintain, enhance and protect the District's biodiversity and surrounding environment.

Affordable housing

19. JCS Policy CP13 requires all development involving delivery of net additional dwellings to contribute towards the provision of affordable housing. The Policy allows this by way of a financial contribution where on-site provision is likely to be unsuitable. In this instance, the parties agree a payment in lieu of on-site provision would be the most effective way for the proposed development to contribute to the provision of affordable housing suitable for local needs. On the evidence before

- me, which includes emails confirming local Registered Providers' unwillingness to purchase small numbers of affordable dwellings, I concur.
20. The appellant has submitted an executed legal agreement, in the form of a unilateral undertaking, which includes an obligation under which the owner of the appeal site would contribute £902,871.50 index linked to be used towards affordable housing in the East Hampshire District Council Area; and an additional fee of £17,000 towards the Council's administrative costs for monitoring compliance with the provisions of the deed.
21. The size of the affordable housing contribution has been agreed by the Council, using a tariff-based formula. The monitoring fee is less than two percent of the value of this contribution, which is below the maximum five per cent set out in the Council's published approach to such charges. I consider this to be a reasonable administration fee relative to the size of the contribution to be monitored.
22. I am therefore satisfied on the evidence before me that the proposed affordable housing contribution and associated monitoring fee are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related to it in scale and kind. Consequently, I find the planning obligation meets the three tests in Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010 and Framework paragraph 58, and I give it significant weight in my decision.
23. As there would be no on-site affordable housing, the proposal would not qualify as a rural exception site under JCS Policy CP14. Nevertheless, for the above reasons, I conclude the proposal would make adequate provision for affordable housing, in accordance with JCS Policy CP13.

Other Matters

24. The appeal site is in the vicinity of the Grade II listed building known as 'Semaphore Farm and Boundary Stones', also known as Telegraph House. The building's significance as a heritage asset is historic, owing to its original use as one of the stations of the semaphore telegraph in the early 19th century, and architectural, as the building is little altered. Two small stone pillars define the original boundary of the site, which therefore forms part of the setting of the listed building. This setting also includes the section of Telegraph Lane from which the building's architectural and historic significance can be appreciated.
25. There would be little inter-visibility between the listed building and the proposed development and there is no suggestion of an historic functional relationship between it and the appeal site. The development would be on the opposite side of, and further along, Telegraph Lane, so there would be few if any nearby views that encompass both it and the listed building. I therefore find the setting of the listed building would be preserved and there would be no harm to its significance as a heritage asset.
26. There are existing dwellings opposite or adjacent to all four sides of the appeal site and it is visually well contained by hedgerows and trees, so the site is not primarily seen in the context of the surrounding countryside or the nearby National Landscape (formerly Area of Outstanding Natural Beauty). The proposed layout, scale and style of dwellings would integrate appropriately with the existing pattern of frontage development along Telegraph and Alton Lanes, where the size and

appearance of existing houses is varied. The appeal site therefore differs from the site at 54-58 Telegraph Lane brought to my attention, which is in a back land location adjoining open fields. Compatible materials, finishes and landscaping could be secured via condition. Taking all this together, I find the effect of the proposal on the character and appearance of the surrounding area would be acceptable and in accordance with the objectives of JCS Policies CP20 and CP29 on landscape and design.

27. Each dwelling would have a private garden, and new residents would also be able to make use of existing communal spaces and facilities within Four Marks, which would contribute positively to social integration and cohesion. I am therefore unpersuaded by concerns about an absence of social space within the development. There is also little to substantiate the suggestions that the site is needed for a new school, that its development would have a significant adverse impact on farming, that overhead power cables would harm heath, or that this scheme would lead to further development nearby. Each proposal must be determined on its individual planning merits, and I have considered this appeal on the evidence before me.
28. Residents have expressed a wide range of other concerns including, but not limited to the following: capacity of local infrastructure, flood risk, traffic, highway safety, the junction between Telegraph Lane and the A31, impact on St Swithin's Way, archaeology, light, and the effect on living conditions for neighbouring occupiers with regard to privacy, noise and disturbance. These matters were considered where relevant by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. The Council has a CIL charging schedule for improvements to local infrastructure. There is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters, subject to conditions necessary to manage surface and foul water drainage and protect archaeology.

Planning Balance

29. The parties agree the Council is unable to demonstrate a five-year housing land supply. Even if I take the Council's higher figure of 3.59 years, this is considerably below the required level and there is no pertinent evidence of enough suitable and currently available brownfield sites to make up this shortfall. Further, the JCS and MFMNP are considerably older than five years and not fully consistent with the new Framework in their calculation of the housing requirement for the area. In these circumstances, Framework paragraph 11d) is engaged.
30. The proposal would contribute ten dwellings to local housing supply, as well as a financial contribution towards delivery of affordable housing within the District. Given the considerable shortfall in overall supply and evidence of unmet need for affordable housing, even if the identified requirement for new housing in the MFMNP area has been delivered I give this provision of additional housing substantial weight.
31. In addition, the development would support the local economy through construction and future occupiers' use of local services and facilities and help maintain the vitality of a rural community. I ascribe significant weight to this benefit.
32. I have found many aspects of the proposal, including its effect on biodiversity and affordable housing provision, accord with the development plan. Whilst the

locational harm I have found means it conflicts with the plan read as a whole, I have given only moderate weight to this harm. Consequently, I find the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits of the development identified above.

Conditions

33. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. I invited the main parties to comment on the conditions and have taken account of their responses. The appellant has agreed to the pre-commencement conditions.
34. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
35. The conditions in relation to the repositioning of the garage at Plot 10, biodiversity, landscape/ habitat protection and enhancement, surface water drainage, archaeology, sewage, materials and access are necessary for the reasons noted above. Other than those pertaining to sewage, materials and access, these are pre-commencement conditions because the details need to be agreed to protect and mitigate impacts on protected species, habitats and archaeology and incorporate suitable drainage measures before work on site commences.
36. Further pre-commencement conditions are necessary to require investigation and remediation of land contamination before construction begins; and to secure a Construction Environmental Management Plan to protect the living conditions of neighbouring occupiers and highway safety throughout construction.
37. The condition to secure at least 10 per cent of energy supply from decentralised and renewable or low carbon energy sources is necessary to comply with JCS Policy CP24. It is a pre-commencement condition because scheme design for this provision could have implications for preparatory works on site.
38. Conditions to secure appropriate parking space for cars and bicycles are necessary in the interests of highway safety and to promote cycling as an alternative to private car use.
39. The justification for the Council's suggested conditions relating to noise mitigation for future occupiers of the development is not sufficiently clear or evidence-based to meet the test of necessity.

Conclusion

40. I have found the proposal conflicts with the development plan, read as a whole. However, other material considerations, including the Framework, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be allowed.

C Carpenter

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings nos except in respect of the siting of the garage at Plot 10:

PP1451-101-P1 – Site Layout

PP1451-101 P2 – Site Layout

PP1451-121 P1 – Site Layout

PP1451-120-P01 Street Elevations

3204-5-2-DR-5000-P2 Landscape Masterplan

5984-005 REV F – Access and pedestrian details

The development hereby permitted shall also be carried out in accordance with the following drawings nos:

PP1451-100-P1 - Site Location

PP1451-102-P01 Plot 01/1

PP1451-103-P01 Plot 01/2

PP1451-104-P01 Plot 02/1

PP1451-105-P01 Plot 02/2

PP1451-106-P01 Plot 03/1

PP1451-107-P01 Plot 03/2

PP1451-108-P01 Plot 04/1

PP1451-109-P01 Plot 04/2

PP1451-110-P01 Plot 05/1

PP1451-111-P01 Plot 05 Garage

PP1451-112-P01 Plot 06/1

PP1451-114-P01 Plot 07/1

PP1451-113-P01 Plots 06 and 07 Garages

PP1451-115-P01 Plot 08/1

PP1451-117-P01 Plot 09/1

PP1451-116-P01 Plots 08 and 09 Garages

PP1451-118-P01 Plot 10/1

PP1451-119-P01 Plot 10 Garage

3204-5-2-DR-5001-P2 Landscape Proposals

3204-5-2-DR-5002-P2 Landscape Proposals

3204-5-2-DR-5003-P2 Landscape Proposals

- 3) Notwithstanding condition 2 no development shall take place until details of the siting of the garage at Plot 10 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until:
 - (i) an archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and
 - (ii) safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.
- 5) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 4.
- 6) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
 - i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

 - i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 7) 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 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.

- 8) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall provide for:
- i) construction site contacts, roles and responsibilities;
 - ii) delivery, demolition and construction working hours.
 - iii) a public communication strategy, including complaints procedure;
 - iv) the parking of vehicles of site operatives and visitors;
 - v) loading and unloading of plant and materials;
 - vi) access, turning and egress details including vehicle tracking;
 - vii) construction traffic routes and measures for their management and control, including to prevent mud being deposited on the highway;
 - viii) storage of plant and materials used in constructing the development;
 - ix) location of temporary site buildings and compounds;
 - x) the erection and maintenance of security hoarding including decorative displays;
 - xi) wheel washing facilities;
 - xii) measures to control the emission of dust and dirt during construction;
 - xiii) measures to control noise and vibration during construction; and
 - xiv) a scheme for recycling/disposing of waste resulting from demolition and construction works, which shall not include burning of waste materials on site.

The approved CEMP shall be adhered to throughout the construction period for the development.

- 9) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) include provision for all surface water drainage from parking areas and areas of hardstanding, including use of permeable and porous surfaces, to prevent surface water from discharging onto the highway, based on site investigation and percolation tests;
- ii) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- iii) include a timetable for its implementation; and,
- iv) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 10) No development shall take place until a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and thereafter retained in operation.
- 11) No development shall take place until an Ecological Mitigation and Management Plan (EMMP) has been submitted to and approved in writing by the local planning authority. The EMMP shall include:
- i) a plan showing wildlife and habitat protection zones;
 - ii) details of development and construction methods within wildlife and habitat protection zones and measures to be taken to minimise the impact of any works;
 - iii) details of phasing of construction;
 - iv) monitoring of the dormouse population on site with any necessary contingencies and/or remedial action to be taken to provide suitable conditions to retain the population of dormice on site post construction;
 - v) measures to eradicate from the site the non-native invasive species Japanese Knotweed and Himalayan Balsam; and
 - vi) measures to avoid light spillage along bat commuter routes and onto dormouse habitat.

Construction of the development, including lighting installation, shall be carried out in accordance with the approved EMMP.

- 12) Notwithstanding condition 2, no development shall commence until a scheme of hard and soft landscaping and habitat enhancement has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping 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.

- 13) Notwithstanding condition 2, no development above ground level shall take place until details, including manufacturers' details, and samples of all external facing materials, including windows, doors and roofing, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and samples.
- 14) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

- 15) The development hereby permitted shall not be occupied until the means of access for vehicles, cyclists and pedestrians has been constructed in accordance with the approved plans. The access shall be retained thereafter.
- 16) No dwelling shall be occupied until the vehicle parking spaces have been provided in accordance with drawing no PP1451-101-P1 – Site Layout. Thereafter those spaces shall be retained for the parking of vehicles only.
- 17) No dwelling shall be occupied until spaces have been laid out in accordance with drawing no PP1451-101-P1 – Site Layout for bicycles to be stored. Thereafter those spaces shall be retained for the storage of bicycles only.

End of schedule