



Appeal Decision

Site visit made on 8 January 2025

by **K Williams MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal Ref: APP/F2415/W/24/3347442

Chapel Farm, Foxton Road, Lubenham, Market Harborough LE16 7RY

- 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 Burbidge Farms against the decision of Harborough District Council.
 - The application Ref is 24/00397/FUL.
 - The development proposed is for the demolition of agricultural buildings and the erection of five dwellings, associated access and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of agricultural buildings and the erection of five dwellings, associated access and landscaping at Chapel Farm, Foxton Road, Market Harborough LE16 7RY in accordance with the terms of the application, Ref 24/00397/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. As the changes are material to the proposal, I sought the parties comments on the revised Framework. I have taken these into account in my decision which is based on the revised Framework.

Main Issues

3. The main issues are:
 - whether the appeal site is in a suitable location for housing having regard to access to services; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Suitable location

4. The development plan for the area includes the Harborough Local Plan 2011 to 2031, adopted 2019 (the Local Plan) and the Lubenham Neighbourhood Plan (the Neighbourhood Plan) that was made in 2017. The Council's reason for refusal asserts that the proposal would not be in an accessible location. Although not cited in the reason for refusal Local Plan policy SS1, seeks to direct development towards the most sustainable locations, thus reducing the reliance on the private motor vehicle and to support local communities and settlements. The appeal site is in the open countryside, where SS1 says development shall be strictly controlled.

5. Policies GD3 and GD4 of the Local Plan relate to development, including housing, in the countryside. These policies support new development and housing on small sites of up to 4 dwellings that meet a local need evidenced through a rural housing needs survey or a neighbourhood plan. The proposed scheme is for up to 5 new build dwellings. It forms no part of the appellant's case that the proposed scheme would benefit from the types of housing or other development that would be eligible for permission under policies GD3 or GD4 of the Local Plan.
6. The appeal site is not entirely isolated, but it is located over 1 km from Lubenham and a similar distance from the nearby settlements of Foxton and Gartree. Although there are public footpaths close to the site, these and the rural lanes leading to nearby settlements, are unlit and there are no footways in close proximity of the appeal site. Although there may be bus stops providing onward links to larger settlements within the nearest villages the distances involved combined with the isolated and informal nature of the routes would make cycling and walking an unattractive option particularly in darkness or inclement weather.
7. I do not consider that there would be viable alternative options for access to day to day facilities other than by private vehicle due to the limitations of the existing roadway infrastructure, and absence of accessible nearby facilities. The appeal proposal would not have good or suitable access to local services and facilities.
8. I therefore conclude that the proposal would be in overall conflict with Local Plan Policies GD3 and GD4. The proposal would not be in a suitable location having regard to local policies concerned with housing when considered against the locational criteria of these policies.

Character and appearance

9. The appeal site is mostly occupied by a series of agricultural type buildings. These do not reflect the vernacular character or quality of historic farmsteads. Notwithstanding their former use they are, nevertheless, typical of those found in rural areas and subsequently used for agricultural purposes.
10. The proposal would comprise five generously proportioned dwellings, which seek to reflect traditional agricultural buildings around a central courtyard. Although there is no farmhouse type dwelling proposed, the intention would be to create the appearance of a farmstead.
11. There is no substantive evidence that this form of arrangement or design is a local characteristic. Whilst I note the overall layout reflects a courtyard arrangement, there is no specific evidence that this is a locally distinctive characteristic of the immediate area. The development would be sited relatively close to the road, and from my observations this was not readily apparent of farmsteads in the surrounding environment.
12. Development of the appeal site would result in significant visual change to the appearance of the land. The enhancement of the access and introduction of parking areas, new dwellings, lighting, associated domestic paraphernalia would be evident from the roadside and access and result in localised visual harm at odds with the rural character of the area.
13. However, although it is likely that there would be glimpsed views of homes and roofs, cars and domestic equipment, the appeal site is also well screened by

substantial existing vegetative boundaries. From my observations, as I have no evidence to the contrary, the appeal site does not appear to be within a prominent and sensitive landscape. The site is also not isolated, which would lessen the incongruity of the proposal.

14. I have not been provided with drawings of either the prior approval scheme or approved planning applications to compare the extent or impact of the proposal. The purported visual benefits that could accrue from the removal of the existing buildings, have not been clearly explained and would not justify the introduction of a suburban layout of dwellings in the form of a modern interpretation of barns and outbuildings.
15. The re-use and adaptation of existing buildings would, in my view, be a more organic arrangement with them being set back further into the site. However, the approved proposals would offer a similar level of residential activity and there is likely to be some localised effects from the parking of vehicles, domestic equipment and changes to the land required to facilitate the developments.
16. Overall, I conclude that the proposal would harm the character and appearance of the area. Given the relative screening around the site, the scale of the harm would not be significant. The proposal would be in conflict with Local Plan Policy GD8, which seeks development to respect and enhance both the local character and distinctiveness. Although not cited in the reason for refusal there would also be some conflict with Neighbourhood Plan Policy LNP16, which requires development to not cause damage to the character of the area.

Other Matters

17. The appeal application follows two extant permissions for prior approval and planning permission. As such there is permission for eight homes on the site. Although the Council considers there would not be an overall reduction in homes, the proposed demolition plan shows the removal of 4 buildings. I have no substantive evidence that the additional residential development would come forward, and any future development would have to be considered on its own merits.
18. There is a realistic fallback position of lawful development which has a real prospect of taking place. The appellants could achieve residential development value from the site and that is a clear indicator that, in the event of this appeal failing, this residential development value would be a powerful incentive to take up the permitted development opportunity and planning permission already approved.
19. The appeal site is in a location where new residential development would normally be refused. Its relationship with nearby settlements that provide a range of services and facilities means that future occupiers would largely rely on private motor vehicles to access everyday needs. However, overall together the approved schemes would also have a similar degree of reliance on private motor vehicles.
20. The Council considers that the development would have a materially greater adverse impact on the character and appearance of the site and the surrounding rural area than the approved scheme. Although it is understood the buildings to be demolished were associated with war time use, there is no substantive evidence before me that their removal would be harmful. Furthermore the Council concluded that the proposal would have no harmful impact on designated or non-designated

heritage assets. Given their appearance and likely alterations I see no reason to disagree.

21. The Parish Council has raised concerns about the transport effects, and adequacy of the site drainage and the effect on biodiversity. However, there is no substantive evidence that either of these matters are significant to withhold planning permission and I have imposed the conditions as suggested by Council. Whether future development does or does not generate contributions is a matter which would need to be addressed if any future development came forward and is not a matter in this appeal. The Council has also not found conflict with any Policies within the Neighbourhood Plan. Whilst I have found conflict with LNP16, I am not of the view that the proposal would conflict with LNP14 and LNP17 because these are addressed by conditions or do not restrict the type of development proposed.

Planning Balance

22. The Council has confirmed that the publication of the new Framework now gives an increased Local Housing Need figure of 723 homes per year for Harborough district, compared to 557 in the adopted Local Plan. The Council's 5 year Housing Land Supply (HSL) stands at 3.55 years. Paragraph 11 d) of the Framework should therefore be applied.
23. This means that any adverse impacts of granting permission would need to significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This includes, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places.
24. There would be benefits associated with the provision of five dwellings. Even taking account of the objective of significantly boosting the supply of housing in the Framework and the Council's housing land supply position this is moderated by the presence of the approved schemes, such that it is only afforded limited weight.
25. I have concluded that the proposal would conflict with Policies GD3 and GD4 of the Local Plan. Granting planning permission for this proposal would be at odds with paragraph 15 of the Framework, in that the planning system should be genuinely plan-led. However, the Council can no longer demonstrate a 5 year HLS. Furthermore, the approved schemes offer a realistic fallback proposition whereby they would have a similar degree of reliance on private motor vehicles. Furthermore the Framework is clear that decision making should take account of variation in the ability to maximise sustainable transport solutions between urban and rural areas. I therefore find in the circumstances of this case that the location of the development weighs neither for nor against the proposal.
26. I have found that the proposed development would harm the character and appearance of the area in conflict with Local Plan Policy GD8 and the Neighbourhood Plan Policy LPN16. However, the adverse effects of the proposed development would be localised and limited to the site which would be minimised by the existing landscape and would not harm the wider character of the countryside subject to suitable landscape scheme. Furthermore, the approved schemes would also result in parking and require domestic paraphernalia effects. I therefore attribute limited weight to the harm.

27. Economic benefits, including from direct and indirect jobs created by the proposal attract weight. However, due to the temporary nature of construction and scale of the development, these would not be significant, nor over and above the fallback scheme, and I therefore afford these economic benefits limited weight.
28. Taking all of the above into consideration, on balance, the adverse impacts associated with the conflict with the development plan due to the site's location and harm to the character and appearance of the area, do not significantly and demonstrably outweigh the benefits, when assessed against the Policies in the Framework taken as a whole. The presumption in favour of sustainable development applies and this indicates that permission should be granted.

Conditions

29. Having regard to the advice contained within the Planning Practice Guidance and the Framework, I have considered the conditions suggested by the Council and subsequent appellants' comments on such. In addition to the standard time limit condition, I have imposed condition 2 to specify the approved plans, to give certainty.
30. Condition 3 is necessary to ensure the construction does not have an unacceptable effect on nearby residents and road users. Condition 4 is necessary and is required prior to demolition of buildings. Condition 5 and 6 are necessary to ensure end users are not adversely affected by any potential land contamination. Condition 9, which requires details of tree protection and alongside landscape scheme is necessary to ensure any retained trees are protected during the development. I have amended the Council's suggested condition in the interests of the visual appearance of the site. These are pre-commencement conditions.
31. Condition 7 is necessary as this requires the submission of samples of materials in the interests of visual amenity of the area. Condition 8 requires the development to be implemented in accordance with the ecological assessment submitted. I have amended this condition to require greater clarity over the biodiversity enhancements.
32. Conditions 10, 11 and 13 relate to the site access and parking. These are necessary for highway safety reasons. Condition 12 is necessary in the interest of climate change. Conditions 14 to 17 are necessary to restrict permitted development at the site, given the effect cumulative changes to the development could have in this rural countryside location.

Conclusion

33. The proposed development would conflict with the development plan. When assessed against the policies in the Framework as a whole, the adverse impacts do not significantly and demonstrably outweigh the benefits. For the reasons given above I conclude that the appeal should be allowed.

K Williams

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin within 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - CF_CLQ_ZZ_A_Block A Proposed Elevations Coloured.pdf
 - CF_CLQ_ZZ_A_Block A Proposed First Floor Plan.pdf
 - CF_CLQ_ZZ_A_Block A Proposed Ground Floor Plan.pdf
 - CF_CLQ_ZZ_A_Block A Proposed Roof Plan.pdf
 - CF_CLQ_ZZ_A_Demolition Plan.pdf
 - CF_CLQ_ZZ_A_House Type A Proposed Drawings Coloured.pdf
 - CF_CLQ_ZZ_A_House Type B Proposed Drawings Coloured.pdf
 - CF_CLQ_ZZ_A_Location Plan.pdf
 - CF_CLQ_ZZ_A_Proposed Site Axonometric.pdf
 - CF_CLQ_ZZ_A_Proposed Site Plan Coloured.pdf
- 3) No development (including any site clearance/preparation works) shall be carried out until a Construction Environmental Management Plan has been submitted to the local planning authority for approval in writing. This shall provide the following, which shall be adhered to throughout the period of development following its approval:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading/unloading and storage of construction materials;
 - c) a detailed reactive and proactive road cleaning schedule, incorporating the use of road sweepers, on-site wheel wash facilities and the use of hand brooms on wheels and roads where necessary;
 - d) measures to control the emission of dust and noise during construction;
 - e) a scheme for recycling/disposing of waste resulting from site preparation and construction works;
 - f) hours of construction work, site opening times, hours of deliveries and removal of materials;
 - g) full details of any piling technique to be employed, and the control of hours of use if relevant;
 - h) location of temporary buildings and associated generators, compounds, structures and enclosures;
 - i) routing of construction traffic and indication of signage locations to assist those delivering to the site;
 - j) contact details for site manager, including how these details will be displayed on site; and
 - k) full details of preventative measures to avoid surface water run-off during construction.
- 4) Prior to the commencement of development a historic building record carried out by a suitably qualified person shall be submitted to the Local Planning Authority. The record shall include both internal and external

recording including a description and analysis of the building's development and use and conclusions reached, and the provision of some historical information points on site. These shall be provided prior to first occupation and retained in perpetuity.

- 5) No development (except any demolition permitted by this permission) shall commence on site, or part thereof, until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- BS10175:2011+A2:2017 Investigation Of Potentially Contaminated Sites Code of Practice;
 - BS8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
 - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;
 - or any documents which supersede these.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;
- BS 8485:2015+A1: Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings;
- or any documents which supersede these.

The Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- BS 8485:2015+A1: Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings;
- CIRIA C735, "Good practice on the testing and verification of protection systems for buildings against hazardous ground gases" CIRIA, 2014;
- or any documents which supersede these.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered

contamination (to include any required amendments to the Remedial Scheme and Verification Plan) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity.

- 6) Prior to occupation of the completed development, or part thereof, either:
 - 1) If no remediation was required by condition 5 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development, or part thereof, is received and approved in writing by the Planning Authority, or
 - 2) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
 - contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - contain Test Certificates of imported material to show that it is suitable for its proposed use.
 - demonstrate the effectiveness of the approved Remedial Scheme; and
 - include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.
- 7) Prior to construction of any external walls, details of all external materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the local planning authority, and the development shall only be carried out in accordance with the approved details.
- 8) The development shall be implemented and managed in accordance with the Arbtech Preliminary Ecological Appraisal and Preliminary Roost Assessment.

Prior to the first occupation of the development a scheme including a timescale for implementation of the Biodiversity enhancements contained within the Assessment shall be submitted for the written approval of the local planning authority. Once approved the development shall be

implemented and thereafter retained and maintained in accordance with the approved details.

- 9) No trees shall be removed from the site other than in accordance with a scheme of landscaping which shall have been submitted to and approved in writing by the local planning authority prior to the commencement of development. 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 and a timescale for the implementation of the approved landscape scheme.

Any trees, shrubs, hedges or plants which, within a period of five years from their date of planting, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

- 10) Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of 4.8 metres and shall be surfaced in a bound material for a distance of at least 5 metres behind the highway boundary. The access once provided shall be so maintained at all times.
- 11) No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4m x 168m to the north and 2.4m x 173m to the south have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 12) Within two months of the commencement of development, full details of the sustainability improvement measures including rainwater harvesting, re-cycling, solar/heat ground source energy, electric charging points, shall be submitted to the local planning authority. The approved details shall be implemented prior to first occupation of the development and retained in perpetuity unless otherwise agreed in writing with the local planning authority.
- 13) The development hereby permitted shall not be first used until such time as the 8 designated parking spaces have been implemented. Thereafter the onsite parking provision shall be so maintained in perpetuity.
- 14) Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

- 15) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order with or without modification), no buildings, structures or works as defined within Part 1 of Schedule 2, Classes A-H inclusive of that Order, shall be erected or undertaken on the site.
- 16) Notwithstanding the provisions of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or reenacting or amending that Order with or without modification) no gates, fences, walls or other means of enclosure, other than those shown on the approved plans, shall be erected anywhere within the site.
- 17) Notwithstanding the provisions of Part 1 to Schedule 2 of The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (as amended) (or any Order revoking, re-enacting or modifying that Order) no windows, dormer windows, rooflights or doors other than those expressly authorised by this permission shall be constructed.

End of Schedule