

## Appeal Decision

Site visit made on 29 May 2025

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

an Inspector appointed by the Secretary of State

Decision date: 16<sup>th</sup> June 2025

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### **Appeal Ref: APP/L3815/W/24/3357207**

#### **Loxwood Garage, Loxwood Road, Alfold Bars, Loxwood, West Sussex RH14 0QS**

- 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 and Mrs G Thorpe against the decision of Chichester District Council.
  - The application Ref is LX/24/00558/FUL.
  - The development proposed is erection of 5 no. residential dwellings (3 no. terraced and 2 no. semi-detached houses) following demolition of all existing buildings.
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### **Decision**

1. The appeal is dismissed.

### **Applications for costs**

2. An application for a partial award of costs has been made by Chichester District Council. That application is the subject of a separate Decision.

### **Preliminary Matters**

3. The National Planning Policy Framework (the Framework) was revised in December 2024. References in this decision are to the revised version. In response to the consultation draft the Council on 26 June 2024 outlined the proposed changes being proposed by the revised Framework and indicated a possible increase in the housing requirements.
4. Work has progressed significantly on the Emerging Chichester Local Plan 2021 – 2039. Subject to consultation responses on the Main Modifications it is anticipated the Emerging LP will be adopted in the summer 2025. Its Policies therefore carry some weight although the wording might still change.
5. A Transport Assessment; an Updated Marketing Report; a Heritage Statement; a Noise Impact Assessment; a Lighting Impact Assessment; and an Odour Assessment were provided with the appeal. The Council contends this is late technical evidence which could have been submitted at the application stage when interested Parties would have more time to properly consider it. In particular the need for a Noise Assessment and Marketing details was raised before the application was decided.
6. It is unfortunate that the appellants did not provide more of the technical evidence at application stage. However, the evidence does address matters referred to in the reasons for refusal and interested Parties have been able to consider and respond to it. Accordingly I have taken account of this evidence.

## Main Issues

7. The main issues are:

- whether the site is a suitable location for a dwelling taking into account local and national strategic planning policies and access to services and facilities;
- whether it has been demonstrated that the proposal would not cause an unacceptable loss of employment land;
- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the setting of the Grade II Listed Sir Roger Tichborne Public House, (the Listed Building);
- whether satisfactory living conditions would be provided for future occupiers of the proposed development; and
- whether the type of accommodation would meet the housing needs of the District.

## Reasons

### *Location*

8. The appeal site is on the B2133 Loxwood Road between Alford and Loxford outside any defined settlement boundary. Policy 2 of the Chichester Local Plan: Key Policies, 2014-2029 (the LP); Emerging Policy S2 and Policy 2 of the Loxwood Neighbourhood Plan 2013 to 2029 (the NP) seek to direct development to the most sustainable locations in accordance with the settlement hierarchy. The appeal site is within the Rest of Plan Area (countryside and small villages and hamlets with poor access to services) the lowest tier of the hierarchy.
9. The appellants consider that small settlements such as Alford Bars will need to be considered for additional housing following the review of the Framework and so provided the Transport Assessment which seeks to demonstrate the appeal site would be a suitable and sustainable location for five additional dwellings.
10. There is no essential need for market housing in the countryside as such housing can be more sustainably accommodated in, or adjacent to, sustainable settlements. Nor would the proposal meet an essential local rural need or support rural diversification. Accordingly the proposal would conflict with the development strategy as set out in the above Policies. Policy 45 of the LP; Emerging Policy NE10 and Policy 12 of the NP, which contain similar criteria, allow for sustainable development in the countryside in certain circumstances.
11. The appeal site is not isolated as it is in a small grouping of other houses, but the settlement boundary of the nearest Service Village, Loxwood, is about 1.1 km away. Alford and Alford Crossways are closer and have some facilities. Loxwood Road is a busy two-way single carriageway road subject to the national speed limit of 60 miles per hour. There is no street lighting, cycleway or footway along much of the route to Loxwood. Although there is bus stop opposite the appeal site there is only a very limited bus service currently twice a day on Tuesdays and Fridays.
12. I consider it unlikely that future occupiers would commonly choose to walk or cycle to access the closest services and facilities particularly during periods of darkness

or during inclement weather even though there is no history of road safety issues. Instead, occupiers would be likely to rely heavily on the use of private vehicles to access those services and facilities that are reasonably required for everyday living. There may be some additional support for the bus service should occupiers use it but this would only be a limited contribution.

13. Electric vehicle charging would be provided on the appeal site which is to be expected from developments, although there is no certainty that future occupiers would use ultra-low and zero emission vehicles. The appellant has also offered to fund, operate and manage a residents EV club to allow electric vehicles to be shared. However, because of the small number of dwellings it seems unlikely to me that this would be a practical option in the longer term and there is no certainty that residents from other nearby houses would wish to partake. In addition given the distance to most facilities and the likely pattern of travel demand, for example to school and employment, I judge it would not be likely to significantly reduce reliance on the privately owned vehicle or journeys by car.
14. I acknowledge that the existing business attracts trips by private vehicle for customers and employees would no longer take place. However, the business is seeking to re-locate so there may not be a net reduction in travel movements.
15. For the above reasons I conclude that the site is not a suitable location for dwellings in terms of strategic planning policies or access to services and facilities. In these respects the proposal conflicts with Policies 1, 2 and 45 of the LP, Emerging Policies S2 and NE10, and Policies 2 and 12 of the NP.

### *Employment Land*

16. The site is occupied by an operational garage business. Policy 26 of the LP and Emerging Policy E2 seek to retain employment sites to safeguard their contribution to the local economy unless it has been demonstrated that the site is no longer required and is unlikely to be re-used or redeveloped for employment uses. Appendix E of the LP clearly sets out the evidence required to justify the loss of employment land.
17. The site is not vacant but hosts an existing business employing a number of people and supporting a wider supply chain for car repairs, maintenance and services. A site has not been found for the re-location of the existing business and its loss would have a harmful effect on the local economy.
18. The Marketing Report May 2024 indicates that marketing has taken place on a number of commercial property portal/websites and there was a mail-out to applicants on the marketing agent's database between 20 December 2023 and 8 May 2024, a period of about 16 months. The marketing details are primarily on the basis of a new lease (although a sale might be considered) originally at £60,000pa subsequently reduced to £49,500 in October 2024. No offers had been secured despite a not unreasonable economic climate. There have been some limited initial responses but these have not developed.
19. Notwithstanding the period of time for which marketing has taken there is little detailed comparative information to demonstrate how realistic the asking price is other than that a former Triumph motorbike showroom surrounded by houses, handled by the same agent, sold for housing after marketing for over 12 months and the site appears to be competitively priced in comparison to the Council's

example of marketing of Rudgwick Garage. I have seen no photographic evidence of marketing boards being displayed on the site during the marketing period.

20. The appellants confirm the site has been used as a motor trade business since the sixties. However, the market has changed with more business park locations and online sales, and with vehicles exposed to the elements and the need for security, the business is no longer considered to be sustainable. The site is not considered a good location for footfall, the building is nearly at the end of its useful life and will need significant improvements and would need major refurbishment for most alternative commercial uses. These concerns expressed by the appellant are legitimate, but no detailed appraisals have been put forward to evidence them.
21. For the above reasons I conclude it has not been satisfactorily demonstrated that the site is no longer required and is unlikely to be re-used or redeveloped for employment uses or that the proposal would not cause an unacceptable loss of employment land. There would be conflict with Policy 26 of the LP and Emerging Policy E2 in seeking to protect land for employment uses. There would also be conflict with Section 6 of the Framework which advises significant weight should be placed on the need to support economic growth.

#### *Character and appearance*

22. The site contains a two storey mainly flat roofed showroom, which has no special architectural or historic interest. Behind this are single storey outbuildings. Most of the site is occupied by vehicles for sale and customer parking. There are residential dwellings immediately to the north and across the road, mainly two storey. Pigbush Lane and Oakhurst Lane are subsidiary roads serving nearby neighbouring dwellings further to the east. The Listed Building and its carpark adjoin the southern boundary of the appeal site: there is a hedge along much of the shared boundary. The character is mainly that of a group of houses with properties mainly from the C19<sup>th</sup> and C20<sup>th</sup> divided by the busy Loxwood Road.
23. The buildings on the appeal site are different in character and appearance to the dwellings in Alford Bars, but this is often the case with commercial buildings. The four large showroom windows do add interest to the front elevation of what would otherwise appear as a rather bland rectangular box. The Council raise no objection to the effect of the loss of the building on the appearance of the area and I see no reason to reach a different conclusion.
24. The front wall of the proposed terraced houses would be slightly staggered but in about the same position as the front wall of the car showroom. This is about the same as the northern-most house on this side of the road, Diomedes, some 3m to 4m forward of the adjacent house, Homeside, and well forward of the Listed Building. The pair of semi-detached houses would be well set back and their front walls would have roughly the same building line and orientation as those of the Listed Building. The vehicle access would be in the same position as now.
25. Although the proposed density of development would not be out of keeping with nearby dwellings, it is clear from the Landscape Masterplan dated Nov 2024 that there would be little room for other than “edge” planting to a path at the front of the site. This would be very different in character to the other residential properties nearby where the greater setback provides a more spacious setting with space for more meaningful planting.

26. The proposed two storey houses would be of traditional appearance with brick and tile facing materials and incorporating detailing such as decorative string courses, brick window surrounds or decorative hanging tiles and chimneys. Projecting gables, slightly stepped façades and front porches would add further interest to the elevations and would help to articulate the terraced block. The materials and detailing would accord with those of nearby houses.
27. The eaves of the proposed terraced block would be about the same height as the roof of the existing showroom. Despite the gables and crown roof elements the ridgeline of the terraced block would be some 3m taller than the existing showroom and about 2 metres and 1.25 metres taller than the different ridgelines of the adjacent house Homeside.
28. Ridge heights vary along this stretch of road including at Anvil Cottage which has a higher ridgeline. However, because of its length and width the proposed terrace block would have a much greater bulk of structure above eaves level than the nearby houses. Combined with the position significantly forward of the other buildings and the very limited space for meaningful planting or open aspect the greater bulk of the terraced block would be unduly prominent and intrusive in views along the road and in these respects would not amount to good design.
29. The pair of semi-detached houses would be much further back in the site. They would not be as prominent and would not harm the views of the street. They would be set down into the site and due to the relative levels, boundary treatments and the modern extension they would not be unduly intrusive in relation to the Listed Building.
30. For the above reasons I conclude that the proposal would have a harmful effect on the character and appearance of the area. There would be conflict with Policies 33, 47 and 48 of the LP; Emerging Policies NE2, NE10, P1, P2, P4, P5 and P8; and Policy 10 of the NP and those principles of the Framework that seek good design that respects the character and appearance of the area. However, I find no material conflict with Emerging Policy P3 in terms of the density of the proposed development.

### *The Listed Building*

31. The proposal would not directly affect the fabric of the Listed Building. However, the Framework defines setting as the surroundings in which a heritage asset is experienced. The appeal site shares a boundary with the Listed Building and there is intervisibility between them. Accordingly the appeal site is within the setting of the Listed Building and the proposal has the potential to affect the manner in which the heritage asset is appreciated.
32. The Listed Building is a two storey L-shaped C17<sup>th</sup> or earlier timber-framed building with red brick infilling. The front wall now has painted brick on the ground floor and fish-scale tiles above with additions in C16<sup>th</sup>, C19<sup>th</sup> and C20<sup>th</sup>.
33. In 1608 records of the survey of the manor of Lockwood refer to a larger building and the freehold included about 6 acres of land including the Listed Building and the appeal site. There are clues in the historic fabric that suggest the original building was of high status facing directly onto an open route immediately in front of the building.

34. By the C19<sup>th</sup> the property had been divided and various craft uses took place both in the Listed Building and the appeal site. By 1873 the then owner, who operated as a carpenter, and employed journeymen, blacksmiths and wheelwrights, diversified with a licence to sell beer and cider. He named the beer house after a sensational legal case involving the Hampshire Tichborne baronetcy.
35. At the time of Listing in 1981 the Listed Building had changed little in appearance and plot form over the previous 150 years. Its historical and aesthetic value derives from its longevity both as a building and in serving the community as a site for craftsmen and as a public licensed premises. It serves as a reminder of the evolution of land ownership through enclosure and plot arrangement.
36. The appeal site, formerly part of the original land holding, had changed significantly. Alterations were made to the buildings and uses included garage workshop and vehicle sales. In the 1960s it was home to Bond Cars Ltd small scale racing car production and The Bond Owners' Club hold a rally at Loxwood because of the connection to these premises. By 2005 Ifield Park animal and country stores owned both the appeal site and the Listed Building and the boundary was altered bringing land on which former pub outbuildings/stores stood into the appeal site. The field to the immediate south of the of the Listed Building, an important part of the setting, formerly known as Common Piece, was also sold. Following a fire, and despite planning permission to re-build, the site remained vacant from 2004 to 2010 when permission was granted for a car sales showroom.
37. The Listed Building is well set back from the road behind its carpark and is not prominent in the approaches along Loxwood Road because of the appeal site buildings and, on the other side, a hedge along a field boundary. The front façade can be seen from directly outside its car park and when exiting from Pigbush Lane. Its setting from the southeast to northwest remains that of fields and hedges. The adjacent modern car showroom, an evolution from previous commercial uses, dominates the immediate setting to the other side. The Listed Building has a modern single storey extension which separates it from the shared boundary and dominates views from the yard area behind the showroom.
38. The layout of the proposed buildings would, to some extent, be similar to those of historic buildings at various times in the past. In particular the siting of the proposed pair of semi-detached houses, which would be closest to the Listed Building, emulates earlier arrangements where the smithy and sheds/workshops were setback and were accessed via a short side lane off the main road. In addition the finished floor levels would be set down within the site which would decrease the relative height in relation to the Listed Building.
39. However, the style, form and function of the proposed buildings and domestic use of the open land around them would be very different. Albeit historical records would remain and, although there are no historic buildings on the appeal site, all physical links to former commercial activities site would be lost. This would cause some harm to the setting in which the Listed Building is appreciated.
40. The part of the setting formed by the appeal site has not been static over time. There have been large buildings close to the shared boundary in the past and the proposal would replace a modern commercial building of no particular architectural or historic merit. For these reasons I conclude the harm to the setting in which the Listed Building is experienced would be less than substantial.

41. In these circumstances the Framework indicates that the less than substantial harm should be balanced against the public benefits of the proposal. The proposal would provide local employment during the construction period and spend in the local economy by additional residents although this would be off-set by the loss of an existing business. There would be a modest benefit from the provision of five much needed family sized houses. Small and medium sized sites can be built out quickly and additional residents would support nearby services and facilities, although this is tempered by the small scale of the proposal.
42. I conclude that the above public benefits would outweigh the less than substantial harm to the setting in which the Listed Building is experienced. As such there would be no material conflict with Policy 47 of the LP; Emerging Policies P9 and P10; or those principles of the Framework that seek to protect heritage assets and the settings in which they are appreciated.

### *Living Conditions*

43. The proposed houses and gardens, particularly those of plots 4 and 5, would be very close to the boundary with the Public House which has a licence for indoor performance of live music and a pub garden. The Public House publicises the potential for private events and, by virtue of the Live Music Act (2012) (As Amended), could have live and recorded music patrons any time between 08:00 to 23:00, 7 days a week for up to 500 customers. There is the potential for future occupiers of the proposed houses to be affected by noise, light and cooking odours arising from the proximity to a public house. As part of the appeal Noise, Lighting and Odour Impact Assessments were provided.
44. The proposals include a close boarded acoustic screen along the shared boundary for Plot 5; high specification glazing and the provision of passive and mechanical ventilation for all the houses so that occupiers could choose to have their windows closed; and none of the ground or first floor habitable windows of the houses proposed at Plots 4 and 5 face the Public House.
45. There is external lighting at the Public House. The Light Assessment demonstrates that, taking account of the fence on the boundary and the siting of the proposed houses, light levels would not exceed for the proposed residential properties would be below 1 lux.
46. Sniff tests were carried out on in accordance with Institute of Air Quality Guidance on three separate evenings including a Friday when the pub was busy and the kitchen operating. The Odour Assessment concluded that odour impacts were negligible and the overall effect on proposed receptors predicted as "Not Significant".
47. Subject to appropriate conditions the Council no longer pursues objections by way of noise, light and odour. I see no compelling reason to reach a different view.
48. I conclude that satisfactory living conditions would be provided for future occupiers of the proposed development. Accordingly I find no conflict with Emerging Policy P6 or the Framework in terms of providing a high standard of amenity for future occupiers of the proposed properties.

### *Housing needs*

49. The LP does not have a Policy requiring a specific mix of house types: rather Policy 33 refers to “an appropriate” mix. The Chichester Housing and Economic Development Needs Assessment 2018 (HEDNA) is an evidence document. Its recommendations in relation to a likely mix of market housing of two and three-bed properties to meet the demands of newly forming households and those downsizing are reflected in the preamble to Emerging Policy H5<sup>1</sup>.
50. All of the proposed houses would have three bedrooms which would not accord with the requirements of Emerging Policy H5. However, three bedroom houses are identified in the HEDNA as much in demand.
51. I conclude the type of accommodation would help to meet the housing needs of the District. Accordingly, whilst there is some conflict with Emerging Policy H5, I give this relatively little weight as it has yet to be adopted.

### **Other Matters**

52. The application site is within the Zone of Influence of the Arun Valley Special Protection Area, Special Area of Conservation, and Ramsar site. In the absence of mitigation the proposal, in combination with other proposals, could have an adverse effect on these protected sites by virtue of increased abstraction of water. The Council carried out an Appropriate Assessment and found no adverse effects on the integrity of any of the protected sites subject to appropriate mitigation as identified in the Water neutrality Statement. I note Natural England has no objections on this basis. Given my conclusions on the main issues there is no need for me to consider these matters further as it would make no difference to the outcome of the appeal.
53. The site is also within the buffer zone for the Ebernoe Common and The Mens Special Areas of Conservation (SAC). The Preliminary Ecological Appraisal and a Preliminary Roost Assessment Report showed no SAC bat species utilising the site or that would be directly affected by the proposal. The Council has raised no objections subject to controls over external lighting and the provision of bat boxes. I find no reason to reach a different conclusion.
54. During a Call for Sites for a review of the NP, which included an increase in housing numbers, the assessment concluded that the appeal site is potentially suitable, available and achievable for residential development. However, this did recognise constraints of accessibility to services, the proximity to the Listed Building and the existing business. It is not clear that the appeal site was being promoted through the NP. However, the Emerging NP has not significantly progressed and this attracts little weight in this appeal.
55. Those neighbour comments on the proposal that I have seen either support the proposal or are neutral. However, there are many reasons why neighbours may not comment on planning proposals. I have reached my own conclusions based on the planning merits of the case.
56. The appellants refer to a proposal for two houses for which planning permission was granted Ref LX/19/00722/FUL. However, that site contained an agricultural building and the principle of residential development was established via the prior approval process for which different tests apply.

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<sup>1</sup> After the appeal Decisions Refs APP/L3815/W/22/3298478, APP/L3815/W/23/3318265, APP/R3650/W/23/3318221

57. There have been previous permissions for residential development on the site which have not been implemented. However these date back to 2003 and earlier, and significantly pre-date current local and national planning policies so do not set a precedent for this appeal. Nor do the permissions at Willets Way, Woolspinnars or Loxwood Farm Place lead me to any different conclusions in relation to the appeal before me as these sites are close to the Loxwood settlement boundary.

### **Planning Balance and Conclusion**

58. The appellants assert that the Council can demonstrate some 3.98 years supply of deliverable housing land<sup>2</sup> and this has not been disputed by the Council. The spatial strategy has been unable to deliver the requisite housing land. In the absence of a five year supply Paragraph 11(d) of the Framework indicates that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole having particular regard to the key policies of directing development to sustainable locations, making effective use of land and securing well designed places.
59. There would be a modest benefit from the provision of five much needed family sized houses. Small and medium sized sites can be built out quickly and additional residents would support nearby services and facilities, although this is tempered by the small scale of the proposal. Although still in use the appeal site benefits from the definition of previously developed land in the Framework. As a former garage, there are two known decommissioned underground fuel tanks and ground contamination. The proposed development would be a good opportunity to conduct soil remediation works, prior to any development taking place. Together these matters provide substantial benefits in favour of the proposal.
60. Safe access for all can be provided to the site; on site cycle and vehicle parking can be provided and the Council raises no objections on these grounds. However, this is a neutral factor in the balance as it is expected to be so for all developments.
61. It has not been demonstrated that the proposal would not result in the loss of an employment site for an existing business. There would be economic harm arising from the loss of employment and effects on the supply chain. I consider this carries significant weight against the proposal. I have also found there would be harm to the character and appearance of the area and to the setting of the Listed Building, although the harm to the setting is out-weighed by the public benefits of the proposal. There is conflict with the spatial strategy but I give this limited weight as the strategy is out-of-date in terms of delivering the requisite housing supply. Nevertheless the site is not in as sustainable location as some. Taken together I consider these adverse effects significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
62. Notwithstanding that the latest Framework post dates the adoption of the LP, the statutory starting point for determining planning proposals is the development plan. As Paragraph 2 emphasises, the Framework is a material consideration although the weight given to development plan policies depends on their consistency with it. Indeed, the identified harm that would arise, and the associated policy conflicts,

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<sup>2</sup> As found in appeal Decision APP/L3815/W/24/3344538 Crouchlands Farm

would be such that the scheme would conflict with the development plan when considered as a whole.

63. I conclude that the scheme would conflict with the development plan and material considerations do not indicate that a decision should be made other than in accordance with the development plan. Consequently, the appeal should be dismissed.

*S Harley*

INSPECTOR