



Appeal Decision

Hearing held on 16 August 2022 and 31 August 2022

Site visit made on 16 August 2022

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2022

Appeal Ref: APP/A1720/W/22/3296756

Land to the east of Cartwright Drive, Fareham PO15 5TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Foreman Homes Ltd against Fareham Borough Council.
 - The application Ref P/21/1707/OA, is dated 12 October 2021.
 - The development proposed is the erection of 49 dwellings, and associated landscaping and parking; access from Cartwright Drive; and associated works.
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Decision

1. The appeal is dismissed and outline planning permission is refused.

Preliminary Matters

2. The application was submitted in outline with all matters, other than access, reserved for future consideration. Nevertheless, an illustrative layout was provided showing how the site could accommodate 49 dwellings. I have had regard to this in reaching my decision, recognising that there may be other ways to provide the same quantum of development.
3. Prior to submitting the appeal, the appellant produced a Transport Statement Addendum in response to the highway authority's comments on the original proposal. This included a plan showing revised access arrangements and associated infrastructure on Cartwright Drive, along with improvements to existing pedestrian cycle and footways within the vicinity of the site. These were agreed with the highway authority and are shown on drawing No 5643/001 Rev F. It had also been agreed that provision of a bus shelter would be secured by means of a planning obligation. On this basis the highway authority did not object to the proposal, subject to appropriate conditions and an obligation to secure these works.
4. The Council failed to determine the application within the statutory time limit. However, its appeal statement indicated that it would have refused planning permission for seven reasons. It indicated that three of these could be addressed through a planning obligation that would secure provision of affordable housing, off-site transport improvements and contributions towards mitigation measures related to recreational disturbance of the Solent and New Forest habitats sites. A draft Unilateral Undertaking (UU) was provided to address these matters prior to the Hearing and an executed copy was submitted on 25 August. The Council confirmed that the UU addressed its concerns in relation to these issues and I have taken it into account in reaching my decision.

5. Prior to the Hearing the parties were asked about their intentions to provide information and any necessary planning obligation to address the issue of nutrient neutrality. I was subsequently provided with a shadow Habitats Regulations Assessment which included an agreement to purchase nitrate credits that would finance the Whitewool Stream Wetland Project approved by Natural England (NE) and the South Downs National Park Authority (SDNPA). I return to this matter later.

Main Issues

6. Having regard to the above I consider the main issues to be:
 - a) the effect of the proposal on the character and appearance of the Upper Meon Valley;
 - b) the effect of the proposal on the Meon Valley Strategic Gap;
 - c) whether the site is suitable for a residential development having regard to its location in relation to existing development, services and facilities;
 - d) the effect of the proposal on Habitats Sites, with particular regard to nutrient levels in the Solent.

However, before addressing these matters it is necessary to consider which are the most important policies for determining the appeal having regard to the Council's housing supply position.

Reasons

Planning policy context

7. Policies CS2, CS6 and CS14 of the Fareham Local Development Framework: Core Strategy 2011, (CS) together with Policy DSP6 of the Fareham Borough Local Plan Part 2: Development Sites and Policies Plan 2015, (LP2) set out the Council's spatial strategy for the delivery of housing. This comprises various strategic sites and otherwise prioritises the reuse of previously developed land within existing settlement boundaries, while resisting residential development in the countryside. Alongside this strategy, Policy CS22 of the CS states that land within Strategic Gaps will be treated as countryside. There is agreement that the appeal site is in the countryside and within the Meon Valley Strategic Gap. However, the importance and relevance of these policies to the proposal is disputed due to the Council's housing land supply position.
8. The Council's recently published housing figures, which the Appellant contested, stated that a supply of 5.01 years can be demonstrated. In response to my request the parties produced a Statement of Common Ground (SoCG) identifying the disputed sites in which the Appellant estimated the supply to be 4.33 years. The figures and the deliverability of the sites in the list were scrutinised at the Hearing and it was accepted that the situation has moved a little since the publication of the Council's statement on 6 July 2022. From this discussion it was apparent that the need to demonstrate nutrient neutrality has delayed delivery of some schemes. Although it seems that in at least two cases this matter is close to being resolved, there was also evidence that at least three other schemes will deliver fewer houses than had previously been anticipated following approval of reserved matters.

9. From this it is evident that at the present time the Council is unable to demonstrate a 5-year housing land supply (5YHLS), although its supply may be a little more than the figure suggested by the Appellant. However, regardless of an assessment of the deliverability of sites in the SoCG, the Housing Delivery Test result for 2021 was 62% and substantially below the 75% housing requirement over the previous three years. In these circumstances, paragraph 11 d) of the Framework is engaged and the policies in the development plan referred to above that restrict development beyond settlement boundaries must be considered to be out-of-date.
10. The Council is aware of the challenges of maintaining a sufficient supply of housing land in the area. LP2 therefore includes Policy DSP40 which specifically addresses the issue of permitting sites beyond settlement boundaries when there is a shortfall in the 5YHLS. For a site to be acceptable the policy requires it to meet all five criteria. In this case the Council accepts that the proposal complies with criterion i) and iv). It is therefore necessary to consider whether the proposal meets the three remaining criteria.

Character and appearance

11. The appeal site is a rectangular strip of land occupying approximately 3.5 hectares to the east of Cartwright Drive. Most of the site is undeveloped grassland but there are some buildings and structures which may have related to the historic use of the land for agricultural purposes. The southernmost part of the site is an area of woodland which is part of the Carron Row Site of Importance for Nature Conservation (SINC). A small part of the site lies within the Titchfield Abbey Conservation Area most of which lies to the south and further to the east. Beyond the site's southern boundary is the car park to the Abbey Meadows Country Park. Immediately to its north is Abbeycroft Nursery and through which the site is currently accessed via a narrow, unmade track.
12. The Meon Valley is a major river valley with a relatively narrow valley floor which passes through downland, lowland mosaic and coastal plain landscapes. The Fareham Landscape Assessment, 2017, (FLA) divides the Meon Valley into two distinct areas, LCA6.1 and LCA6.2. The appeal site lies in LCA6.2, the Upper Meon Valley which occupies a corridor of land contained between the urban edges of Fareham to the east, Titchfield Park to the west and Titchfield to the south. The widest part of the valley is centred around Titchfield Abbey and forms the setting for the Abbey and its associated Conservation Area. Despite the proximity of roads and railways the area is an essentially rural, pastoral landscape with fields enclosed by woodland, strong tree belts and mature vegetation along the valley sides. There are also wetland and grassland habitats, together with features of exceptional heritage value including Titchfield Abbey, its fishponds and other historic buildings in the Conservation Area.
13. The valley floor has an unspoilt, intimate character whereas the valley sides to the west are more open, although visually contained by trees. This gives the entire area an essentially undeveloped, open countryside character with minimal intrusion from the surrounding urban area. The only detractors being development associated with nurseries and equestrian centres. The open character of the western side of the valley is also important to the setting of the Titchfield Abbey Conservation Area as are the trees at Carron Row to the setting of the Abbey's medieval fishponds.

14. The valley is therefore a sensitive area which is vulnerable to development pressures and highly susceptible to intrusion from built development. I note that it is not subject to any statutory or non-statutory landscape designations. Nevertheless, the FLA concludes that the valley is of Borough wide importance as the only example of an open river valley landscape and as such I consider it to be a landscape of considerable value. The assessment of its quality is derived from its intrinsic character even though views into the valley from the surrounding built up area are very limited. This is particularly evident along Cartwright Drive where the dense vegetation provides very effective screening. Similarly, on the opposite side of the valley the development on the western edge of Fareham prevents public views across the valley.
15. The Appellant's Landscape and Visual Impact Assessment (LVIA) accepts the high sensitivity of area LCA6.2 and the Titchfield Abbey Conservation Area. However, it goes on to assess the sensitivity of the appeal site as low. I cannot agree, since it seems to me that the site, although having a somewhat scruffy appearance in places, is an integral part of the valley. It clearly relates to the valley and not to the urban area from which it is separated physically, visually and perceptually due to its entirely different character, combined with the barrier created by the road and its associated tree belt.
16. I consider the proposal would amount to a significant intrusion of suburban residential development into a relatively intact valley landscape which is predominantly open, largely unspoilt, and devoid of domestic activity. It would introduce the activities and light spillage associated with residential development into a rural area characterised by trees and vegetation, a sense of openness and tranquillity. Furthermore, it would erode the valley's role as the open and undeveloped setting for the Titchfield Abbey Conservation Area. It therefore seems to me that the sensitivity of the valley to such changes is high, and the proposal would have an adverse impact of major significance upon it.
17. The Appellant's LVIA sought to establish the extent of the site's visual envelope and identified a series of viewpoints from which the effects of the scheme on visual receptors could be assessed. Having walked the area on my site visit, I agree that the sensitivity of motorists on the surrounding road network to the development would be low. However, as the main reason for people using the public footpaths will be to experience the countryside, I consider their sensitivity to changes to have been somewhat understated. The magnitude of the long-term impacts on these viewpoints is consistently assessed to be very low or low in the Appellant's LVIA, even though it is acknowledged to be adverse and permanent.
18. Furthermore, the Appellant's assessment was based on summer views when the vegetation is in full leaf. In the winter months the development would be more visible, both from the surrounding road network and the footpaths and bridleways. The Council therefore considered the effects on completion for most of the receptors would be moderate-adverse. I am more sympathetic to this conclusion and consider that the proposal would amount to permanent visual harm to an area that has been identified as a landscape of considerable value and an irreplaceable resource for the borough as a whole.
19. It was suggested that the proposal could be adequately mitigated through the provision of new planting along the line of the existing field boundary on the eastern side of the site. In my view, such a solution would be entirely contrived

since the existing field boundary is at best little more than a thin hedge and in places there is almost no vegetation at all. It would take many years to establish a landscape buffer of any significant width. The suggestion that this would effectively replicate the existing tree belt along Cartwright Drive is, to my mind, a false comparison. It is the combination of the road and the vegetation which creates a clearly defined boundary between the urban area and the undeveloped countryside of the Meon Valley. To breach this would not only have localised consequences for Cartwright Drive but would also cause development to spill over onto the valley sides to the detriment of the wider landscape. The proposed landscape buffer would be insufficient to effectively diminish these harmful impacts. The consequence would be a harmful loss of character to the valley's landscape as well as a small reduction in its overall width, even if it was possible to prevent the development being seen from any of the viewpoints that have been identified.

20. It was pointed out to me that the site lies outside that part of the Meon Valley which the Council sought to designate as an Area of Special Landscape Quality (ASLQ) in the emerging local plan. However, that is a matter for determination through the local plan process and is not relevant to the current proposal. My duty is confined to assessing the scheme having regard to the policies in the adopted development plan given its location in the countryside.
21. I therefore conclude that the proposal would have a significant and harmful effect on the character and appearance of the Upper Meon Valley, a landscape of considerable value within which the site is an integral part. It would therefore conflict with criterion iii) of Policy DSP40 which requires sites beyond the established boundaries of the urban area to minimise any adverse impact on the countryside. There would also be conflict with CS Policies CS2, CS6 and CS14, the aims of which were set out earlier.

Strategic gap

22. The Meon Valley Strategic Gap lies between Fareham/Stubbington and the Western Wards. In particular it separates Fareham from Titchfield Park and Titchfield, each of which has its own identity. The Gap has been established in local planning policy to prevent coalescence of the housing market areas of Portsmouth and Southampton. It is focused on the Meon River, a significant linear feature that provides a natural break between the housing market areas of these adjacent densely developed urban areas. A recent review of this Gap recommended that its designation should continue with no changes to its boundaries in the vicinity of the appeal site.
23. Cartwright Drive marks the boundary of the Strategic Gap in the vicinity of the appeal site. It runs parallel with the river along the most elevated part of the western valley slopes. The vegetation on the eastern side of the road prevents views into the countryside for much of the year, although glimpses will be seen during the winter months. The settlement of Titchfield Park lies immediately to the west of the road. However, the absence of frontage access and the vegetation along it means that the urban area is completely hidden from view for much of the year. Cartwright Drive therefore performs a pivotal and critical role in separating the built-up area to the west from the open undeveloped area to the east. There is no doubt in my mind that it provides a clear, well-defined, logical and defensible boundary to the urban area.

24. The introduction of residential development on the eastern side of the road would represent a significant physical and visual shift of the boundary of Titchfield Park in an easterly direction. Even in the absence of direct frontage access the presence of development on both sides of Cartwright Drive would change the perception of its role as a boundary between the built-up area and the countryside. Even though the loss to the width of the valley would be small, the sensitivity of its location would give rise to a disproportionate effect on the perception of strategic gap as a whole.
25. The encroachment of development into an area which currently lies beyond the boundary to the urban area defined by the tree belts along both sides Cartwright Drive would, in my view, cause serious and irreparable harm to the gap between the settlements of Fareham and Titchfield Park. This harm could not be mitigated by the creation of an alternative boundary to the urban area comprised entirely of vegetation. it would not be comparable with the strong physical feature provided by the existing road. Consequently, the proposal would significantly and adversely affect the integrity of the Gap leaving it vulnerable to further breaches.
26. I therefore conclude that the proposal would cause significant harm to the Meon Valley Strategic Gap, contrary to criterion iii) of Policy DSP40 of LP2. It would also fail to comply with CS Policy CS22 which states that land within a Strategic Gap will be treated as countryside and proposals which significantly affect its integrity will not be permitted.

Suitability of location

27. The urban area lies to the west of Cartwright Drive, so although the appeal site is adjacent to the road it is physically separated from existing development. The road is bounded on both sides by a tree belt. As there is no frontage access there are no visual links between the opposite sides of the road. There is therefore little to give road users the perception of being within a built-up area. There are accesses into the employment area to the west, but the buildings are not visible due to the vegetation and landscaping that provides effective screening. The nearest residential development within Valerian Avenue is both physically and visually distinct and separate from the appeal site. The site is therefore not well related to the existing urban area and is divorced from it physically, visually and perceptually.
28. As an outline scheme, it is not possible to assess its design quality. However, the layout presented on the illustrative drawing showed a low-density development of dwellings on modest sized plots with associated garages and parking spaces. The development would be served by a road that would effectively be a long, winding cul-de-sac. There was no public open space identified within the indicative layout and opportunities for other landscaping would be limited by the need to provide adequate vehicular parking and the space required for extensive landscaping on the site's eastern boundary. The scheme would appear to be a self-contained and enclosed arrangement with limited permeability, partly as a consequence of the need to screen it from the surrounding rural area.
29. In these circumstances it is appropriate to consider how connections could be made between the site, the existing urban area and the facilities and services that future residents would require to meet their day-to-day needs. These connections must be effective if the development is to be satisfactorily

integrated into the existing urban area. The primary role of Cartwright Drive is to facilitate vehicular movements. It is approximately 10-11m wide and carries appreciable volumes of traffic throughout the day and about 500 vehicles/hour in peak periods. Although subject to a 40mph speed limit, survey results presented in the Transport Assessment showed that traffic travels at speeds approaching the limit when travelling northbound and in excess of the limit when traveling southbound.

30. There is street lighting and a shared footpath/cycleway on the western side of the road, but no footway on the side adjacent to the site boundary. Furthermore, from what I observed on site Cartwright Drive is not a route that is currently well used by those on foot. There are no facilities or services within the immediate vicinity of the appeal site. To reach them without making use of a car future residents would need to cross the road and walk or cycle some distance. The addendum to the Appellant's transport statement provided a more accurate assessment of the distances involved than the isochrones initially presented. However, this demonstrated that none of educational, retail, leisure or health services are within 1km of the site. To reach the nearest one would require a walk of approximately 10-15 minutes; to reach others would take considerably longer.
31. The Appellant has proposed two pedestrian links into the site and has offered improvements to the pedestrian/cycle route that connects to Valerian Avenue. I consider that such changes would be vital to encourage walking and cycling. However, the character of Cartwright Drive and the distances to facilities are likely to mean that future residents will perceive these as deterrents to walking (and cycling) even with improved links towards the urban area. Whilst offering some choice to future residents, I do not consider that they would tip the balance in favour of walking or cycling as a choice over the private car. The reality for most residents would be that choosing to drive (or be a passenger) would be significantly quicker and more convenient for most journeys.
32. My view is reinforced by considering the location of the local primary schools in relation to the appeal site. Walking to them would involve crossing the A27, a particularly busy road. Even with crossing facilities this is not a journey that young children are going to find easy to make, particularly if unaccompanied. Neither are journeys by bus going to be an easy or convenient alternative to reach a range of destinations. I accept that the site is within a reasonable distance of existing bus stops, and improvements are proposed. However, the services on offer from these stops are not frequent enough to make them an attractive alternative to anyone who has access to a car.
33. Therefore, although the site is close to an employment area, for the reasons set out above, I consider that the scheme would fail to comply with criterion ii) and iii) of Policy DSP40. This states that additional housing sites outside the urban area may be permitted where the proposal is sustainably located adjacent to the existing boundary and can be well integrated with the neighbouring settlement. There would also be conflict with CS Policies CS2, CS6 and CS14 and LP2 Policy DSP6, which seek to give priority to the reuse of previously developed land within the existing urban area and strictly control residential development outside existing settlement boundaries.
34. As there would be no unacceptable traffic implications, the scheme would accord with this requirement of criterion v) of Policy DSP40. Nevertheless,

there would be conflict with CS Policies CS5 and CS15. These policies seek to direct development to locations which provide sustainable transport options, good access to local services and development which is designed and implemented to prioritise and encourage safe and reliable journeys by walking, cycling and public transport.

Habitats sites

35. The site is within the zone of influence of the Solent Coastal Special Protection Area (SPA) and Special Area of Conservation (SAC). These areas are protected for their international importance for birds, especially the winter hosting of waders and wildfowl, and for the habitats which support these and other fauna and flora of great importance. Two pathways of potential adverse effects on the integrity of these sites have been identified. Firstly, through additional disturbance arising from increased recreational activities in the coastal area and secondly, the nutrification of the river catchments entering the Solent.
36. The site is also within the zone of influence of the New Forest SAC which is protected for the importance of its wildlife and habitats, including wet and dry heathlands and rare and endangered birds such as the nightjar and Dartford warbler. This area is therefore at risk from additional recreational disturbance from an increase in the local population.
37. It is common ground that this scheme in combination with other development would result in a likely significant effect on these protected areas in the ways outlined above. It is therefore necessary for me, as the competent authority, to undertake an Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 and consider the effectiveness of any mitigation measures that have been proposed in relation to the appeal scheme.
38. The Council has worked in partnership with Natural England (NE) and other local authorities in the area to address potential harmful effects from additional recreational disturbance through the preparation and delivery of mitigation strategies. The Solent Recreation Mitigation Strategy and the interim mitigation solution for the New Forest SAC require development to make financial contributions towards the delivery of these strategies. In this case the completed UU would provide appropriate contributions and NE has raised no objection to the scheme in respect of recreational disturbance. I see no reason to reach a different conclusion.
39. In February 2019 NE updated its advice regarding increased levels of nitrates entering the Solent due to wastewater from new dwellings. Developers are unlikely to be able to prevent this through on-site mitigation. However, a scheme to develop a wetland at Whitewool Farm, elsewhere in the River Meon's catchment, has been proposed and secured planning permission from the South Downs National Park Authority (SDNPA). The Council has entered into a legal agreement with the third party providers, Will and James Butler and Butler Farms, to secure this as a means of delivering nitrate mitigation for residential planning permissions in the Borough.
40. The Appellant provided an estimate of the net increase in nitrate discharge that would arise from 49 dwellings. This estimate was based on the existing use of the land being horse grazing. This was initially disputed by the Council and there was no evidence of recent grazing on the land at the time of my site visit. However, the Appellant provided evidence of such use through an

affidavit from the owners. Therefore, in the absence of evidence to the contrary, it is reasonable to assess the increase in nutrient discharge taking account of grazing as the existing use. The amount of nitrate to be removed was calculated using NE's Nutrient Budget Calculator. The sum payable would be based on removing 36.98kg/TN/year. Each credit costs £2,550. The Council has confirmed that sufficient credits are available.

41. The Appellant has entered into a deed of allocation to purchase the necessary credits towards the mitigation scheme, in line with the agreement between the Council, the SDNPA and the third party providers. However, as the Council is not a party to the deed to purchase the credits an additional mechanism would be required to ensure that development could not commence until the purchase had been confirmed. I am satisfied that this could be achieved by the imposition of a Grampian Condition, if the development was acceptable in all other respects.
42. In concluding my Appropriate Assessment, I am therefore satisfied that there would be no adverse effect on the integrity of Solent Protection Areas from either recreational disturbance or nutrient enrichment with this proposal when considered in combination with other development. Similarly, there would be no adverse effect on the integrity of the New Forest SAC arising from additional recreational disturbance. The proposal complies with the Habitats Regulations and there are no other unacceptable environmental effects. It therefore accords with criterion v) of Policy DSP40. Neither would there be any conflict with CS Policy CS4 or LP2 Policies DSP13 and DSP15 which seek to protect and promote biodiversity, by protecting priority species and where appropriate enhancing protected habitats.

Planning Balance

43. As I have found the Council is unable to demonstrate a 5YHLS, paragraph 11 d) of the Framework is engaged. However, having undertaken an Appropriate Assessment I am satisfied that the scheme would not offend the Habitats Regulations. There are no other reasons why the provisions of paragraph 11 d) i) should apply. I will therefore move on to undertake the 'tilted balance' set out in 11 d) ii).
44. For the reasons set out above, I have concluded that the proposal would cause unacceptable harm to the character and appearance of the Upper Meon Valley, and would significantly affect the integrity of the Meon Valley Strategic Gap. In addition, its location would not be conducive to effective integration with the existing urban area or provide good access to local services by sustainable modes. There would therefore be conflict with Policies CS5, CS14, CS15 and CS22 of the CS and Policy DSP6 of LP2.
45. However, in the absence of a 5YHLS, conflict with the above policies carries only moderate weight and Policy DSP40 of LP2, which requires compliance with a series of five criteria, is engaged. I have found the proposal would fail to comply with criteria ii) and iii) which require development beyond the settlement boundaries to be well related to the neighbouring settlement and to minimise adverse effects on the countryside and the Meon Valley Strategic Gap. There is therefore conflict with Policy DSP40 and the development plan as a whole.

46. I acknowledge that the proposal would accord with the Government's aim of boosting the supply of housing. There would be significant social benefits from the provision of 49 new homes, 19 which would be affordable, added to which there would be a top-up payment to ensure compliance with CS Policy CS18. The scheme would therefore contribute to meeting local housing need and would do so by being capable of being built-out relatively quickly. There would be short term economic benefits through the construction process and in the longer term from future occupants' spending power in the local economy. The site's proximity to an employment area is also a positive aspect of its location. These are significant factors in the scheme's favour.
47. However, the proposal would not accord with the Framework's advice to recognise the intrinsic character and beauty of the countryside and make as much use as possible of previously developed land. Although the scheme would provide a degree of genuine choice of travel mode, it would not give the priority to pedestrian and cycle movements that is advocated by the Framework.
48. This leads me to conclude that the very significant cumulative adverse impacts of the proposal associated with its effects on the Meon Valley landscape and Strategic Gap, and its poor relationship with existing residential development and services, would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. The scheme therefore does not benefit from the presumption in favour of sustainable development.

Conclusion

49. The proposal conflicts with the development plan and there are no other material considerations, including the Council's housing supply position, that indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

S M Holden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steven Brown	Woolf Bond Planning
Philip Deacon	Deacon Design
Ian Roberts	Bellamy Roberts

FOR THE LOCAL PLANNING AUTHORITY:

Richard Wright	Principal Planner
Ian Dudley	Nicholsons Lockhart Garratt

DOCUMENTS SUBMITTED DURING THE HEARING

1. Letter to the Council from the Inspector following the hearings into the examination of the Fareham Local Plan 2037
2. Extract from the Fareham Landscape Assessment 2017; LCA6: Meon Valley (pages 107-129).
3. The Council's invitation to participate in a focussed consultation with those who had previously made representations at the above Examination on housing matters in respect of topic papers on affordable housing, housing supply and windfall analysis.