



Appeal Decision

Site visit made on 8 May 2023

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2023

Appeal Ref: APP/X1735/W/22/3305704

Land West of Old Manor Farm, South of Lower Road, Bedhampton, Hampshire

- 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 Bargate Homes and Vivid Homes against Havant Borough Council.
 - The application Ref APP/21/01071, is dated 29 September 2021.
 - The development proposed is described as 'Outline planning application for up to 43 dwellings, associated landscaping, open space and allotments with access from Lower Road'.
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Decision

1. The appeal is allowed, and planning permission is granted for up to 43 dwellings, associated landscaping, open space and allotments with access from Lower Road at Land West of Old Manor Farm, South of Lower Road, Bedhampton, Hampshire in accordance with the terms of the application, Ref APP/21/01071, dated 29 September 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration save for the access into the site. I have assessed the proposal on this basis and treated the drawings as otherwise being an illustration of how the proposal could ultimately be configured.

Background and Reasons

3. The Council failed to determine the planning application within the prescribed period and therefore the appellants exercised their right to submit the appeal. The Council has confirmed through putative reasons for refusal that, had it been able to do so, it would have refused the application over concerns regarding the adequacy of the surface water drainage system and whether the proposal would make adequate provision for affordable housing, public open space, sustainable transport and a community officer.
4. After the submission of the appeal the appellants and Council have subsequently been in further discussions. Through this process a signed Statement of Common Ground (SOCG) has been prepared. This explains that the appellants, the Council and Hampshire County Council as the Lead Local Flood Authority (LLFA) have been in further discussions following the appellant's submission of the Drainage Strategy Technical Note.

5. The technical note presents surface water drainage proposals. The note has been reviewed by the LLFA, who have confirmed in a written response that options therein would be acceptable and deliverable subject to conditions. Because of this, the Council no longer wishes to pursue a case regarding the adequacy of drainage and the subsequent risk of flooding. I am content to adopt the position of the appellants and Council in respect of drainage given the expert evidence before me on this matter. Accordingly, there would be no conflict with Policies CS15 and CS19 of the Havant Borough Core Strategy.
6. The appellants have also submitted a planning obligation in the form of a unilateral undertaking as a means of addressing the Council's concerns regarding the provision of affordable housing, public open space, sustainable transport measures and a contribution towards a community officer. The SOCG confirms that the submission of this document addresses the Council's concerns in respect of these matters. I have considered the planning obligation in further detail below and have arrived at the view that it is something I can take into account and would address the Council's concerns.
7. Thus, it became apparent before the hearing was due to open that all the matters in dispute between the Council and appellants had been resolved. Indeed, both the Council and appellants are of the view that the appeal should be allowed, and planning permission granted. These parties therefore invited me to assess the proposal on the written submissions and this is what I have done. In so doing, I have considered the key 'other matters' not in dispute between the Council and appellants below, as well as the main concerns of interested parties.

Other Matters

Whether the proposal would be in a suitable location, with particular reference to the spatial strategy in the development plan

8. To locate new development to emphasise the use of existing facilities, Policy CS17 of the Havant Borough Core Strategy 2011 (CS), supported by Policy CS20 of the CS, seeks to concentrate and distribute development within defined urban areas. This is an approach built upon by Policy AL2 of the Havant Borough Local Plan (Allocations) 2014 (LP), which also seeks to direct development to urban areas to help define the separate identities of settlements and protect the undeveloped gaps between them.
9. Reference has been made by the parties to a Housing Delivery Position Statement. The purpose of this document is to provide guidance on how planning applications will be considered by the Council prior to the adoption of a new local plan. However, it does not form part of the development plan and therefore does not set policy and cannot be treated as if it has that status. Nor does it seem to be an adopted supplementary planning document. The only real value of the document seems to be the presentation of existing local and national policy in one place. Accordingly, it is a material consideration of very limited weight despite being adopted by the Council and is of little assistance.
10. The urban areas of the borough, including Bedhampton, are defined by settlement boundaries. Only certain types of development are supported outside these areas by the aforementioned policies. The corollary being that other forms of development are not supported. The appeal site is located

outside the defined urban areas, is unallocated for housing and is not one of the types of development supported outside of urban areas.

11. Accordingly, it would result in the placement of housing further away from facilities than aimed for in the development plan. The walking distances listed in the transport evidence are towards the upper limits of acceptability and exceed the definition of walkable in the National Design Guide (of 800m). Moreover, I understand that a proposal to allocate the land for housing failed a sustainability appraisal, although that was for around 200 homes.
12. That said, the walking and cycling routes to most services are generally pleasant and would therefore encourage active travel. The route along Bibury Lane/Kings Croft Lane and Bibury Mead are especially so. The route via Lodge Road may be less attractive due to the need to use a narrow alley, and there is a section of Lower Road without a pavement and with sharp bends. This is, however, only a short section of the route. Public transport provision in the area is good and this includes access to a rail station.
13. Overall, I share the view of the appellants and Council that there would be adequate access to services and facilities from the appeal site if future occupants were to walk, cycle or use public transport. However, the accessibility would not be to the extent envisaged in the development plan.
14. The proposal would also urbanise land outside the defined boundary of the urban area and thus erode the definition of settlements. However, the Council have confirmed that the harmful impact of this would be limited and localised, which is a view I share given the extent of nearby planting and the enclosed nature of the site between a rail line, the A27/A3(M) and housing.
15. In conclusion, the proposal would not be a suitable location for the appeal scheme when applying the spatial strategy in the development plan, which is a carefully drafted and considered statement of policy. Instead, the proposal would undermine the objectives of the strategy. This would be harmful for the reasons set out, but also because there is a public interest in having a genuinely plan led system of development management that provides consistency and direction.

The effect of the proposed development on the setting and significance of the Old Bedhampton Conservation Area

16. The Old Bedhampton Conservation Area (CA) is broadly centred on St Thomas Church and encompasses the historic village. The Old Bedhampton Conservation Area Appraisal (CAA) identifies five character areas. Character Area 1 (CA1) is the historic settlement core, which is the loose nucleus of the settlement. The appeal site does not directly adjoin this area and is separated from it by 'Phase 1', which was permitted on appeal¹. On the other hand, the appeal site is very close to Character Area 5 (CA5): Old Manor Farm Buildings. This character area encompasses cottages and former agricultural buildings, now converted to dwellings, set slightly apart from the historic village core and thus rooted in the agricultural landscape.
17. The CAA also outlines some of the key character features of the CA and these generally relate to its rural origins. For example, the narrow lanes, relative tranquillity, historic architecture, a mill complex and farm buildings. The CA is

¹ APP/X1735/W/20/3259067

therefore a repository of bygone rural lives and settlement patterns, and this provides evidential and illustrative historic value and significance. The ability to appreciate the rural setting of the CA is important to how its evidential and historic value and significance is experienced and understood.

18. Historic mapping in the CAA demonstrates that the original rural and low-density settlement of Bedhampton has expanded considerably in the last century or so due largely to the construction of New Bedhampton. Prior to the approval of Phase 1, much of this new housing development had been to the north of Lower Road and therefore some semblance of Old Bedhampton's rural setting had endured to the south despite the presence of the A27.
19. The appeal site is an undeveloped parcel of land which currently contributes to the setting of CA1 by providing evidence of the historic core's rural hinterland. Lower Road may also have been a main route into the historic village. The undeveloped appearance of the appeal site also contributes to the setting of Character Area 5, and the former agricultural buildings therein, by providing a vestige of the link between these buildings and the land they were farmed in connection with.
20. The adjoining Phase 1 development of up to fifty homes was found by the previous Inspector to result in less than substantial harm to the setting of the CA. This is because it erodes the rural setting and affects the understanding of the historic role of the adjacent farmstead at CA5. The appeal scheme would compound this impact by effectively extinguishing the semblance of the CA's rural hinterland when experienced from Lower Road. That said, the appeal site is now a pocket of land tucked to the southwest of the CA which is already bounded by transport infrastructure and housing. The appeal scheme would be seen in this context, as well as that of the adjoining Phase 1 development, which provides a suburban buffer between the CA and the appeal site and wraps around CA5 on two sides.
21. There would also be scope to soften the presence of the development when viewed from Lower Road through continuous structural landscaping along the northern boundary and by setting the housing back from the road. There would also be opportunities to design the appeal scheme to respond positively to the key characteristics of CA1 and CA5, such as the period architecture/materials/detailing, use of boundary walling/hedging and the loose and verdant settlement pattern. The development can also be restricted to two storeys in height to prevent the scheme appearing overly prominent in the setting of the CA. Accordingly, the overall and cumulative level of harm to the setting of the CA would be below that found by the previous Inspector. It would be low moderate.
22. In conclusion, the appeal scheme would result in some low moderate harm to the setting and significance of the CA. As a result, the proposal would be at odds with Policies CS11 and CS16 of the CS and Policy DM20 of the LP, which seek to secure development that protects conservation areas.

The other concerns of interested parties

23. The appellants have provided detailed technical evidence that considers the impact of the proposed development on highway safety and transport. This has been reviewed and agreed by the Local Highway Authority (LHA). A probability analysis was also provided, but I understand that the Local Highway

Authority did not base its conclusions on that assessment. This seems sensible as it has been challenged through analysis by members of Bath University.

24. In summary, junction modelling has demonstrated that the appeal scheme would reduce capacity at the Bedhampton Hill/Bedhampton Road roundabout, but with mitigation aimed at increasing cycling and walking, secured through the planning obligation, the effect would be offset. The LHA have also reviewed the access strategy including the impact on Bibury Lane and whether the site access would be safe. The conclusion reached is that the available data, including personal injury records, indicates the scheme would be safe.
25. The LHA's assessment has carefully considered the safety of pedestrians and cyclists along Lower Road. This is a particular concern of locals given the narrow nature of this lane and the presence of sharp bends. The available evidence, including video footage, sightline analysis, speed surveys and the views of a safety auditor, demonstrates that traffic speeds are low and visibility between pedestrians and vehicles acceptable. Thus, Lower Road functions as a safe 'shared space' even when a pedestrian meets a vehicle or even two vehicles trying to pass one another. I share the view of some objectors that Lower Road does not have the appearance of a shared surface space as it includes white lines and a typical surface treatment. Nevertheless, the evidence before me suggests Lower Road is safe without such measures.
26. Photographs have been provided to suggest that larger vehicles struggle to pass one another in Lower Road, and this would leave no room for a pedestrian or cyclist. This would occur close to a care home where residents may have reduced mobility. However, the low traffic speeds (caused by the narrow carriageway and bends) means that all road users can respond in time to the presence of each other. I understand that a cyclist and taxi recently collided, but the causes of this accident are unclear and could have been down to driver error rather than an inherent danger caused by road conditions.
27. The evidence before me, including the comments for the LHA, demonstrate that the level of traffic that the proposal would add to network would not harmfully alter the existing situation in isolation or cumulatively. Accordingly, Lower Road would still function as an acceptable shared space.
28. Overall, the highway and transport impacts arising from the occupation of the scheme would be acceptable. The impacts of construction traffic can be managed through a planning condition requiring a construction management plan and visitor parking would be addressed through the reserved matters.
29. Traffic from the development would pass through the CA and close to listed buildings. However, the appeal scheme would only add about 23 vehicle trips at each of the peak hours, which is less than one vehicle movement every two minutes. This effect would be difficult to perceive along existing vehicular routes and therefore the proposal would preserve the CA's tranquil character and the setting of listed buildings. This would adhere to the expectations of Section 66(1) and Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990.
30. The Havant Civic Society have prepared a paper relating to traffic management and refer to a forthcoming review of traffic impacts in a Noise Action Plan. The noise contour plans in the paper indicates that significant areas along the main

road corridors are subject to noise impacts from traffic and that the appeal site could be one of the worst.

31. The Noise Impact Assessment submitted by the appellants suggests the proposal can be delivered without causing significant harm to the amenity of future residents despite the proximity of main roads. This is because external noise levels at most properties would not exceed the aspirational World Health Organization guidance. And internal levels during the day and night can achieve the recommended level in British Standard 8233:2014. That said, around a third of properties may need to keep windows closed to achieve appropriate internal noise environments. This would be problematic as it would affect living conditions.
32. The Council, including its Environmental Health Officer, have not raised objections to the proposal on these grounds and suggest the matter could be reviewed at the reserved matters stage. It may be that the number of properties designed on a closed windows approach can be reduced, but it seems to me that noise would be an inescapable and inherent adverse impact that should be weighed in the planning balance.
33. The technical evidence before me demonstrates that the appeal scheme would not have a net adverse impact on biodiversity. Indeed, it would create a mosaic of habitats that will result in a net enhancement.
34. Reference has been made to an emerging local plan, but this is not at a stage of preparation where it can be given meaningful weight. A previous Inspectors decision from 2014 has been mentioned but the details have not been provided. In any event, the approval of 50 homes next to the appeal site and the serious shortfall in housing are contemporary matters that are unlikely to have been apparent in 2014.
35. It has been suggested that the outline plan shows a scheme of a poor design and layout with little placemaking. That may be so, but the design and layout of the proposal are reserved for future consideration. Future designers and decision makers would need to have regard to the National Design Guide and would need to devise a carefully composed street scene, including active edges, vistas and street trees. The latter is specifically required by the National Planning Policy Framework.
36. The proposal would result in the loss of best and most versatile agricultural land but the evidence before me does not demonstrate that there are enough brownfield or urban sites to address the housing supply shortfall. The small field is also somewhat isolated from other agricultural land, and this may affect its functionality. This is a limited adverse impact to weigh in the balance.
37. The evidence before me, including the comments provided by Hampshire County Council, indicate that there is sufficient capacity at local schools. Substantive evidence is not before me demonstrating that there is inadequate health or sewerage infrastructure available to cater for the proposal.
38. The Government has set out an intention to make further changes to the planning system alongside those in the Levelling Up and Regeneration Bill. Some of these are summarised in a Written Ministerial Statement (WMS) made on the 6 December 2022. A WMS is an expression of government policy and is therefore capable of being a material consideration. However, in this instance

the WMS sets out proposals for consultation rather than changes to policy, which will follow in a revised National Planning Policy Framework. The consultation has taken place and a Government response to this is pending. Accordingly, I have based my decision on existing extant policy. A previous Prime Minister suggested that housing should not be built on greenfield sites, but such an approach has not been transposed into planning policy.

Planning Obligations

Affordable housing

39. Policy CS9 of the CS seeks to secure 30-40% of new homes on developments of 15 or more dwellings as affordable housing. The evidence in the CS underpinning this requirement is now dated. That said, I have seen nothing to suggest the need for affordable housing has dissipated, that the level sought is excessive or that it would be unviable. Accordingly, the planning obligation makes provision for 30% affordable housing as this is necessary to adhere to the development plan and secure a benefit of the scheme.

Green infrastructure, drainage and permissive paths

40. Policy CS13 of the CS seeks to permit development that improves existing green infrastructure (GI) or creates new GI, Policy CS1 of the CS seeks to secure the creation of new open space within housing developments, including play areas for children and allotments, and Policy DM8 of the CS seeks to secure sequences of green spaces. There is no evidence before me to suggest there is an over provision of GI in the vicinity of the appeal site that could cater for the increased population the appeal scheme would entail. Accordingly, the intention is for the scheme to provide multifaceted GI and thus contribute positively in the way envisaged in the CS. The unilateral undertaking therefore makes provision for the delivery of allotments, a community garden and a children's play area. It also details how these spaces will be managed. This is necessary to ensure the proposal adheres to the development plan.
41. It is possible that some of the footpaths, footways or other means of access may not be part of the adopted highway. However, they would be necessary to secure the development as a quality place with adequate permeability and movements in accordance with Policy CS16 of the CS. The planning obligation therefore makes provision for the construction of these routes and for them to be permissive paths kept available for use in perpetuity.
42. Policy CS15 of the CS seeks to secure development with appropriate drainage to reduce the risk of flooding. The policy also states that arrangements must be put in place for the maintenance and management of sustainable drainage systems. As previously outlined, the appellants have submitted a Drainage Strategy Technical Note that addresses the Council's concerns with surface water drainage. The planning obligation secures the construction of the drainage system and the subsequent transfer to a statutory undertaker or other company for ongoing management. A bond will be provided to support this. The provision and management of the drainage system is necessary to ensure the proposal adheres to the development plan.

Sustainable transport contribution of £108,000

43. Policy CS21 of the CS lists transport as one of the types of infrastructure where financial contributions can be secured. The Council's submissions explain that

the Highway Authority have advised that the proposed development would reduce capacity at the Bedhampton Road/Bedhampton Hill Roundabout and therefore appropriate mitigation measures are required to offset this impact. Mitigation in the form of improved pedestrian and cycle links has been explored and found to be acceptable. The obligation therefore makes provision for a contribution of £108,000 towards measures identified within the Havant Local Cycling and Walking Infrastructure Plan. This mitigation is necessary to ensure an acceptable net impact on the transport network.

Travel Plan, Travel Plan Monitoring fee of £15,000 and approval fee of £1,500

44. It is necessary for the appeal scheme to support sustainable travel as required by Policies CS20, DM11 and DM12 of the CS and therefore a Travel Plan has been prepared with the aim of facilitating a modal shift away from private motorised travel. This approach would also support the objectives of Policy DM10 to not breach air quality standards. The Travel Plan has been reviewed by the Council and Highway Authority and they are content that it will deliver modal shifts in the way envisaged. However, it is necessary to approve the final Travel Plan and monitor its implementation to secure the specified measures. The planning obligation therefore makes provision for this.

Council's monitoring fee of £4,875 + 5% of the Solent Recreation Mitigation Strategy Contribution and County Council's monitoring fee of £4,000

45. The planning obligation is reasonably complex and has several trigger points and actions that need to be adhered to. It is therefore necessary for the planning obligation to make provision for monitoring fees so that the clauses are successfully implemented and adhered to.

Community worker contribution of £12,900

46. Decision making principle 5 of the Housing Delivery Position Statement states that developments of 20 dwellings or more will be expected to contribute towards a community officer to help new residents in the development integrate into the existing community. I have already explained that the Housing Delivery Position Statement is not development plan policy and is a matter of very limited weight. The Council has provided little further justification underpinning this obligation. Its submissions refer to a Developer Contributions Guide, but the status of this document is unclear. In any event, it simply suggests that a community worker *can* be instrumental. The Council has not explained how they would be in respect of the appeal scheme.
47. As a result, it is unclear precisely why a community worker is required and what they would do. It is also unclear why the contribution is required to make the development acceptable, such as what harm would arise without the contribution being secured. It is therefore unclear why the contribution is necessary or directly related to the impacts of the development. As such, it is not something I have taken into account.

Conclusions on the planning obligation

48. For the reasons set out above, and save for the community worker contribution, the obligations are necessary and directly related to the impacts of the proposal. In addition, the obligations would be fairly and reasonably related in scale and kind to the development. As a result, I have taken them

into account as they provide necessary benefits or infrastructure as guided by the development plan, including Policies CS19 and CS21 of the CS.

Conditions

49. To ensure an acceptable form of development is delivered, it is necessary to secure details of the reserved matters prior to the commencement of development. In the interests of proper planning, I have listed the approved drawings. In so doing I have excluded the illustrative master plan 1217 001 E and the parameter plan 1217 005 B because they have not been advanced for approval at this stage and therefore to approve them would be unreasonable. I have included the access drawing because access is not a reserved matter.
50. The plans condition has also listed all of the documents submitted with the application, but it is difficult to see how the proposal could be carried out in accordance with some of them, such as a planning statement or information required to inform the habitat regulations assessment. Moreover, the Design and Access Statement would need to be updated for the reserved matters submission(s). Therefore, to aid precision I have only included documents where clear recommendations/details are set out.
51. To ensure satisfactory living conditions for future occupants it is necessary to secure acoustic mitigation against road noise, to provide details of pedestrian safety alongside any proposed swales, to provide boundary treatment and to investigate and remediate any land contamination. To safeguard and enhance biodiversity and secure 10% net gain as a benefit, it is necessary to secure a mitigation and enhancement strategy and to limit water usage to that set out in the nutrient budget. Similarly, and to protect the living conditions of nearby occupants, it is necessary to secure details of a construction environment management plan. In the interest of heritage and archaeology, it is necessary to secure a programme of investigation and recording. To protect the character and appearance of the area it is necessary to secure details of tree protection, levels and samples/details of external finishing materials and limit the scale of the dwellings to two storeys.
52. In the interests of minimising flooding, it is necessary to secure precise details of surface water drainage, including maintenance. In the interests of highway safety, it is necessary for the site access to be implemented as detailed on the approved plans. To manage water efficiently, it is necessary for details of water usage to be approved. Although recent changes to the building regulations now require electric vehicle charging infrastructure, I have included the suggested condition as it is necessary for the proposal to adhere to the development plan in respect of air quality and sustainable transport.

Other Considerations

Habitat Regulations Assessment

53. The site was previously identified as a Candidate Site and before that a Secondary Support Area for Solent Waders and Brent Geese. However, its classification has been updated to 'no recorded use'. This reflects four years of good survey data which has led to the reclassification of the site. Therefore, no direct impacts would need to be assessed or mitigated.

54. Nevertheless, the appeal site is located in the coastal zone near to the Solent European sites² and a Zone of Influence. These sites are designated on account of their importance to a range of important species including grasslands, snails and over-wintering and breeding birds, which are their qualifying features. The conservation objectives of these sites can be summarised as ensuring their integrity, by maintaining or restoring the habitats and populations of the qualifying features.
55. There is no dispute between the parties that population growth resulting from new housing within a Zone of Influence would likely result in an increase in the harmful recreational disturbance of birds. Accordingly, the proposal in combination with other plans and projects would be likely to have a significant adverse effect on the relevant European sites when following a precautionary approach. Hence, an appropriate assessment, in accordance with the Habitat Regulations³, is required to consider the implications of the proposal on the Solent European sites in view of their conservation objectives.
56. The appellants have confirmed a willingness to provide the financial contribution set out in the Solent Recreation Mitigation Strategy. This approach is supported by Natural England (NE) as the Statutory Nature Conservation Body. The contribution would be pooled with others and used for strategic monitoring and management at the relevant sites. This would be secured through the planning obligation submitted with the appeal.
57. The appeal site is also located within the fluvial catchment and consequently there is a pathway that would likely result in nitrates from the appeal scheme entering the water system. This would have a likely significant effect on the water quality of the European sites due to eutrophication and pollution. The extent of the effect has been calculated in a Nitrogen Budget that has been reviewed by the Council and NE. I have no reason to doubt its findings.
58. In effect, the scheme would be 'nutrient negative' because it would involve arable agricultural land being taken out of production and the provision of new green spaces, which can be managed without fertilisers. Therefore, the amount of nitrate in the water environment would decrease on account of the appeal scheme. The management of the open spaces would be controlled through the planning obligation. Moreover, noise nuisance and pollution of the water environment during construction can be avoided through the implementation of a construction environment management plan.
59. The mitigation secured through the planning obligation would be directly related to the impacts of the proposal and are necessary to make the development acceptable. They would also be fair and reasonable in scale. Thus, I can take them into account and therefore the proposal would not adversely affect the integrity of the relevant SPA, the condition of which need not deteriorate because of the proposal. In conclusion, the appeal scheme would not adversely affect the integrity of the Solent sites and would therefore adhere to Policies CS11 of the CS and DM24 of the LP.

² Including Chichester & Langstone Harbour SPA & Ramsar Site, Solent Maritime SAC, Solent & Isle of Wight Lagoon SAC, Portsmouth Harbour SPA & Ramsar

³ See Regulation 63 Conservation of Habitats and Species Regulations 2017 (as amended).

Heritage Balance

60. The low moderate harm that would occur to the setting and significance of the CA would be 'less than substantial' within the meaning of the National Planning Policy Framework (the 'Framework'). Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal.
61. The appeal scheme would deliver up to 43 market homes. This benefit needs to be considered in the context that the Council are currently unable to demonstrate a five-year housing land supply. The current projected supply is around 1,119 homes which is only 1.8 years. The shortfall is therefore very severe at approximately 1,977 homes. The appeal scheme would be a moderate but useful contribution towards remedying the deficit given the Government's aim to significantly boost the supply of housing. It is unlikely the Council will be able to remedy the housing supply shortfall any time soon, which has been long term and persistent. Moreover, its past performance is not where it needs to be as per the Housing Delivery Test. The contribution to housing land supply would therefore be a benefit of a high order.
62. The proposal would also deliver 30% affordable housing through the planning obligation. There is no dispute between the parties that there is a significant need for affordable housing. However, the provision of around 13 affordable homes would be a moderate contribution to the supply.
63. The proposal would also be located where sustainable transport can be utilised. This would provide personal transport choice and resilience as well as health benefits from active travel. Building the homes would also benefit housing choice and provide a short-term boost to the construction industry. The subsequent occupation of the homes would likely provide a moderate boost to the provision and retention of local services and facilities through additional 'spend' and use. The new residents could also provide vitality to the community by getting involved in local organisations and clubs.
64. The proposal would also result in biodiversity enhancements through the creation of a mosaic of habitats as set out in the Ecological Assessment. This would provide an onsite biodiversity net gain of at least 10%. The highway works would also benefit existing residents as well as future occupants of the appeal scheme, as would the new green infrastructure and open space. In respect of the latter, the benefit would likely be moderated by the open space being tucked away and adjacent to a busy road. Nevertheless, the benefits would cumulatively carry notable weight.
65. The Framework states that designated heritage assets are an irreplaceable resource that should be conserved for existing and future generations. Any harm to their significance is therefore an important matter. Indeed, the Framework states that great weight should be given to an asset's conservation. Conservation in this context means sustaining, and thus not harming, an assets significance. In this case, the designated heritage asset is a conservation area of local significance.
66. The proposal would result in low moderate but permanent harm to the setting and significance of a CA. This matter carries weight of a high order. Against this, the public benefits of the proposal are cumulatively of notable weight. Overall, the benefits are of sufficient force to outweigh the weight I afford to the less than substantial harm that would occur. Accordingly, there would be

no conflict with Paragraph 200 of the Framework as harm to the significance of a designated heritage asset would have clear and convincing justification.

Paragraph 11 of the Framework

67. The Council are currently unable to demonstrate a five-year housing land supply and therefore the most important policies for determining the application should be deemed out of date. However, they should not be disregarded. Instead, in such circumstances Paragraph 11 of the Framework states that in this instance⁴ permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.
68. The spatial strategy in the development plan seeks to manage development by directing it to sites within defined development boundaries as these are the most sustainable locations. Therefore, in general terms the spatial strategy is consistent with national policy, especially the aim to recycle brownfield land in urban areas. It is also important to note that the Framework encourages a genuinely plan led approach to development.
69. However, the spatial strategy was devised some time ago when the housing requirement was much lower. As things stand a rigorous application of it would frustrate attempts to remedy the housing supply deficit, which is serious. The SOCG states that sites will need to come forward outside the defined urban areas to meet the housing requirement. In this instance, the harm from conflicting with the spatial strategy would not be high given the adequate access to services and facilities and the limited impact on the landscape. Taking all the foregoing points together, I find that the conflict with the spatial strategy in the development plan carries moderate weight.
70. The proposal would also result in the loss of agricultural land, which is a matter of limited weight against the scheme in this instance. It is also likely that some residents would not be able to open their windows due to impacts from noise. Mechanical ventilation can be provided, thereby minimising the impact, but the homes would have a sterile feel. This is a matter of moderate weight against the proposal. Great weight is afforded to the low moderate harm that would occur to the setting of the CA. Cumulatively, the adverse impacts weigh heavily against the scheme when applying the policies of the Framework⁵.
71. I have already set out what the benefits of the appeal scheme would be and have found that they would, in this instance, outweigh the harm to the setting and significance of the CA. Indeed, the benefits are likewise of a high order and would deliver positively against several policies in the Framework⁶. Most notably the aim to significantly boost the supply of housing, including delivery of affordable housing. Overall, the cumulative adverse impacts of the appeal scheme would not, in this instance, significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.

⁴ As the public benefits of the proposal would outweigh the harm to the setting of the CA, the application of policies in the Framework that protect designated heritage assets do not provide a clear reason for refusal

⁵ Including Paragraphs 15, 20, 130 (f), 174 (b), 185 (a) 199

⁶ Including Paragraphs 60, 63, 74, 81, 92, 98, 105, 179 (b) and 200

Conclusion

72. The proposal would be at odds with the development plan taken as a whole. That said, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits. This is a material consideration that in this instance is determinative and indicates the proposal should be determined otherwise than in accordance with the development plan. Accordingly, the appeal is allowed, and planning permission granted.

Graham Chamberlain
INSPECTOR

Richborough Estates

Schedule of Conditions

1. Application for approval of reserved matters must be made not later than the expiration of two years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates:
 - (a) The expiration of two years from the date of this permission; or
 - (b) The expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.
2. The approval of the Local Planning Authority shall be obtained in respect of the following reserved matters before the development first takes place - the appearance; landscaping; layout; and scale.
3. The development hereby permitted shall be carried out in accordance with the following approved plans and the details recommendations in the following documents, unless amended by details submitted pursuant to the other conditions hereby imposed:

Plans

- Site Boundary (Location) Plan No. 1217/001E
- Proposed Access Drawing No. ITB12174-GA-018 Rev F

Documents

- Nitrogen Budget Calculator – 27 October 2022
 - iTransport Technical Note ITB12174 dated 23 June 2022
 - iTransport Residential Travel Plan dated 8 February 2022
 - iTransport Outline Construction Traffic Management Plan ITB12174-017 TN dated 8 February 2022
 - iTransport Transport Assessment 23 September 2021
 - MJA Consulting – Drainage Strategy Technical Note SS/23/0157/6430 23 March 2023
 - Flood Risk Assessment September 2021
 - Geo Environmental Desk Study
 - 24 Acoustics - Noise Impact Assessment
 - Barrell Tree Consultancy - Arboricultural Assessment and Method Statement
 - Tree Survey Plan Ref: 21029-1 B
 - Tree Survey Plan 21029-2
 - Tree Constraints Plan 21029-1 A
 - Barrell Tree Consultancy - Arboricultural Opportunities and Constraints Assessment
 - Terra Firma Consultancy Ltd - Landscape and Visual Assessment
 - Biodiversity Net Gain Assessment Summary November 2022 Aluco Ecology Ltd
4. No development shall take place until details of the measures to be taken to acoustically insulate all habitable rooms of the development against traffic noise together with details of measures to provide ventilation to habitable rooms, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented, and validation test results submitted to the Planning Authority prior to occupation.

5. Prior to the commencement of development, a site-wide ecological mitigation and enhancement strategy and timetable, including measures to secure at least 10% biodiversity net gain, shall be submitted to and approved in writing by the Local Planning Authority. This strategy shall be in conformity with the outline ecological mitigation, compensation and enhancement measures detailed within the Ecological Assessment (Aluco, September 2021) and any submitted landscape, drainage and lighting strategies. All ecological mitigation, compensation and enhancement measures, including those for common swift, shall be implemented in accordance with the approved details and approved timetable and shall be maintained for the lifetime of the development in a condition suited to their intended function.
6. No development shall take place until a site-specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The approved CEMP shall be adhered to throughout the construction period.
The CEMP should include, but not be limited to:
 - Programme for construction and carrying out of the works
 - Procedures for maintaining good public relations including complaint management, public consultation and liaison
 - Measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s)
 - Construction traffic routes and their management and control
 - Arrangements for deliveries associated with all construction works
 - Loading and unloading of plant and materials
 - Storage of plant and materials used in constructing the development
 - Location of temporary site buildings, compounds, construction material, and plant storage areas
 - Access and egress for plant and machinery
 - Protection of pedestrian routes during construction
 - Control measures for dust and other air-borne pollutants
 - The parking and turning of vehicles of site operatives and visitors
 - Procedures for emergency deviation of the agreed working hours
 - Details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination
 - A scheme for recycling/disposing of waste resulting from the construction works
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - Wheel washing facilities
 - Measures to prevent mud being deposited on the highway
 - Provision for addressing any abnormal wear and tear to the highway
7. Prior to the commencement of the development, an assessment of the nature and extent of contamination at the site, whether originating from within or outside the curtilage, shall be submitted to and approved in writing by the Local Planning Authority.

The assessment may comprise separate reports as appropriate, but shall be undertaken by competent persons, and shall include;

- 1) An intrusive site investigation based on the proposals outlined within the Geo-Environmental Services Ltd. Desk Study Report (Ref: GE19772-DSR-MAR21) to provide sufficient data and information to adequately identify & characterise any physical contamination on or affecting the site, and to inform an appropriate assessment of the risks to all identified receptors.
 - 2) The results of an appropriate risk assessment based upon (1), and where unacceptable risks are identified, a Remediation Strategy that includes;
 - appropriately considered remedial objectives,
 - an appraisal of remedial &/or risk mitigation options, having due regard to sustainability, and;
 - clearly defined proposals for mitigation of the identified risks.
 - 3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out any Remediation Strategy required under (2) are complete, identifying any requirements for longer-term monitoring of pollutant linkages, maintenance of engineered mitigation measures, and arrangements for contingency action.
 - All elements shall be adhered to unless agreed in writing by the Local Planning Authority.
8. The development hereby permitted shall not be commenced until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) the programme and methodology of site investigation and recording
 - b) the programme for post investigation assessment;
 - c) the provision to be made for analysis of the site investigation and recording;
 - d) the provision to be made for publication and dissemination of the analysis and records of the site investigation
 - e) the provision to be made for archive deposition of the analysis and records of the site investigation
 - f) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- No development shall take place other than in accordance with the Written Scheme of Investigation approved under this condition.
9. Prior to commencement of the development the approved tree protective measures, including fencing as shown on the approved Barrell's Arboricultural Assessment & Method Statement dated 13/04/21 and the Tree Protection Plans shall be installed and thereafter maintained throughout the duration of the construction period. Within the fenced area(s), there shall be no excavations, storage of materials or machinery, parking of vehicles or fires.
10. Notwithstanding any description of materials in the application no construction works shall take place until samples and a full specification of the materials to be used externally on the buildings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The development shall be undertaken in accordance with the approved details.

11. No development shall take place until details of existing and finished floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
12. No development shall begin until a detailed surface water drainage scheme for the site, based on the principles within the Drainage Strategy Technical Note options 1 to 3, ref: SS/23/0157/6430, has been submitted and approved in writing by the Local Planning Authority. The submitted details should include:
 - a) A technical summary highlighting any changes to the design from that within the approved documentation and confirmation of discharge option.
 - b) Approvals in principle in relation to land access or other approvals required to implement the discharge option.
 - c) Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.
 - d) Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.
 - e) Evidence that urban creep has been included within the calculations.
 - f) Confirmation that sufficient water quality measures have been included to satisfy the methodology in the Ciria SuDS Manual C753.
 - g) Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.The development shall be undertaken in accordance with the approved details.
13. Prior to first occupation of the dwellings hereby approved, the site access as shown in drawing number ITB12174-GA-018 Rev F shall be implemented in accordance with the approved details and shall thereafter be retained.
14. The development hereby permitted shall not be occupied until:
 - (a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; and
 - (b) All measures necessary to meet the approved water efficiency calculation have been installed.
15. Prior to first occupation of the development, any verification report required in accordance with condition 7 shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan, and must demonstrate that site remediation criteria have been met. Where longer-term monitoring of pollutant linkages is identified as being necessary, the report shall clearly set out plans for monitoring, provision for maintenance, relevant triggers and contingency actions (a "long-term monitoring and maintenance plan"). The long-term monitoring and maintenance plan shall thereafter be implemented in accordance with the approved details.

16. Prior to the first occupation of the dwellings hereby approved, full details of Electrical Vehicle Charging points shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
17. No part of the development shall be first occupied until details of the means of enclosure including boundary walls, have been submitted to and approved in writing by the Local Planning Authority and the approved structures have been erected in accordance with the approved details. The structures shall thereafter be retained.
18. Prior to the first occupation of the dwellings, details for the long term maintenance arrangements for the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include maintenance schedules for each drainage feature type and ownership. The surface water drainage system shall thereafter be maintained in accordance with the approved details.
19. Any subsequent reserved matters applications shall include details of the measures to protect pedestrians from swales adjoining footpaths.
20. No building shall exceed two storeys in height across the entire site.
21. At all times following occupation of the development hereby approved, all measures for water usage within the submitted nutrient budget shall be maintained in the development in perpetuity.

End of schedule