



Appeal Decision

Hearing held on 1 April 2025

Site visit made on 2 April 2025

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th April 2025

Appeal Ref: APP/H1705/W/24/3350581

Land on the South and South East side of Harts Lane, Burghclere, Hampshire, RG20 9JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by HD (Burghclere) Limited against the decision of Basingstoke and Deane Borough Council.
 - The application ref is 23/02769/OUT.
 - The development proposed is residential development of 25 dwellings with access on to Harts Lane, with associated open space, infrastructure, drainage, landscaping, and accessible natural greenspace.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Basingstoke and Deane Borough Council against HD (Burghclere) Limited. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline with all matters reserved. I have had regard to the illustrative landscape masterplan, the indicative development framework plan and the indicative access arrangements relating to the reserved matters on an informative basis. It was agreed at the Hearing that general adherence to the amount of proposed open space and area of built development could be sought by condition, and I have considered the proposals accordingly.
4. As set out in the Statement of Common Grounds (SoCG) work on the emerging Local Plan update (LPU) has been ongoing since 2020. A statutory consultation on a full draft LPU took place in January 2024 but with recent changes in the housing need figure for the Borough, it is acknowledged that a reconsideration of the spatial strategy is required. While the appellant invites me to give no weight to the LPU, having regard to paragraph 49 of the National Planning Policy Framework (the Framework) I conclude that very limited weight should be given to the emerging plan.
5. Prior to the Hearing, a completed unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended) (the Act) was provided. The planning obligations in the undertaking secure onsite affordable housing and

open space and a contribution towards equipped play provision. Based on the provisions of the UU, the Council withdrew reason for refusal 3. I return to the UU later in my decision.

Main Issues

6. The main issues are:

- whether the appeal site is an appropriate location for the proposed development having regard to the spatial strategy in the Development Plan, and
- the effect of the development on the character and appearance of the area.

Reasons

Location

7. The adopted development plan in so far as it is relevant to the appeal site includes the Basingstoke and Deane Local Plan 2011- 2029 (the BDLP) adopted in May 2016 covering the period up to 2029, and the Burghclere Parish Neighbourhood Plan 2011 - 2029 made in May 2021 and modified in May 2023 (BNP).
8. Policy SS1 of the BDLP sets out the spatial strategy to deliver 15300 dwellings principally through a combination of capacity within settlement boundaries, local plan allocations and a quantum of housing allocated through the neighbourhood planning process. Policy SS1 therefore confirms that housing development outside of settlement boundaries, in the countryside, will be managed to a limited number of exceptional circumstances. For the purposes of Policy SS1 of the BDLP the appeal site is outside of the settlement boundary for Burghclere and therefore in the countryside. The proposals would not comprise one of the exceptional circumstances in BDLP Policy SS6 for new housing in the Countryside.
9. The BNP defines a settlement boundary for Burghclere. Policy B1 of the BNP explains how the local plan strategy applies to Burghclere. Policy B1 supports development within the settlement boundary in principle subject to compliance with relevant development plan policies and having regard to the Burghclere design code. Policy B1 sets out a presumption against development of new homes outside the settlement boundary except in the limited circumstances set out in Policy SS6 of the BDLP and paragraph 84 (formerly 80) of the Framework.
10. The appeal development is for 25 dwellings and open space on an area of pastureland adjacent to Harts Lane. It is outside the BNP settlement boundary. Neither party considers the site to be isolated in the terms set out in paragraph 84 of the Framework, paragraph 84 is therefore not relevant here and none of the other limited circumstances in Policy B1 apply. While it is agreed that the location of the appeal site is in proximity to a reasonable level of services and facilities the development would be at odds with Policy B1 of the BNP because it is outside the settlement and in the countryside for planning purposes.
11. Accordingly, the appeal site is not a suitable location for the appeal scheme when applying the spatial strategy in the development plan. The appeal proposals would conflict with the spatial strategy set out in Policies SS1 and SS2 of the BDLP and Policy B1 of the BNP.

Character and appearance

12. The appeal site comprises 2.82 Hectares of land to the south and east of Harts Lane. The front boundary of the site is defined by mature trees and planting. The rear and part of the side boundary on the southside, towards the back of the site, are delineated by low post and wire fencing. An informal track and maintained hedge separate the appeal site from the church and its grounds broadly north. Adjacent to the south/southwest boundary is the grounds of St Michael's school, with areas of dense, mature tree planting.
13. The characteristics of the host landscape as previously described at appeal¹ includes the subtle but complex landforms of gentle undulations and tributary valleys of the River Enborne, a patchwork of farmland and woodland with often an enclosed, intimate character including small scale fields and intact hedgerow structures. Development is not a characteristic feature in the landscape particularly looking from within Harts Lane towards the North Wessex Downs.
14. The appeal site draws on the positive attributes of its surroundings because of its rural context and being within the setting of the North Wessex Downs National Landscape surroundings. Nevertheless, while acknowledging the views of interested parties, I accept that the appeal site does not have any physical attributes that lift it above ordinary countryside status and is not a valued landscape in the terms of the Framework.
15. Harts Lane forms the entrance to the village near to Winchester Road. The Lane intersects with the former railway line identified by a wide mature tree margin which also marks the extent of the village located within the National Landscape. Beyond this point, fairly continuous development is characteristic of the northwest side of Harts Lane. Here, dwellings are within mature landscape plots and significant tree planting softens the built form. Closer to the appeal site, areas of in-depth development such as Beaconsfield have a more urban influence on the village, particularly the Harts Lane frontage due to dwellings being much closer to the road.
16. In contrast, to the southeast side of Harts Lane St Michael's school is set back from the road frontage. The buildings of the school are less formally placed and are not obvious features of the street scene because of mature planting. The footpath along Harts Lane crosses to the north side by the entrance to the school so that the appeal site frontage is defined by mature trees and vegetation close to the back edge of the road. Glimpsed views of the open land of the appeal site are seen at the entrance to the field and through gaps in the vegetation.
17. Beyond the appeal site the church is set back from Harts Lane in landscaped grounds. In views from Harts Lane, the church is seen in relative isolation; the maturity of its boundary and tree planting providing a rural setting for the church.
18. Taken together with the informality of buildings within the spacious grounds of St Michael's school, the landscaped grounds surrounding the church and the openness of the appeal site, this side of Harts Lane has a rural quality and character that connects with the wider surrounding countryside and is clearly distinguishable from the settlement to the north and northwest. The appeal site adds considerably to the rural character and quality of the village. The Harts Lane boundary of the appeal site serves as a clear demarcation between settlement and

¹ APP/H1705/W/20/3248187

countryside, but even if that boundary were to be restored as the appellant suggests, the absence of development beyond the tree and hedge line and the openness of the site surroundings reinforces the appeal site's rural character.

19. Therefore, I agree with my colleagues on both previous appeals that the appeal site has a strong rural character. It is an integral part of the characteristic and intact mosaic of small-scale fields of the host landscape, clearly distinguishable from the settlement to the north of Harts Lane and the appeal site makes a positive contribution to landscape character at this location.
20. The proposed development is for fewer dwellings than the previous scheme with a greater amount of accessible green open space to the rear. Nonetheless, development would extend significantly back into the site and what is presently a verdant, pastoral field would, be given over to built and recreational development.
21. The rear part of the site may be landscaped, and a tree belt introduced, but this area would appear more formally laid out and, as a consequence, the open space would be experienced as part of the proposed development. The set back of frontage dwellings and limiting of the extent of the built form within the land to align with existing features does not notably diminish the overall effects of the development compared to the previous scheme. The indicative details would not mitigate the landscape harm arising from the extensive loss of what is presently an undeveloped and discernible area of countryside, which aligns with the surrounding rural landscape character. Accordingly, the impact of the proposals on the character of the landscape would be significantly adverse.
22. Regarding visual effects, although there are some changes to the indicative layout in terms of the relationship of built form to the road frontage compared to the previous scheme, from Harts Lane the effects of the proposed scheme would be similar. The dwellings would be visible within Harts Lane and would result in the significant consolidation of built settlement on a point on Harts Lane that retains a strong rural connection because of the appeal site.
23. The proposed access is roughly central to the appeal site frontage. The indicative access arrangements demonstrate that a standard access road with footpaths and visibility splays would necessarily cut into the frontage landscaping. The appellant's tree report sets out that most trees along the frontage could be kept but those nearest to the entrance would suffer significant incursion into root protection areas. Whilst I note the report, given the proximity of the vegetation and trees to the road, I am not convinced that the retention of the amount of vegetation suggested is possible. In any case, the access arrangements would harmfully alter the rural character of Harts Lane. Furthermore, at the access point, the proposed dwellings would be highly visible from the Lane and the rural quality of the site and the connection with the wider countryside beyond the appeal site would be lost.
24. Important view 3 identified in the BNP is located just beyond the northern end of the appeal site frontage. The Burghclere Design Code² acknowledges that key views demonstrate the close links of the village with the countryside. From view 3 there are far reaching, uninterrupted scenic views across the appeal site to open countryside and the national landscape with local important landscape features such as Beacons Hill and Ladle Hill visible. Despite fewer dwellings being proposed and being indicatively placed further from the boundary with the church, it remains

² Burghclere Neighbourhood Plan appendix 1

difficult to conceive of a detailed proposal that would not peripherally impinge on the current rural view which is largely devoid of development. The view would be conspicuously narrowed by the appeal proposals through a combination of visible built development and proposed landscaping. The specific landscaping scheme may determine the extent to which the appeal scheme interrupts the view but built form and landscaping would reduce and urbanise view 3 and the wider sense of openness across the undulating landscape to the backdrop of the downs would be adversely encroached upon.

25. Therefore, even with the amended indicative extent of built development, the result would be significant harm to the visual amenity and the rural connection provided by this viewpoint for both local residents and users of the Brenda Parker Way. I disagree that parties travelling through the landscape would be intent on their journey, rather as part of a long distant footpath it is reasonable to anticipate that on many occasions the route would be used for leisure and enjoyment of the landscape not solely on traversing through it.
26. Views across the appeal site are part of the wider rural perspective appreciated from the church yard looking southwards. The extent of the built development has been limited with reference to an existing fence line, and the indication is that houses would be placed further from the boundary with the church. The suggested landscaping scheme indicates planting to contain the appeal site and new tree cover including in the form of a tree belt. The appellant suggests that the proposals would limit the intervisibility between the appeal site and the principal southern elevation of the church and tranquillity of the church yard would be maintained. However, even with the reduction in built development, there would remain a residual, perceptible erosion of the wider rural context for those visiting the graveyard which would be moderately harmful.
27. The route of public footpath 13 follows the south/southeast boundary of the appeal site. The character of the footpath is rural, providing at the point of the appeal site a sense of being on an open ridge characteristic of the undulating landscape. The development within the village and the school buildings are not noticeable within views from the footpath or within BNP viewpoints 6 or 7. Because of the amended extent of the proposed built form, development would be less prominent from the footpath including from identified viewpoints. The formation of a densely planted tree belt may also over time limit some views of the dwellings.
28. However, it would remain that dwellings would notably extend development into open countryside with a strong rural character and next to seemingly undeveloped boundaries. Landscaping may soften some elements of the built development, but the trees would run across the middle of the field fragmenting the field pattern and the effect of the development would remain visually discordant. Taken together, the open space, landscaping and built development would have an urbanising effect in an otherwise rural setting. The development would be readily apparent from the footpath and would harmfully erode the rural experience for users of the path. Furthermore, the scheme would be detrimental to important viewpoints by notably diminishing the rural quality of such views. The adverse effects of the development would be significantly harmful.
29. From Beacons Hill and Ladle Hill Burghclere is seen nestled in a well wooded lowland landscape. The appeal site and Burghclere are part of a large panoramic view and neither the village nor the appeal site are prominent features of the views.

The effect of the development on visual receptors and the setting of the National Landscape would be negligible. Even having regard to the duty to further the purposes of conserving and enhancing the landscape and scenic beauty of the National Landscape, the scale and extent of the proposed development would be such that there would be no detrimental effect on these wider views.

30. Nevertheless, as the Burghclere Design Code acknowledges, rural character is important to the overall character of the settlement and provides the village with a strong connection with the countryside. In my view, the contribution of the appeal site to the rural quality of the village is because of the absence of development. Therefore, even though the number of dwellings has been reduced from the previous appeal scheme, the intrusive effects of the proposals would remain seriously harmful.
31. I conclude that the adverse effects of the development on landscape character, the visual amenity from various perspectives and the positive contribution of the site to the rural setting of Burghclere would be significant. Consequently, the development would be harmful to the character and appearance of the area and would be contrary to local plan Policies EM1 and EM10 and Policies B5, B8, and B9 of the BNP where these policies seek to ensure that development is sympathetic to the character and visual amenity of the local landscape, positively contribute to local distinctiveness and the sense of place. The proposal would also fail to preserve key features of important views identified in the BNP including key viewpoints 3, 6, and 7.

Benefits of the Development

Housing land supply

32. The parties agree that the Council does not have a 5-year housing land supply (5YHLS). The Council calculates the supply position to be 2.76 years with a shortfall of 2,654 dwellings over the 5-year period. The appellant calculates the supply position to be 2.46 years with a shortfall of 3010 dwellings. The difference between the parties stems from a disagreement over the number of dwellings likely to come forward from windfall sites in the 5-year period. However, in either case the supply figure has declined from the previous appeal where the worse-case scenario was a supply figure of 3.67 years. The appellant describes the shortfall as acute, the limited difference between the parties in the supply position would not affect that description with which I agree.
33. At the Hearing it was confirmed that the appellant owns the appeal site and should planning permission be granted for the development, the scheme could be delivered in the next 5 years. This is consistent with the Strategic Housing and Economic Land Availability Assessment (SHELAA) where the site is agreed to be available and achievable. Therefore, the evidence is that the appeal scheme can be delivered in a relatively short time frame and provide a notable boost to the supply of housing where there is a significant shortfall in the supply of housing land. Furthermore, while the review of the local plan has been underway since 2020, it is acknowledged that housing figures will need to be reviewed in light of the recent Framework changes, and therefore an adopted LPU to address housing shortfall seems some way off.
34. Nevertheless, the Council's Housing Delivery Test indicates that the Borough is comfortably delivering the homes required. Furthermore, the housing allocation in

the BNP is at an advanced stage in the planning process and would provide 17 dwellings in the village. In this context, and having regard to the amount of development proposed, I am not minded to attribute substantial weight to the provision of housing although I acknowledge that any contribution where there is a significant shortfall in supply is valuable.

35. Regarding the mix of housing, Policy CN3 of the BDLP and Policy B4 of the BNP seek to achieve a mix of dwellings with Policy B4 seeking a majority of 2 and 3 bedroomed properties. The housing mix is a matter to be resolved at detailed design stage and it is to be expected that the mix would reflect the needs of the community in accordance with development plan policies. The appellant has indicated that all properties would be M4(2) accessible and adaptable homes above the policy requirement of 15%. However, this is not reflected in the signed unilateral undertaking which seeks to provide 2 of the 10 affordable dwellings as accessible and adaptable. A condition could nevertheless be imposed to achieve M4(2) for the market housing and accessible and adaptable homes would be a benefit of the scheme.
36. Overall, I conclude that the provision of 25 dwellings is a scale of contribution to the housing land supply of the Borough that, taken together with the provision of a mix of dwellings, including accessible and adaptable homes, attracts significant weight.

Affordable housing

37. Based on the indicative layout, the proposals would provide 10 affordable dwellings. The provision of 10 dwellings would be a Development Plan compliant 40% affordable housing. The UU secures the number of dwellings, and a tenure split of 50% social rent and 50% intermediate housing. The tenure split would be marginally inconsistent with Policy CN1 of the BDLP but both parties agree that the provision of social rented housing is important, and the tenure split is acceptable. I am satisfied that the affordable housing provision accords with the intent of paragraph 66 of the Framework.
38. I acknowledge that house prices in Burghclere and the Evingar ward are some of the highest in the Borough and that the delivery of affordable housing has been below expectations. Nevertheless, those whose affordable housing needs are in Burghclere parish and/or the surrounding parishes are relatively low and the allocated site in the village would contribute to affordable housing provision. Therefore, while the appellant invites me to give this matter substantial weight, I conclude that significant weight should be attributed to the provision of policy compliant affordable housing.

Other social benefits

39. The Council does not question the appellant's evidence that primary aged children within the primary school catchment would secure a stable intake of pupils. This is important because the primary school takes many of its pupils from outside the catchment area. There is little before me to corroborate the appellant's assessment that the primary school is not capable of sustaining the quality of the school's education provision or its financial stability. Nevertheless, the location of the primary school within close walking distance of the appeal site is a positive social benefit to which I give appreciable weight.

40. The appeal site would provide accessible green open space for residents that would widen the choice of walking routes and accessible community spaces within the village. However, there are recreational facilities in the village and little to suggest a deficiency in such space. This matter carries modest weight.
41. There is agreement that Burghclere is a village which contains a reasonable level of services and facilities to support the residential properties. In this respect, the proposals would accord with the Framework where it seeks to ensure that development is located where it will enhance or maintain the vitality of rural communities. The development would also accord with paragraphs 110 and 115 of the Framework as far as these paragraphs are relevant to this outline scheme.

Economic benefits

42. I recognise the benefits of small and medium sized sites as set out in paragraph 73 of the Framework. However, because of my conclusions in this decision the site is not a suitable site for homes. Furthermore, in accordance with paragraph 74 of the Framework the site allocated under BNP Policy B2 provides an opportunity for a small and medium size site suitable for housing to be developed in Burghclere.
43. There would be employment opportunities during the development's construction phase and the households that occupy the dwellings could reasonably be expected to support the viability of local businesses. The range of facilities within Burghclere is not extensive which limits the economic value to the village. Even so, there would be gains for the wider economy. There would also be some uplift to the revenue of the local and Council area. Due to the development's scale the economic benefits of the scheme attract moderate weight.

Environmental benefits

44. The appellant's Biodiversity Net Gain (BNG) assessment concludes that the minimum BNG is expected to be 10%. Indicative details suggest a significantly higher percentage than this, but BNG would be recalculated at reserved matters stage. The appellant's statement and SoCG set out the potential for specific net gains in habitat and hedgerow units. It is conceivable that there could be significant gains in BNG as at present there is no requirement for anything other than a positive outcome and the appeal scheme is not caught by the requirement in the Environment Act to provide a mandatory 10% biodiversity net gain. There would also be the potential for the appeal site to contribute to the Nature Recovery Network³ through the landscaping within the site. Such matters carry moderate weight.
45. There are several active and passive measures that are proposed to be considered at reserved matters stage to reduce energy demand and increase energy efficiency. The design and access statement suggests design detail to ensure a healthy, safe, and comfortable internal and external environment for future residents. I have little evidence of the extent to which the scheme would reduce energy demands and good design is to be expected. However, it is likely that there would be some environmental benefits associated with good quality design and seeking to reduce energy demand which attracts some positive weight.

³ Identified in Policy B10 of the BNP and plan L policy map.

46. Drawing all the above matters together, the appeal proposals would offer a wide range of public benefits. While individually the weight that I have given each benefit varies, when taken together the package of benefits can be given significant weight on the positive side of the planning balance.

Planning obligation

47. The UU would place various obligations on those who have an interest in the land. It is necessary to consider whether these obligations meet the statutory requirements in Regulation 122 of the Community Infrastructure Levy Regulations (the CIL tests) and the policy tests in paragraph 58 of the Framework.
48. The UU secures 10 affordable residential units and accords with Policy CN1 of the BDLP where it seeks 40% affordable housing. The provision of social rented properties reflects the intent of the Framework and both parties are satisfied with the approach in the UU. The obligation meets the relevant CIL tests with regard to affordable dwellings.
49. The UU secures 1.4 hectares of onsite accessible natural green space and a contribution towards off site equipped play space. Layout and landscaping are reserved matters, but the undertaking would ensure the layout, timetable for delivery and future maintenance of the on-site space in accordance with a landscape management plan. The previous appeal confirmed that there was a reasonable prospect of an implementable off-site scheme in the parish for provision of equipped play space and the Council refers to enhancing Burghclere recreation ground. The provisions in the agreement would meet the CIL tests and ensure accordance with Policies CN6 and CN8 of the BDLP.
50. The planning obligations in the UU are necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and kind to the appeal development. They meet the statutory tests and policy requirements. I am therefore able to take them into account in my decision.

Other Matters

51. The Grade II listed Church of the Ascension is broadly to the north of the appeal site. Its significance is its period architecture as an ecclesiastical building. The duty imposed by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the setting of listed buildings. It has previously been concluded that there is no evidence that the appeal site has a functional or historic relationship with the Church and development on the appeal site would preserve the church's rural setting. I have addressed rural outlook from the church yard above, but I conclude that there would be no harm to the significance of the designated heritage asset and how it is experienced within the immediate grounds of the churchyard, given the distances involved to the development and intervening vegetation. Consequently, the setting of the Church of Ascension would be preserved.
52. The appellant draws my attention to the SHELAA) where the appeal site is considered as BUR003. As required in national policy, SHELAA's include a high-level strategic overview of the deliverability/developability of promoted sites in terms of its suitability, availability, and achievability. It is a technical document and an important evidence source to inform decision making on future housing and

employment development but does not determine whether a site would be allocated. I note the comments in the SHELAA but there is no evidence that the appeal site has been allocated as a site for development in the emerging local plan. The fact that the appeal site has been considered weighs neither for nor against the proposals. It does however clarify that the site is available and achievable which I have taken this into account in considering the deliverability of the development.

53. The Hampshire Minerals and Waste Plan 2013 is part of the development plan covering the appeal site, but this document is not referenced in the Council's decision notice and no conflict is suggested with its policies.

Whether paragraph 14 of the Framework is relevant

54. To promote localism, paragraph 14 of the Framework provides added protection to areas covered by a neighbourhood plan. It states that in situations where paragraph 11 d) is triggered the adverse impacts of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits if the neighbourhood plan is less than five years old and it contains policies and allocations to meet its identified housing requirement. It is agreed that the BNP is less than 5 years old.
55. Regarding the housing requirement, Paragraph 69 and 70 of the Framework explains that within the overall housing requirement figure for the whole area strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development. It also explains that the identified housing requirement can be an indicative figure offered by the local planning authority provided it takes into account relevant factors, such as the latest evidence of housing need, the population of the neighbourhood plan area and the most recent planning strategy of the local planning authority.
56. Policy SS1 of the BDLP recognises the role of neighbourhood plans in meeting the borough's housing requirement. This is set out further in Policy SS5 where Burghclere is identified as one of several settlements which are collectively expected to deliver an additional 150 homes. Policy SS5 necessitates the identity of sites/opportunities to deliver at least 10 homes within and adjacent to each of the settlements with a defined settlement policy boundary including Burghclere. I agree that Policy SS5 does not set a definitive figure for Burghclere.
57. Nevertheless, Policy B2 of the BNP allocates a site of 0.89 Ha at Harts Lane/Winchester Road within the Burghclere settlement boundary for a mixed-use development including housing. The policy sets out key requirements for the allocated site including that it should deliver at least 15 dwellings comprising a mix of open market and affordable housing. The evidence indicates that a scheme for the development of the allocated site including 17 dwellings with a proportion of affordable housing has been approved subject to a legal agreement. The settlement study⁴ identifies an indicative housing requirement of 15 as at 1 April 2021 this figure is consistent with the housing numbers allocation in Policy B2 of the BNP.

⁴ Appendix 4 of the Council's planning statement.

58. However, the indicative housing requirement from April 2021 was not relied upon in reviewing the neighbourhood plan instead the Parish requested an indicative figure from the Council. An indicative housing figure of zero was confirmed in a letter to the Parish Council in April 2022. The background to the figure provided was set out in a detailed settlement study.
59. I appreciate that the appellant has raised some concerns about the categorisation of Burghclere in response to the consultation on the emerging local plan, but I am satisfied that the indicative housing figure was provided to the Parish in accordance with paragraph 70 of the Framework. Furthermore, the figure was tested at the examination of the BNP and an appeal made under s78 of the Act is not the forum to review or rerun arguments tested at the Examination of the BNP.
60. The Planning Practice Guidance⁵ sets out that in order for a neighbourhood plan to meet the criteria set out in paragraph 14b of the Framework, the 'policies and allocations' in the plan should meet the identified housing requirement in full. The allocation in BNP Policy B2 meets the identified requirement and no additional housing allocation was sought when the BNP was modified. Consequently, the BNP contains policies and allocations to meet its identified housing requirement. Therefore, I conclude that paragraph 14 of the Framework is engaged.

Paragraph 11 of the Framework

61. In circumstances where the Council cannot demonstrate a 5 YHLS and there are no matters under paragraph 11d(i) of the Framework that provide a strong reason for refusing the development, the Framework sets out a presumption in favour of development. It says that 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 key policies in the Framework for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. In undertaking this balance paragraph 14 of the Framework explains that the adverse impacts of allowing development that conflicts with a neighbourhood plan (where the two criteria are met) is likely to significantly and demonstrably outweigh the benefits.
62. The presumption in favour of sustainable development is given statutory force under Policy SD1 of the BDLP. The language of Policy SD1 is not identical to paragraph 11 of the Framework although the policy is expressly stated to reflect the presumption in favour of sustainable development.
63. For the reasons I have set out, the benefits that would flow from the appeal proposals would meet several of the Framework objectives and weigh significantly in favour of the appeal.
64. On the other hand, the appeal proposals would result in adverse impacts to the character of the host landscape and harmful visual effects from various perspectives which would significantly harm the character and appearance of the area. The Framework seeks to ensure that development is sympathetic to local

⁵ Paragraph: 097 Reference ID: 41-097-20190509

character and history, including the surrounding built environment and landscape setting and contributes to and enhances the natural and local environment by recognising the intrinsic character and beauty of the countryside. Furthermore, the Framework says that design policies should be developed with local communities; neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development. Neighbourhood design codes produced as part of a plan carry weight in decision making.

65. Furthermore, an adverse impact of the proposals would be residential development in the countryside at odds with the spatial strategy. The Framework advises that the planning system should be genuinely plan led. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies. The development plan includes the BNP advanced, modified, and supported by the residents of Burghclere adhering to the housing requirement and indicative figures provided by the Council and providing an allocation to meet that housing requirement/indicative figure. The appeal site is not allocated, and it is rejected by the local community. The BNP has engaged a considerable proportion of the local population and has preferred other sites for development over the appeal site. In this context, development on the appeal site, in conflict with the BNP, would undermine confidence in the neighbourhood planning system.
66. Consequently, while the benefits of the scheme attract significant weight, and I recognise that the benefits meet many of the Framework objectives, in this case the adverse impacts, including conflict with the neighbourhood plan would weigh heavily against the proposals. In my judgement, the adverse impacts of the development, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of development does not apply.
67. In terms of the development plan, I have concluded that the proposed development conflicts with Policies SS1, SS6, EM1 and EM10 of the BDLP and Policies B1, B5, B8 and B9 of the BNP. While these policies are out of date because of the housing land supply position, due weight should be given to them, according to their degree of consistency with the Framework. Policies SS1 and SS6 of the BDLP carry limited weight given the housing land supply position and the Framework objective to significantly boost the supply of homes. However, policies in the BNP, and those in the BDLP that seek to protect the character and appearance of the area, are consistent with the Framework as I have described above. The planning balance in the Framework is given statutory force in the development plan through Policy SD1 of the BDLP. For the reasons set out, the presumption in favour of development in the Framework does not apply. The proposals would conflict with Policy SD1 of the Local Plan and would conflict with the development plan as a whole.
68. I have had regard to the Watermill Bridge appeal decision and subsequent judgment⁶. In that case the development was found to accord with the development plan. I am satisfied that as far as relevant my decision is consistent with the policy approach in that appeal. Similarly in the decision at Bramley⁷ the Inspector concluded that the development was in accordance with the development plan. In

⁶ Appeal Ref: APP/H1705/W/23/3326191 and Basingstoke and Deane Borough Council vs SoS LUHC and Bewley Homes PLC [2024] EWHC 1916 (Admin) dated 25th July 2024

⁷ Appeal Ref: APP/H1705/W/24/3350575

the Melksham⁸ appeal, the neighbourhood plan did not form part of the development plan at the time of the decision and the policy circumstances are therefore different to this appeal. In terms of the single dwelling in Burghclere⁹ the Inspector concluded that the development would not harm the character and appearance of the area which is not the case here.

Conclusion

69. My overall conclusion is that the proposals conflicts with the development plan and that conflict is not outweighed by other material considerations. Therefore, the appeal is dismissed.

Diane Cragg

INSPECTOR

Richborough

⁸ Appeal Ref: APP/Y3940/W/24/3343787

⁹ Appeal Ref: APP/H1705/W/22/3313029

70. APPEARANCES

FOR THE APPELLANT:

Mr Aaron Smith – Director at Master Land and Planning Ltd

Mrs Hollie Sturgess – Senior Planner at Master Land and Planning Ltd

Mr Will Harley -WH Landscape

FOR THE LOCAL PLANNING AUTHORITY:

Bethan Wallington - Basingstoke and Dean Borough Council

Vashti Gooding - Basingstoke and Dean Borough Council

Paul Johnston - Basingstoke and Dean Borough Council

INTERESTED PARTIES:

Richard Carrow

Tony Garland

John Brucciani

Alex Patrick Smith

James Willis



Costs Decision

Hearing held on 1 April 2025

Site visit made on 2 April 2025

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th April 2025

Costs application in relation to Appeal Ref: APP/H1705/W/24/3350581

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Basingstoke and Deane Borough Council for a partial award of costs against HD (Burghclere) Limited.
- The appeal was against the refusal of planning permission for residential development of 25 dwellings with access on to Harts Lane, with associated open space, infrastructure, drainage, landscaping, and accessible natural greenspace at

Land on the South and South East side of Harts Lane, Burghclere, Hampshire, RG20 9JD

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG also advises that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur when the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.
4. The applicant has made an application for a partial award of costs on the substantive grounds that pursuing an appeal had no reasonable prospect of success. Two previous appeals¹ have been dismissed on the same, or part of the same site. The previous schemes were for between 5-9 dwellings and 35 dwellings and were therefore each for a different scale of development. In both cases, it was concluded that the effect of development on the character and appearance of the area would be harmful and in conflict with Policy EM1. Furthermore, both previous appeal schemes were considered at a time when the Council did not have a 5-year housing land supply. Therefore, the applicant contends that the appeal had no reasonable prospect of succeeding.

¹ Appeal references: APP/H1705/W/19/3242216 and APP/H1705/W/20/3248187

5. In my decision I agree that the effects of the proposed development on landscape character and the visual effects of the development would be harmful. Nevertheless, the evidence submitted by the appellant and the arguments made in respect of character and appearance sought to respond to concerns about the previous scheme for 35 dwellings. The appellant's arguments were not inherently unreasonable or without merit. Furthermore, in the intervening period since the appeal for the 35 dwellings was dismissed, the Burghclere Neighbourhood Plan has been made and modified, and Government has published updates to the Framework. In addition, the Local Plan update has not progressed to adoption as anticipated. Other factors were also advanced by the appellant that were relevant to the planning balance.
6. While I conclude that the appeal scheme is detrimental to the character and appearance of the area and policy changes and other factors do not result in a different decision to those made by previous Inspectors, I am satisfied that the circumstances materially changed in the period between the earlier appeal decisions and the appeal before me. Consequently, I am satisfied that the appeal was reasonably made.
7. Given the above, I cannot agree that the appellant has acted unreasonably in this case.

Conclusion

8. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Diane Cragg

INSPECTOR