



Appeal Decision

Site visit made on 27 September 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Appeal Ref: APP/H1705/W/22/3300098

Land adjoining Clift Surgery, Minchens Lane, Bramley, Tadley, Hampshire RG26 5BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant technical details consent.
 - The appeal is made by Mr Robert Newman of Charles Elliott Properties Limited against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 21/02588/TDC, dated 3 August 2021, sought consent pursuant to permission in principle Ref 19/01470/PIP, granted on 9 August 2019.
 - The application was refused by notice dated 13 May 2022.
 - The development proposed is technical details consent for the erection of 6 no residential units with associated access, parking and landscaping pursuant to permission in principle approval Reference 19/01470/PIP for 4-6 no. residential units.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Robert Newman of Charles Elliot Properties Limited against Basingstoke and Deane Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The proposal is for technical details consent following the grant of permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle has established that the location, land use, and amount of development is suitable in principle. The technical details consent that is the subject of this appeal can consider the remaining detailed matters but cannot reopen what has been agreed at the permission in principle stage. I have determined this appeal on that basis.
4. In the banner heading above, I have taken the description of development from the Council's decision notice and the appellant's appeal form as this more accurately describes the appeal development.
5. The main parties both provided an electronic link to watch the relevant Development Control Committee meeting at which the appeal application was discussed. I have not watched this as I cannot be sure that all relevant interested parties have access to the facilities to watch it. It also does not bear directly on the planning merits of the case and therefore does not materially affect my judgement in the appeal.

Main Issues

6. There are three main issues. These are:

- whether appropriate arrangements have been made to secure adequate infrastructure to mitigate the biodiversity impacts of the proposed development;
- the effect of the proposed development on highway safety with specific regard to access; and
- the effect of the proposed development on the character and appearance of the area.

Reasons

Biodiversity Impacts

7. The appeal site is a parcel of land situated adjacent to Clift Surgery along Minchens Lane. The proposal would involve the loss of the existing agricultural field which comprises improved grassland. The submitted Biodiversity Metric demonstrates that notwithstanding the ecological enhancements to be delivered on site, the development would result in a net loss for biodiversity of some 0.27 habitat units (24.71%). In order to deliver the required net gain for biodiversity, 0.35 habitat units are to be delivered offsite. The Council has recommended that an off-site financial contribution to the sum of £6230.00 be secured via a legal obligation to adequately mitigate against the harm resulting from the proposed development.
8. Whilst the mandatory requirement for 10% biodiversity net gain has not yet been made law, paragraph 174 of the National Planning Policy Framework 2021 (the Framework) requires planning decisions to provide net gain for biodiversity. The proposal would result in a net loss of biodiversity and for there to be any biodiversity net gain associated with the proposal, habitat units would have to be secured and delivered offsite.
9. A draft planning obligation has therefore been submitted with the appeal to secure the financial contribution. The Procedural Guide: Planning appeals (England) (updated April 2022) states that for appeals being determined under the written representations process, an executed and certified copy of the planning obligation must be provided at the time of making the appeal. Whilst a draft copy has been submitted, I do not have an executed or certified copy of the planning obligation before me.
10. Notwithstanding the above, it is still necessary that I consider the draft obligation against the three tests set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I am satisfied that the proposed contribution would be necessary to make the development acceptable in planning terms as without the obligation, there would be material planning harm by way of the loss of biodiversity on the appeal site. I am also satisfied that there is a clear indication in the draft obligation of where the money would be spent and on what. The Council have not provided any evidence as to how they have calculated the required sum of £6230.00. However, the appellant is agreeable to the amount, and it appears a reasonable sum in relation to the scale and nature of development proposed. The draft obligation therefore meets the relevant tests.

11. However, on the basis that an executed copy of the planning obligation has not been provided, it is not enforceable in law, and I cannot be satisfied that appropriate arrangements would be made to secure adequate infrastructure to mitigate the biodiversity impacts of the proposed development. The proposal would therefore be in conflict with Policy RE3 of the Bramley Neighbourhood Plan (2011-2029) (Bramley NP) and Policy EM4 of the Basingstoke and Deane Local Plan (2011 to 2029) (Local Plan) (adopted May 2016) which, in combination, seek to adequately mitigate significant harm to biodiversity if it cannot be avoided. It would also be contrary to Principle B7 of the Landscape, Biodiversity and Trees Supplementary Planning Document (adopted December 2018) which states that development must result in no net loss of biodiversity and provide a measurable net gain.

Highway Safety

12. Existing access to the site is via a metal gate on the southern boundary, via the existing car park serving Clift Surgery. Whilst I note from the evidence that when the permission in principle application was submitted it was expected that access would be via the existing access through the car park, in the technical details application, access to the proposed development would be direct from Minchens Lane. There are already a number of other vehicular accesses and highway junctions running off Minchens Lane in close proximity to the site, the closest being the access to Bramley Frith Wood SSE sub-station site, the 2 access points to Clift Surgery and the Burlington Way access road, which serves the St James Park housing estate opposite. A bridleway and public right of way (PROW) runs along the access track to the sub-station and there are traffic calming measures further along Minchens Lane, to the north of the appeal site.
13. I acknowledge the Hampshire County Council guidance in relation to new accesses within 10 or 15 metres of a junction, and the highway safety concerns raised by the Council and others. However, I place significant weight on the expert views of the Highway Authority. They would have been aware of this guidance at the time of their consultation response, within which they raised no objection. No technical evidence has been provided to demonstrate that the position of the proposed access would have an unacceptable impact on highway safety. Intervisibility between the existing accesses and the proposed access would be satisfactory, allowing drivers, pedestrians and horse riders plenty of time to respond accordingly. The proposal would not result in a significant increase for the potential for conflict between road users.
14. I note the concerns of representors in regard to the parking of vehicles along Minchens Lane and the possibility for them to impact on the visibility splays. However, at the time of my site visit, which I appreciate is only a snapshot in time, there were very few cars parked along Minchens Lane. I also noted that there were no permanent features on site that would obstruct the required visibility splays. I have no technical evidence before me that demonstrates that the required visibility splays cannot be achieved. Therefore, I am satisfied that the proposal can achieve the required visibility splays to ensure safe access for all users to the appeal site.
15. I note the results of the local speed watch survey. However, there is little technical evidence before me which would suggest that additional vehicular movements associated with the proposal would exacerbate any highway safety

issues. Notably, there have also been no accidents within 150m of the proposed access.

16. I acknowledge that the highway junction serving St James Park restricts traffic from turning right and I also acknowledge that given the site's location adjacent to a doctors' surgery, there will be, amongst others, the less physically capable, and children accessing the surgery, and thus using the roads and pavements around the appeal site. I also note that the current one-way access arrangement at Clift Surgery has not been approved by the Council. However, none of these matters change my assessment of the proposal.
17. Furthermore, a vehicular and pedestrian access from Minchens Lane to the appeal site was allowed on appeal¹, the design of which was subsequently amended via a non-material amendment. Whilst this access was not to serve the proposed residential use, it was still a vehicular field access, which was expected to have vehicular and pedestrian traffic entering and exiting the site. Whilst the nature of vehicles and users, and the number of vehicular movements, would now be different, this does not reduce the importance of protecting vehicular and pedestrian safety which is paramount whatever the level of use. Highway safety would have been the focal material consideration at the time of this decision. The visibility splays required for the existing approved field access would be the same visibility splays that would be required for the proposed residential access. Whilst not determinative, this potential fallback position weighs in favour of the proposal.
18. Therefore, I conclude that the development would not harm highway safety, with specific regards to access. It would be in accordance with Policy CN9 of the Local Plan which states that development should integrate into existing movement networks, should provide a safe, suitable and convenient access for all potential users and should not compromise highway safety. It would also be in accordance with Policy EM10 of the Local Plan and Policy D2 of the Bramley NP which together seek to ensure that development is accessible, safe and functions well in practical terms.

Character and Appearance

19. Minchens Lane in the vicinity of the appeal site, due to its lack of road markings, streetlights and vegetation along the highway boundary, has a semi-rural feel. Nonetheless, the construction of the St James Park housing development opposite the appeal site, due to the density of development, provides the appeal site with a much more built-up setting. On my site visit, I also noted the marketing boards for the Minchens Barn conversion scheme to form flats further to the south along Minchens Lane. The site is enclosed to the south and east by a post and rail fencing. The northern and western boundary is formed by mature hedging and trees, which gives the site a strong sense of enclosure. The rear boundary of the site lines up with the rear boundary of Minchens Court to the south. Beyond the rear boundary are open agricultural fields.
20. Whilst the density and nature of the development may be different to that which exists on the western side of Minchens Lane, it would not be out of character to Minchens Lane as a whole. It would be seen in the immediate

¹ APP/H1705/W/20/3252433

context of Clift Surgery and Minchens Barn and would be seen in the wider context with St James Park. Whilst it would be on the edge of the village, the St James Park development now heavily influences the character and appearance of the area, providing a much more suburban setting. The proposal would represent an appropriately designed and sited development for its edge of settlement location, with the access track to the north forming a clear edge to the built-up form of development on this side of Minchens Lane. Furthermore, it would not interrupt any of the important rural landscape views as identified within the Bramley NP.

21. Views of the site would be possible from the PROW which runs to the north of the site. However, due to the mature vegetation enclosing the site, whilst it is appreciated that views may be more open in the winter months, the housing development of St James Park would be seen in the background. As a result, the proposal would not be overtly stark or incongruous to the character and appearance of the area.
22. The landscape proposals² establishes that the rear gardens and a new hedgerow would be sited to the north and west of the site, meaning the majority of the hardstanding associated with the proposal would be positioned closest to the southern boundary, adjacent to Clift Surgery. This would allow for an appropriate transition from the existing built-up area of the settlement into the surrounding countryside beyond the appeal site.
23. Whilst the proposal introduces the maximum number of dwellings granted by the permission in principle, the use of the single storey car ports and detached garages would help to break up the built form so that it would not be a dense development. The slight variation in house type designs and the mixture of 3 and 4 bedroom houses would also help to add variation to the edge of settlement site.
24. Consequently, the proposal would not harm the character and appearance of the area. It would be in accordance with Policies EM1 and EM10 of the Local Plan which, in combination, seek to ensure that proposals are sympathetic to the character and visual quality of the area and have due regard to the density, scale, layout and appearance of the surrounding area. It would also be in accordance with Policies D1 and D2 of the Bramley NP which, in combination, requires development to deliver good quality design, including complementing the character area with regard to the scale, form and density of the development.
25. It would also be in accordance with the principles set out in Chapters 12 and 15 of the Framework which states, amongst others, that developments should be sympathetic to local character, and that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

26. I note the comments that the surgery is running at full capacity and that plot 6 should not be permitted until the surgery have had sufficient time to consider their options regarding possibly extending their premises. No evidence has been provided to demonstrate that the surgery is running at full capacity or

² Landscape Proposals - DWG No MPN MLB Rev A

even if it is, that the land would be available for future expansion. Therefore, I can only attach limited weight to the potential need for the expansion of Clift Surgery.

Conclusion

27. I have found that the proposal would not harm highway safety, in terms of access, and that the character and appearance of the area would not be harmed. However, on the basis that an executed copy of the planning obligation has not been provided, I cannot be satisfied that appropriate arrangements would be made to secure adequate infrastructure to mitigate the biodiversity impacts of the proposal. Therefore, the appeal scheme would conflict with Policy EM4 of the Local Plan and Policy RE3 of the Bramley NP. As a result of this conflict, the proposal would conflict with the development plan when read as a whole. There are no material considerations, that indicate a decision should be made other than in accordance with it. The appeal should therefore be dismissed.

Laura Cuthbert

INSPECTOR