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## Appeal Decision

Site visit made on 6 August 2019

**by Thomas Hatfield BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 9<sup>th</sup> September 2019**

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**Appeal Ref: APP/F2415/W/19/3228086**

**Land to the North of Oaks Road, Great Glen, LE8 9EG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Mrs Clare Thornton of Miller Homes Limited against the decision of Harborough District Council.
  - The application Ref 18/01082/REM, dated 22 June 2018, sought approval of details pursuant to conditions Nos 1, 4, 7, 10, 11, and 23 of planning permission Ref 17/00579/OUT, granted on 19 October 2017.
  - The application was refused by notice dated 7 November 2018.
  - The development proposed is outline application for the erection of up to 170 dwellings, new access, landscaping and other associated infrastructure (access to be considered).
  - The details for which approval is sought are: erection of 170 dwellings with associated access, landscaping, open space and drainage infrastructure (Reserved matters of 17/00579/OUT, appearance, landscaping, layout and scale to be considered) and discharge of conditions 4 (Existing and proposed floor levels and ground levels), condition 7 (Landscaping details), Condition 10 (Protected Species Surveys), Condition 11 (Refuse and Recycling Storage Plan) and Condition 23 (Archaeological Written Scheme of Investigation).
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### Decision

1. The appeal is allowed, and the reserved matters are approved, namely appearance, landscaping, layout and scale submitted in pursuance of Condition 1 attached to planning permission Ref 17/00579/OUT dated 19 October 2017, and subject to the conditions set out in the attached schedule. In addition, the details submitted pursuant to Conditions 4, 7, 10, 11, and 23 attached to planning permission Ref 17/00579/OUT dated 19 October 2017, in accordance with application Ref 18/01082/REM dated 22 June 2018, are approved.

### Procedural Matters

2. The description of the details for which approval is sought, given above, is taken from the Decision Notice rather than the planning application form. This revised wording was agreed between the Council and the Appellant, and the application was determined on this basis.
3. A deed of variation has been submitted that would alter the existing s106 agreement. These alterations include the removal of all references to allotments within the site, and adjustments to the affordable housing provision to include more bungalows. Given the need for such properties, the new bungalows have been provided on a 2 for 1 basis as part of the affordable

housing requirement. I see no reason to depart from that position. It has also been agreed that the allotments will be replaced with a community orchard. The deed of variation has been agreed with the Council, and I have taken it into account in reaching my decision.

4. The Council adopted the Harborough Local Plan (2011-2031) on 30 April 2019, after its refusal of planning permission. The new local plan replaces the previous Core Strategy 2006-2028 which was referred to in the Decision Notice. In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my Decision.
5. A number of interested parties requested that the appeal be dealt with by either a hearing or a public inquiry. However, given the matters under dispute and the nature of the evidence that has been presented, I do not consider that to be necessary in this case. I further note that both the Council and the appellant were content for the appeal to be determined by written representations.

### **Background and Main Issue**

6. Outline planning permission for up to 170 dwellings was granted at the site on 19 October 2017 (Ref 17/00579/OUT). The site therefore benefits from planning permission for residential development. However, shortly after the Council approved this permission, an appeal for an identical development at the same site was dismissed<sup>1</sup>. That Inspector concluded that the proposal would result in significant harm to the local landscape.
7. These Decisions clearly take different views on the acceptability of developing the site for housing. However, the current proposal is an application for the approval of reserved matters pursuant to Condition 1 of permission Ref 17/00579/OUT. It relates solely to the information that was excluded at outline stage. Under this appeal, I am therefore only able to consider the acceptability of the submitted details, and there is no scope to reconsider matters that were dealt with at outline stage. The previous Inspector's concerns relating to the principle of developing the site for housing are therefore of limited relevance in this case.
8. In this context, the main issue is the effect of the submitted details on the character and appearance of the local landscape.

### **Reasons**

9. As set out above, the appeal site already benefits from outline planning permission for 170 dwellings (Ref 17/00579/OUT). Condition 3 of that permission requires that the details submitted at reserved matters stage "*shall be in general accordance with the principles and parameters described within the Illustrative Layout submitted (02016-08 Rev D) and submitted Design and Access Statement*". Whilst this condition does not require the final development to exactly match the illustrative layout, it should be broadly consistent with it.
10. The layout that is currently proposed differs from the previous illustrative layout in a number of respects. One particular change is the removal of a swale and green corridor through the site, which reflects changes to the

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<sup>1</sup> APP/F2415/W/17/3167654

proposed drainage arrangements. The swale and green corridor would have created a sense of openness within the development and included large areas of planting. However, its removal would have a very limited effect on how the development is perceived within the wider landscape. In addition, a greater depth of planting is now proposed along the northern and southern boundaries, and in the north eastern corner of the site. This would more than compensate for the removal of planting within the estate and would allow for a softer edge to be achieved to the northern and southern boundaries. A new circular area of open space would also be introduced, which would preserve some sense of openness within the development itself.

11. It is asserted that the proposal would result in an excessive density of housing and an over-development of the site. However, the existing outline consent allows for up to 170 dwellings based on an illustrative layout that shows housing occupying a broadly similar area. In my view, the proposed density is consistent with the outline application and would be in keeping with the pattern of development in the adjoining settlement.
12. The southern part of the appeal site contains clear ridge and furrow features on the ground. It was accepted by the previous Inspector that ridge and furrow is common in the wider area and that this particular example has no significant heritage or archaeological merit. However, it is a landscape feature that is identified in the various character assessments and which the Great Glen Neighbourhood Plan seeks to protect. The loss of this area of ridge and furrow was one of the factors that led the previous Inspector to conclude that significant landscape harm would arise. However, the illustrative layout attached to permission Ref 17/00579/OUT shows the loss of most of the ridge and furrow on the site. In this regard, it is inevitable that the vast majority of these features will be lost in accommodating the 170 dwellings envisaged by that permission. Moreover, the area of ridge and furrow that is proposed for retention along the site's eastern boundary is broadly similar to that proposed in the illustrative layout. Whilst some additional ridge and furrow features would be lost around the balancing pond, that area would be modest in scale and its loss would not be sufficient to withhold permission in my view.
13. The development would involve the removal of a section of hedgerow to facilitate the proposed access onto Oaks Road. This access, and its associated visibility splays, were approved at outline stage. Accordingly, the principle of removing part of the hedgerow has already been established. In any case, its loss would be adequately mitigated by the provision of new hedgerows and landscaping along the southern boundary of the site.
14. Three of the proposed dwellings would slightly exceed 130 metres AOD, and a further 5 would be positioned at exactly 130 metres AOD. However, any additional impact on the landscape resulting from this, above that already envisaged, would not be significant in my view. In this regard, I consider the details submitted pursuant to Condition 4 of permission Ref 17/00579/OUT to be acceptable, and this condition is able to be discharged. Whilst it has been suggested that the site levels should be lowered to accommodate the development, that was not a requirement of the original outline consent, nor do I consider it to be necessary in this case.

15. My attention has been drawn to a number of dismissed appeal Decisions<sup>2</sup> that were also for housing development on the edge of an existing settlement. However, the full details of those cases, including the proposed layouts, site topography, and details of the surrounding landscapes, are not before me. I am therefore unable to assess any direct comparability to the current appeal proposal. I further note that those Decisions do not relate to a reserved matters appeal where an outline consent had already been granted, as is the case here. I have therefore determined the appeal on its own merits rather than relying on the approach taken by my colleagues elsewhere.
16. At the time of my site visit, the northern field was covered in arable crops that had grown to around 2 – 3 metres in height. It has been put to me that these crops have obscured the open views that previously existed across the site. However, whilst that may be the case, I am satisfied that I was able to adequately assess the impact of the proposal during my visit.
17. Overall, the area of the site that would be developed for housing would be broadly similar to that set out in the illustrative layout. Moreover, the proposed NEAP and balancing pond would be located in the same parts of the site and would be of a similar size. The development would therefore accord with the requirements of Condition 3 of permission Ref 17/00579/OUT.
18. For the above reasons, I conclude that the submitted details would not significantly harm the character and appearance of the local landscape. The proposal would therefore accord with Policies GD5 and GD8 of the Harborough Local Plan (2019), which require that development achieves a high standard of design and is sensitive to its landscape setting. It would also be consistent with the National Planning Policy Framework which seeks to achieve well-designed places.

### **Other Matters**

19. A number of local residents have raised concerns regarding traffic, highway safety, loss of countryside, pressure on local services and facilities, and inadequate public transport. In addition, the suitability of the proposed access has been questioned, as has the need for the new dwellings proposed. However, both the principle of developing 170 dwellings on this site and the proposed access, have been approved by permission Ref 17/00579/OUT. Under this appeal there is no ability for me to reconsider matters that were dealt with at outline stage.
20. Plots 154-170 would back onto existing properties fronting Coverside Road. At the narrowest point, the proposed separation distances between new and existing rear elevations would be 37.5 metres, although this would be significantly exceeded elsewhere. In this regard, the minimum separation distance of 21 metres required by the Council's Supplementary Planning Guidance Note would be significantly exceeded. The separation distances between rear elevations would also be increased in most cases compared to the illustrative layout provided at outline stage, and bungalows would now be provided at plots 154-157 and 170 instead of 2 storey houses. Whilst the proposed dwellings would be elevated relative to the existing properties, the proposed separation distances would account for this. Accordingly, I do not

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<sup>2</sup> APP/W1525/W/15 3129306; APP/F2415/W/15/3141322; APP/J1860/W/17/3187943; APP/D3830/W/16/3165199.

consider that there would be any unacceptable loss of privacy or outlook to existing occupiers.

21. Permission Ref 17/00579/OUT includes a number of conditions relating to surface water drainage. Applications to discharge those conditions would therefore need to include details relating to the surface water drainage scheme, including the balancing pond. It would be for the Council to determine, in consultation with relevant bodies, whether any off-site drainage works would be achievable under the scope of these conditions. I further note that the appellant states that the pond will be designed and managed in accordance with CIRIA SuDS Manual C753. Moreover, a detailed Landscape Management Plan has been submitted pursuant to Condition 7 that sets out management arrangements for the landscaping and Sustainable Urban Drainage System. The Council has not raised any objections to this document, and I see no reason to take a different view.
22. It is asserted that the biodiversity enhancement features proposed at outline stage have been significantly downgraded. However, the proposal would include significant areas of new woodland and planting that would provide clear ecological enhancements to the site. I further note that the Council's Ecologist has provided written comments in support of the proposal.
23. Concern has been expressed about the potential for light pollution to arise from the development. However, this matter is capable of being addressed by an appropriately worded planning condition.
24. In addition to reserved matters, the appeal proposal includes details pursuant to a number of other conditions. The details submitted pursuant to Conditions 7, 10, and 23 are comprehensive and are not disputed by any party. Accordingly, I consider that these conditions can be discharged. With regards to Condition 11, the submitted Planning Layout shows space within the curtilage of each dwelling to store refuse and recycling bins, and bin collection points are also indicated. In my view, these details are sufficient to discharge that condition.
25. Policy GG2 of the Great Glen Neighbourhood Plan states that new housing proposals should provide a mixture of housing types, with priority given to smaller family homes (3 bedrooms or fewer). In this case, 75% of the proposed open market dwellings would contain 3 bedrooms or less, which would be in general accordance with this policy.
26. With regards to disruption caused during the construction period, I note that Condition 12 of permission Ref 17/00579/OUT requires the submission and approval of a Construction Method Statement. The details necessary to discharge that condition fall outside the remit of this appeal.

### **Conditions**

27. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. I have imposed a condition that requires the development to accord with the approved plans, which is necessary in the interest of certainty. Further conditions requiring the submission and approval of a scheme of signage and waymarking, and details of all external lighting, are necessary to ensure that adequate signage is provided, and to protect residential amenity. A condition requiring adherence to the tree protection



measures set out in the Arboricultural Method Statement is also necessary in order to protect trees adjoining the site. Another condition requiring that car parking and turning facilities be constructed prior to the first occupation of the development is necessary in order to ensure that these facilities are available to future residents.

28. The Council suggested a number of conditions relating to surface water drainage. However, these are unnecessary as they duplicate existing conditions in the outline permission and do not relate to the reserved matters. A condition that would have required the appellant to allow the Highway Authority to inspect the newly created footpaths prior to their completion is also unnecessary. In this regard, it is unclear what this condition is seeking to achieve, and it does not contain any sanction should the footpath be deemed to be unsatisfactory. A further condition that would have required the footpath along the northern boundary of the site to be moved 3 metres away from the hedge would significantly alter the proposed landscaping in this area. In any case, this footpath would largely follow the route of an existing path and is acceptable in this regard. Its width and surface are also specified in the submitted plans and so it is unnecessary for this to be subject to a condition. Finally, conditions that would have removed permitted development rights in relation to rear facing rooflights and dormers for plots 154 – 170, and front boundary treatments, were suggested by the Council. However, Planning Practice Guidance ('PPG') advises that the "*blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity*"<sup>3</sup>. Given the extent of the proposed separation distances, and the size of the proposed frontage areas, I do not consider that it is reasonable or necessary to remove permitted development rights in this case.
29. A number of further conditions were suggested by the HOGG Residents Group. In this regard, a condition requiring the northern boundary hedge to be kept to 1.2 metres in height is unnecessarily prescriptive. A further suggested condition that would restrict the raising of site levels beyond those already agreed is also unnecessary, given that I consider the details submitted pursuant to Condition 4 to be acceptable. Finally, a condition requiring the submission and approval of a daylight analysis is unnecessary given the extent of the separation distances that are proposed.

## Conclusion

30. For the reasons given above I conclude that the appeal should be allowed.

*Thomas Hatfield*

INSPECTOR

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<sup>3</sup> Paragraph: 017 Reference ID: 21a-017-20190723

## **Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PL/OR-GG/01 Rev F; BT/OR-GG/01 Rev D; EM/OR-GG/01 Rev D; AH/OR-GG/01 Rev B; IPP/OR-GG/01 Rev B; P18-0040\_01-E; P18-0040\_02-E; P18-0040\_03-E; P18-0040\_04-E; P18-0040\_05-D; P18-0040\_06-D; P18-0040\_07-B; ORGG\_CS\_001A; ORGG\_CS\_002A; ORGG\_CS\_003A; ORGG\_CS\_004A; ORGG\_CS\_005A; ORGG\_CS\_006A; ADC1264/003 Rev C; 23389\_02\_010\_003 A; 23389\_02\_010\_005 A; 23389\_02\_010\_004 B; House Type 1NO & 1FL; House Type 7FA; House Type V-2BE; House Type C-2BE; House Type V-3MA; House Type C-3MA; House Type C-3PE; House Type C-3EL; House Type C-3BR; House Type CR-3BR; House Type V-4HA; House Type C-4HA; House Type C-4HA; House Type C-4AS; House Type C-4AS (AW); House Type C-4HO; House Type C-4HO (AW); House Type V-4IN (B); House Type C-5HO; House Type C-5HO(AW); House Type 715; House Type LTH2; House Type LTH3; House Type LTH4; Garages GS10, GD10 & GD30; Sales Garages; GH/OR-GG/01; House Type C-4HO Rev A.
- 2) Prior to the first occupation of the development hereby approved, a scheme of signage and waymarking in respect of the Public Rights of Way shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented prior to the first occupation of the development and shall thereafter be retained.
- 3) Prior to the first occupation of the development hereby approved details of all external lighting (including the type of light appliance, the height and position of fitting, illumination levels and light spillage) to be installed shall be submitted to and approved in writing by the Local Planning Authority. The approved lighting details shall thereafter be implemented prior to the first occupation of the dwellings which they serve.
- 4) The car parking and turning facilities indicated on the approved plans shall be surfaced and made available for use prior to the first occupation of the dwellings which they serve and shall thereafter be retained.
- 5) The tree protection measures set out in the Arboricultural Method Statement by Tyler Grange (Ref: 11545\_R03a\_CG\_JW, dated 20 June 2018) shall be implemented throughout the construction program.