



Appeal Decision

Hearing held on 25 February 2016

Site visit made on 25 February 2016

by **Philip Major BA(Hons) DipTP MRTPI**

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

Decision date: 03 March 2016

Appeal Ref: APP/F1610/W/15/3131716

Land at Broadway Farm, Down Ampney, Gloucestershire.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by The Co-Operative Group against the decision of Cotswold District Council.
 - The application Ref: 15/01567/OUT, dated 14 April 2015, was refused by notice dated 29 June 2015.
 - The development proposed is the demolition of redundant buildings and redevelopment with up to 44 residential units.
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Preliminary Matters

1. The application is made in outline with all matters reserved for future consideration except access. The Council has not objected to the access proposed.
2. There is an extant planning permission on part of the site for a development of 22 dwellings. This is the fallback position which establishes the principle of development on the southern portion of the current appeal site.
3. Shortly before the hearing a Statement of Common Ground was submitted. This records the agreement between the Council and the Appellant that the Council is currently able to demonstrate a 5 year supply of deliverable housing land. However, it is also agreed that the Policy cited in the decision notice (Policy 19 of the Local Plan) is time expired and out of date. It therefore carries little weight in this case. There are no other development plan policies relied on and the parties agree that the policy of the National Planning Policy Framework (NPPF) should be afforded the greatest weight in this case. It is agreed that there is no cap on housing numbers and, if the proposed development is sustainable development in the terms set out in the NPPF, that paragraph 14 of the NPPF is engaged.
4. The proposal was refused for 2 reasons. The second reason for refusal, relating to the lack of a legal agreement to contribute financially towards education and libraries, was not contested in the light of the S106 Undertakings which I deal with later.

Decision

5. The appeal is allowed and planning permission is granted for the demolition of redundant buildings and redevelopment with up to 44 residential units on land
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at Broadway Farm, Down Ampney, Gloucestershire in accordance with the terms of the application, Ref: 15/01567/OUT, dated 14 April 2015, subject to the conditions set out in the attached schedule.

Application for costs

6. An application for costs was made in writing before the hearing by the Co-Operative Group against Cotswold District Council. This application was responded to in writing by the Council. Neither party wished to add anything at the hearing and I have dealt with the costs application on the basis of the written material submitted. The application is the subject of a separate decision.

Main Issues

7. The main issues in the appeal are:
 - (a) The impact of the proposal on social cohesion and wellbeing within Down Ampney;
 - (b) In light of the findings in the first issue, whether the proposal can be defined as sustainable development;
 - (c) The planning balance: whether benefits of the proposal are clearly and demonstrably outweighed by any identified adverse impacts.

Reasons

Social Cohesion and Wellbeing

8. Down Ampney is a moderate sized village. It has a range of services including a village primary school, shop and post office (run by village volunteers) community hall and leisure facilities. It is plain from what I was told at the hearing by representatives from the village that it has a good community spirit. I was also told that there is concern in the village that an influx of new residents resulting from the proposed development would be difficult to integrate successfully into the current cohesive community. The starting point here is that there is an extant planning permission for 22 dwellings, and the village community was not opposed to that development having recognised benefits which would flow from it. It follows that the concern must surround the impact of the potential for the integration of the residents of up to 22 extra dwellings.
9. There is an emerging Local Plan, but all parties agree that it can carry little weight at present. However, that emerging plan contains proposals for some 54 dwellings in Down Ampney. This is a recognition that the village can absorb further development. The figure of 54 is untested but stems from previous work which suggested that the village would be suitable for between 50 and 100 new dwellings in the plan period (to 2031). The emerging number (54) apparently stems from commitments and the identification of peripheral village sites considered suitable for development. The figure is therefore a product of site identification exercises and not capacity studies. These figures must be treated with caution, but they do establish that the Council currently has no current 'in principle' objection to at least 54 dwellings being built in Down Ampney over the period of the emerging Local Plan to 2031.
10. The Council has suggested that the appeal proposal would add 19% more dwellings to the current stock in Down Ampney. The Appellant suggests that

- the true figure (taking into account the fallback position of 22 dwellings with permission) is less than 9%. In view of the fact that the local community was fully engaged with the scheme for 22 units, it seems logical to me to accept that the issue here surrounds a further increase in housing stock of about 9%.
11. I fully acknowledge the worries of the community here, as reflected in the Council's reason for refusing planning permission. The development would introduce a significant number of new residents in a relatively short space of time. But the village has not shown itself to be resistant to change and is to be commended for that. It has, as discussed at the hearing, successfully absorbed the relatively new development which took place at Linden Lea, a development of some 38 houses. I was told that it took much hard work to welcome and integrate the residents from Linden Lea and I do not doubt that was the case. Nonetheless it shows that a committed community can achieve good results. I heard nothing at the hearing to suggest that a similar outcome could not be achieved if the appeal site were to be developed.
 12. Indeed, there was little evidence which could be offered by the Council or the community which indicated that there would be tangible difficulties in absorbing the residents of the proposed development. I accept, as pointed out by the Council, that it is difficult to define the social aspects of wellbeing but there is little of substance which indicates to me that this community would suffer social harm from the introduction of the proposed dwellings. There seemed to be some reluctance to accept that up to an 'extra' 22 dwellings would be anything but good for the village shop and other facilities, which I found surprising. It seems self-evident to me that the increase in population would be bound to assist in assuring the viability of local services to some degree. Despite my own questioning I was unable to glean any substantive evidence of any social harm which would be likely to occur if the dwellings were to be constructed.
 13. The Council suggested that the provision of up to 44 dwellings in a single timeframe would be difficult to deal with. But, as noted, the community has successfully dealt with a similar proportionate increase previously. I am also unconvinced by the arguments that the provision of 50% affordable dwellings might leave some of their occupants at a disadvantage if they are on low incomes in a village location. Down Ampney is not the best served by public transport, but there is a rudimentary bus service and it is not very far from Cirencester. I am far from convinced that the village would not be able to cope, and that social harm resulting from the 'sheer numbers' of new residents, as referred to at the hearing, would materialise. There is no evidence that the vitality of the village would be compromised, and it is difficult to envisage how new residents could do other than increase vitality, especially if encouraged to make use of and become involved with village facilities.
 14. With regard to benefits I have referred briefly to the likely support for the village shop and other facilities. I am told that the local school also has places available and that new residents with children would assist in keeping it viable. The Council does not contest that the provision of up to 22 affordable homes would be of significant benefit, and although the community is unaware of the 12 people with local need, it is clear from the Council's housing enabling officer that the provision would be welcome and would assist in addressing the need for affordable housing in the District.

15. To conclude on this issue, I am not satisfied that the objections relating to the social cohesion of the community have been made out. The provision of up to 22 homes in addition to those with planning permission is unlikely to cause undue harm to the community.

Other Matters

16. Before dealing with the issue of sustainability I deal with some other matters primarily raised by local residents.
17. The development would remove some of the green space between Linden Lea and the community hall. However this is not public land and it is of limited environmental value. I understand that local people would wish to retain open space, but the appeal development would be likely to increase the availability of publicly available green space.
18. Drainage is a concern, and Thames Water confirms that the current sewerage network is unable to accept further development. There is agreement, though, that works could be undertaken to resolve the problem, and as such this is a matter which can be controlled by condition.
19. The site access has been agreed with the highway authority. Extra traffic resulting from the 22 dwellings over and above those already permitted is likely to be modest. Whilst I understand that any traffic can result in some safety concerns it seems to me that in this instance such fears are not sufficient to weigh against the proposal. In addition, though there would no doubt be an element of commuting from the development, this site is not far from employment opportunities in Cirencester, and it is possible to use the limited bus service for other trips. I also take the view that this does not weigh greatly against the proposal.
20. The emerging Local Plan carries little weight as noted earlier. I therefore cannot ascribe much importance to the suggestion that permitting this development would have a negative impact on the emerging strategy for Down Ampney. I do not accept that there is any demonstrated advantage in delaying development on this site in order to permit the alternative village sites to be considered through the Local Plan process. The Local Plan is at too early a stage to justify that.
21. Other decisions have been brought to my attention in which Inspectors have concluded that harm would be caused to social wellbeing. These cases differ from that before me.
22. In the case of the Alderton appeal (APP/G1630/A/14/2222147) it is clear that the decision was taken in the light of a previous grant of planning permission for residential development in the same village. It seems that the aggregate of the 2 schemes there was about 107 dwellings, well in excess of the numbers here. The total number of dwellings would have been an increase of almost 50% of the existing village – again well in excess of the total here.
23. With respect to the Welford-on-Avon decision (APP/J3720/W/15/3039153) it seems that greater weight could be afforded to the emerging Core Strategy in that case. That strategy sought to limit development in the village, and records that the limit had already been breached. The appeal scheme there was also described as a sizable expansion. This contrasts with the case in

Down Ampney where the proposed development is within the predicted growth limits for the village.

24. The appeal decision for Feniton (APP/U1105/A/13/2191905) has also been put to me. I am told that the cumulative increase in housing at issue there was significantly greater than in this case.
25. It therefore seems to me that none of these other appeal decisions is a close parallel with the situation in Down Ampney. They show that each case must be determined in light of the particular circumstances pertaining to it.

Sustainability

26. Turning to the issue of sustainability, the NPPF sets out that there are 3 dimensions - economic, environmental and social.
27. Economically it is clear that the proposal would provide construction work and the new homes bonus. The additional support for the village shop resulting from the spending of new residents is also an economic benefit.
28. Environmentally the site is not argued to be of merit. It has no designation and at my site visit I was able to see that it brings little of value in environmental terms. The unattractive and disused agricultural buildings would be removed, and the loss of low lying scrub and tussocky grassland would not be detrimental, as confirmed by the Council's own assessment. In addition the development would offer the potential to bring environmental improvement with a well designed landscaping strategy. This would be under the control of the Council at reserved matters stage. There is no significant detriment from the impact of traffic or commuting.
29. The social dimension of sustainability is the crux of the case. I have already indicated above that I am not persuaded by the arguments made that there would be loss of social cohesion or impact on the vitality of the community. In fact there would be social benefits in the provision of both market and affordable housing, in the likely benefits to the viability of the primary school, and in the support for local facilities.
30. Sustainability must be seen as an overall concept. Whether a particular scheme is sustainable will depend on how well it addresses the 3 dimensions of sustainability when taken overall. Given the above matters it is my judgement that this development clearly meets the definition of sustainability as set out in the NPPF. I am satisfied that it would maintain the vitality of the village.

The Planning Balance

31. Given that this proposal falls to be determined as a sustainable scheme I turn to the planning balance. The provisions of paragraph 14 of the NPPF are engaged. This indicates that where the development plan is out of date (as here) planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.
32. The benefits of the scheme are set out above and I do not need to repeat them all here. The provision of housing clearly follows the objective of the NPPF to boost significantly the supply of housing and this carries significant weight notwithstanding the acknowledged supply position at present. The provision of

affordable housing is also a significant material consideration in support of the proposal.

33. I have also set out above my concerns that neither the Council nor the local community has been able to demonstrate that there would be material harm caused by the proposal. I understand the concerns expressed, and recognise that the community would wish to see decisions made in the spirit of localism. However, decisions must be made in the light of the planning merits of any case, and here I cannot identify any harm which would be significant or demonstrable in the context of the policies of the NPPF. For these reasons the appeal must succeed.

Conditions and S106 Undertakings

34. A list of suggested conditions was provided by the Council and agreed by the Appellant. However it was agreed at the hearing that some of the conditions would be unnecessary, being more relevant to matters which will be determined at the reserved matters stage. In the interests of highway safety I agree that conditions are reasonable and necessary which deal with the provision of access, roads and parking. In order to ensure that the development provides a satisfactory standard of development conditions are necessary which address the matters of drainage, tree protection, lighting, landscape and ecology, archaeology, and potential contamination. The living conditions of neighbours require protection with conditions dealing with construction management and hours of work.
35. Two Unilateral Undertakings have been submitted pursuant to s106 of the 1990 Act. The first would deliver affordable housing in accordance with the current policy at a rate of 50% and make provision for the long term management of sustainable drainage and public open space. The second would provide a small contribution towards the library service.
36. I am satisfied that the provision of affordable housing, and the mechanism for ensuring that the dwellings are occupied by those needing such accommodation, as set out in the undertaking, meet the tests set out in paragraph 204 of the NPPF and the Community Infrastructure Levy (CIL) Regulations. It is necessary to make the development acceptable, directly related to the development, and fairly and reasonably related in scale and kind to the development. This is not a matter at issue between the Council and the Appellant. This Undertaking also makes provision for the long term management of sustainable drainage provision and public open space. Again, I am satisfied that the provisions set out in the Undertaking meet the tests set out above.
37. The library contribution has been calculated according to a standard formula relating to the increase in population resulting from the extra housing. I have been invited to make my own judgement on whether this contribution would meet the tests of the CIL Regulations. The provision of library facilities is a standard part of the provision of local services and contributed to by householders through Council and other taxation. The introduction of a further payment by planning obligation (albeit small) seems to me to initiate an element of 'double charging'. The relevant authority will receive revenue for the service through normal channels as a result of the occupation of the dwellings. I cannot therefore conclude that the contribution would meet the test of being necessary to make the development acceptable in planning terms.

The development would be acceptable without the contribution. Hence I do not take that contribution into account in reaching my decision.

Overall Conclusion

38. As set out I have determined that the proposal is sustainable development. There are no development plan policies brought to my attention with which the proposal would conflict. There would be no significant and demonstrable harm when judged against the policies of the NPPF as a whole. For the reasons given above I conclude that the appeal should be allowed.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
365-W-02
b/CoopDownAmpney.1-01 Revision E.
- 5) No development shall take place until a detailed ten year landscape and ecological enhancement and management plan has been submitted to and approved in writing by the local planning authority. The plan shall be based on the recommendations in Section 6 of the Updated Preliminary Ecological Assessment (Middlemarch Environmental April 2015) and indicated on drawing no 6654-L-03-B. All works shall be carried out as detailed in the approved plan, shall be completed before the new dwellings are first brought into use and shall be retained thereafter.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period and shall:
 - i) specify access proposals (including HGV routes) and HGV trip profile and parking;
 - ii) provide for the parking of vehicles of site operatives and vehicles;

- iii) provide for the loading and unloading of materials;
 - iv) provide for the storage of plant and materials used in constructing the development;
 - v) provide for wheel washing facilities;
 - vi) include measures to control the emission of dust and dirt during construction;
 - vii) include measures for recycling of materials and the minimisation of waste.
- 7) No development shall take place until a foul drainage strategy detailing any on or off site works has been submitted to and approved in writing by the local planning authority. No discharge of foul or surface water shall be accepted into the public system until the drainage works in the strategy have been completed in accordance with the approved strategy.
- 8) No development shall take place until a scheme of drainage incorporating sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development have been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be completed in accordance with the approved details before the development is first occupied.
- 9) No development shall take place until details of a scheme for surface water attenuation and/or storage have been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed in accordance with the approved details before the development is first occupied.
- 10) No development shall take place until soakaway tests have been carried out in accordance with BRE Digest 365, or such other guidance as may be agreed in writing by the local planning authority. The results of the tests shall be submitted to and agreed in writing by the local planning authority. Thereafter development shall be carried out in accordance with a scheme to be submitted to and approved in writing by the local planning authority prior to the development being first occupied.
- 11) No works shall take place on site (other than those required by this condition) until the first 10m of the proposed access road, including the junction with the existing public road and associated visibility splays, has been completed to at least binder course level.
- 12) The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the carriageway edge (the x point) to a point on the nearest carriageway edge of the public road 54m distant in both directions (the y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the x point and between 0.26m and 2.0m at the y point above the adjacent carriageway level.
- 13) No part of the development shall be occupied until details of the proposed arrangements for future management and maintenance of the streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and

- maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.
- 14) No dwelling shall be occupied until parking and turning facilities have been provided in accordance with the reserved matters details and shall be retained for those purposes thereafter.
 - 15) No dwelling shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling have been completed to at least binder course level and the footway(s) to surface course level.
 - 16) No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority which specifies the provisions to be made for the level of illumination of the site and the control of light pollution. The scheme shall be implemented and retained in accordance with the approved details.
 - 17) No development shall take place until a site investigation for any contamination has been carried out in accordance with a methodology which has been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development commences. If any significant contamination is found during the site investigation a report specifying the measures to be taken to remediate the site to render it suitable for the development shall be submitted to and approved in writing by the local planning authority.
 - 18) The remediation scheme agreed in writing by the local planning authority shall be fully implemented in accordance with the approved timetable of works and before the development permitted is first occupied. Any variation to the scheme shall be agreed in writing by the local planning authority in advance of works being undertaken. On completion of remediation the developer shall submit to the local planning authority written confirmation that all works were completed in accordance with the agreed details. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to and approved in writing by the local planning authority and the additional measures shall be carried out as approved prior to first occupation of the development.
 - 19) No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation to be submitted to and approved in writing by the local planning authority.
 - 20) An Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) shall be submitted to the local planning authority with any reserved matters application. The AMS and TPP shall be in accordance with the guidance in BS 5837:2012 "Trees in relation to design, demolition and construction. Recommendations" and shall include details of:
 - i) Defined root protection area of all retained trees;
 - ii) The timing of all tree protection measures;

- iii) Details of proposed finished ground levels within the defined root protection areas of all retained trees;
 - iv) Details of tree protection fencing and excluded activities;
 - v) Details of temporary ground protection measures where access and working space is needed outside the tree protection fencing but within the root protection area of all retained trees;
 - vi) Details of any underground services within the root protection areas of any retained trees and how they will be installed;
 - vii) Details of how the tree protection measures will be monitored by the site manager.
- 21) All demolition works to the barns on site shall be carried out in accordance with the recommendations in Section 6 of the Updated Daytime Bat Survey and Barn Owl Survey reference number RT-MME-118500-02 Rev A.
- 22) No construction activity or deliveries shall take place outside the hours of 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays, nor at any time on Sundays, Bank or Public Holidays.
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Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Mrs Beverley Moss BA(Hons) Mplan MRTPI	Hourigan Connolly, Manchester
Mr R Lancaster Mr M Stafford	Barrister, Kings Chambers, Manchester Co-operative Group

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Napper DipTP MRTPI	Development Management Team Leader, Cotswold District Council
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INTERESTED PERSONS:

Mr A Matthews Mr G Tappern	Down Ampney Parish Council Local Resident
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DOCUMENTS SUBMITTED AT THE INQUIRY

Doc 1	Notification letter of the hearing, dated 4 December 2015
Doc 2	Statement of Common Ground, dated 16 February 2016
Doc 3	Appeal decision APP/F1610/W/15/3121622 dated 23 February 2016

Richborough Estates