

---

## Appeal Decision

Site visit made on 3 May 2016

**by Jacqueline Wilkinson Reg. Architect IHBC**

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

**Decision date: 09 June 2016**

---

**Appeal Ref: APP/C1625/W/16/3144872**

**Land south of Bourne Lane, Brimscombe, Gloucestershire GL5 2QE**

- 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 Parkroy Ltd against the decision of Stroud District Council.
  - The application Ref 15/1411/OUT, dated 8 May 2015, was refused by notice dated 10 December 2015.
  - The development proposed is residential development of up to 23 no. new dwellings of which 30% will be affordable units.
- 

### Procedural matters

1. The application was in outline with access to be decided at the outline stage and appearance, landscaping, layout and scale to be reserved matters. I have assessed this appeal on the basis that the layout shown on the submitted plan is indicative only.
2. The Council has confirmed that the appeal is not within the Cotswolds Area of Outstanding Natural Beauty (AONB), as stated in the reasons for refusal. The boundary of the AONB is immediately adjacent to the appeal site, along its northern boundary with Bourne Lane.

### Decision

3. The appeal is dismissed.

### Main Issues

4. The main issues are: (i) the effect of the proposed development on the character and appearance of the area, including the natural and scenic beauty of the landscape of the adjacent Cotswolds Area of Outstanding Natural Beauty and (ii) the effect on highway safety.

### Reasons

#### *Policy framework*

5. There is no dispute between the parties that the Council can demonstrate that there is a five year supply of housing land in the District. I am therefore required to assess this appeal in accordance with the development plan, unless material considerations indicate otherwise.<sup>1</sup> The Stroud District Local Plan, was

---

<sup>1</sup> National Planning Policy Framework para 196 and Section 38 of the Planning and Compulsory Purchase Act 2004.

---

adopted in November 2015 and it sets out the strategic approach to be taken to development. The key policies are set out below.

6. Core policy CP3 *Settlement hierarchy* classes Brimscombe as a third tier settlement, (an accessible settlement, with limited facilities). Here, lesser levels of development to safeguard their role, will be supported including provision through neighbourhood plans for some opportunities for growth and to deliver affordable housing. The settlements set out in this hierarchy all have defined settlement boundaries. This policy also encourages the use of previously developed land.
7. Policy CP15 *A quality living and working countryside* aims to protect the separate identity of settlements by limiting development outside the settlement limits.
8. Delivery policy ES7 *Landscape character* states that on land which may affect the setting of the AONB, priority will be given to the conservation and enhancement of the natural and scenic beauty of the landscape. Major development will not be permitted unless it is in the national interest and if there is a lack of alternative sustainable development sites. It states that the Stroud District Landscape Assessment will be used to determine applications in rural areas and that regard will be had to the Cotswolds Conservation Board Management Plan.
9. Policy CP13 – *Demand management and sustainable travel measures* and Policy EL12 – *Promote transport choice and accessibility* have broadly similar aims to locate development in locations where there are choices in the mode of transport and which minimise the distances people need to travel, and that they should not be detrimental to road safety.

*Character and appearance, setting of the AONB*

10. The Cotswold Conservation Board Position Statement *Development in the setting of the Cotswolds AONB* 2010, revised 2013, explains the approach to be taken when assessing development outside the AONB, but which would affect its setting. Appendix C sets out the Board's statement of the *Special Qualities of the Cotswolds AONB*. These include views to and from the Cotswold escarpment, the large open elevated landscape with commons, big skies and long distance views, river valleys and tranquillity. This ties in with the Stroud District Landscape Assessment 2000 (Supplementary Planning Guidance), which categorises the area as a secluded valleys landscape character type.
11. I have visited the majority of the viewpoints set out in the appellants' submitted *Landscape and Visual Impact Assessment*, (LVIA) dated May 2015, and I have seen the site from other locations. The appeal site is approximately midway up the steep valley side and the adjacent dwelling, formerly known as Hill Farm, is white and stands out as a good locator for the purposes of an assessment. I agree with the general conclusions of the LVIA that the impact of the development from mid-valley points and below on the opposite side of the valley would be limited, as other buildings and the tree belt to the south of the site would screen any development on the site.
12. However, the location of the development in relation to the AONB becomes clearer further up one ascends the opposite hillside, Brimscombe Hill. Bearing in mind that the proposed dwellings are likely to be two or three stories high, I saw for example, that the development would begin to be clearly visible above

the tree line from the Holy Trinity churchyard on the Roundabouts. At various points up Brimscombe Hill the dwellings would become increasingly more visible, although the viewer would be further away.

13. However, it was at the top of Brimscombe Hill, from various points on the north facing parts of the wide open common land on the next escarpment, that I could clearly indentify the site as part of a "catenary" of fields just below and above the defined edge of the AONB. From these popular public view points, the hand that drew the AONB boundary could have just as easily included the appeal site. That said, it interesting to observe that to the west of this promontory there is dense woodland, to the north, a scattering of rural buildings and dwellings and to the east, another settlement on higher levels but at some distance. This is not a perfect uninterrupted open natural setting, but the perception of the deep valley floor, which is a distinctive element of the settlement pattern here, is very strong in these views.
14. The Design and Access Statement sets out the landscape-led approach to the layout. The principle of keeping the development to the lower slopes is a positive starting point, but fails because the needs of the access road forces development effectively as high as halfway up the slope. Bearing in mind that the buildings would be likely to be two storeys above the garden (rear) level<sup>2</sup>, the development would be highly visible in the wider landscape above the mid-valley levels. The adoption of the general building line further along Bourne lane is logical looking at a map of the area. However, on the ground, with the exception of one or two earlier cottages, this is post-war ribbon development of poor quality, which is by and large not distinctive or appropriate for its rural setting.
15. The closest views of the site would be from points along Bourne Lane and Brimscombe Lane. Bourne Lane is also the edge of the AONB and when walking along this lane it can be seen how intimately visually and experientially the appeal site is connected to the AONB. This lane is well above the appeal site. There are no cross sections, but from many points along this stretch of country lane the back fences of the dwellings and their upper floors would be highly prominent. The scheme proposes the retention of the important tree groups on the south and west boundaries, as well the retention and reinforcement of the hedges. A landscaping condition could require further soft boundary treatments to the screen the rear fences. However, the upper floors of the proposed dwellings would still be likely to be highly visible. The tranquil and scenic rural quality of this countryside setting would be particularly detrimentally affected.
16. The appellants make the case that the retained open spaces would form a natural setting and buffer for the development, but I have concerns about the sustainability of these spaces as public open spaces, given their location at the backs of houses. Whilst their retention as paddocks could be an option, the space to the east end of the site is small and irregular, with no obvious practical access from the appeal site development or from the road. I accept that the design of the layout could change, but the indicative plan does not persuade me that an acceptable layout could be developed at the reserved matters stage.

---

<sup>2</sup> Design and Access Statement page 15.

17. I therefore conclude that the proposal would be likely to cause significant harm to the setting and therefore the natural beauty, of the AONB.
18. Substantial engineering works are likely to be necessary in order to alter the contours, create embankments and build retaining walls at the access point and probably along the new road. The Highway Authority refers to "significant structural works consisting of a 6m high retaining wall either side of the carriageway", however, these are not shown on the submitted plan. High walls are a feature of the locality, but are generally no more than 3m high and are built of stone.
19. In devising a highway standards compliant access design, account has not been taken of the special and distinctive character of the ancient sunken lane, known locally as Hallidays Pitch, (also called Dark Lane by the Council). This historic lane, now pedestrianised, is lined with low stone walls on one side and a natural rural vegetated bank on the other. It would be lost over approximately a third of its length. At the junction with the proposed access point, an suburban road/footpath layout would abruptly intersect it. The special historic landscape character that is experienced along this lane would be significantly harmed.
20. There is no indication in the Transport Statement or the Design and Access Statement that the access design would reflect local details or materials, although mention is made of the use of Permacrib sectionalised concrete retaining walls. The pockets in this type of wall can be planted up, but they still have a standardised engineered appearance which would be out of keeping in this attractive edge of Cotswolds setting. Whilst this matter could be left to a condition, given the amount of walling likely to be needed, it is essential that the cost implications of using natural stone walling is taken into account at this stage.
21. I therefore conclude that the proposal, due to the heavily engineered design of the access and the design indications set out in the submitted documents and plans, would harm the attractive rural character and appearance of the area.
22. The proposal would therefore be contrary to the aims of Delivery policy ES7 *Landscape character* and the planning core planning principles set out in paragraph 17 of the Framework, one of which is that planning should take account of the different roles and character of different areas, ...recognising the intrinsic character and beauty of the countryside ....
23. I note local concern about the coalescence of the two adjacent villages, but find that the main issue in this case is the effect on the special countryside character of the area, particularly long Bourne Lane, which is, as I have explained, intimately connected with the AONB.

#### *Highway safety*

24. Whilst detailed reference to an alternative access arrangement off Bourne lane is made in the Highway Authority's comments, no such plan has been put before me. Local residents have expressed concerns about this, so for the avoidance of doubt, this appeal has been assessed on the basis of the original access point off Brimscombe Lane as shown on plan no. 5347-003-C-100-P2, which was included in the Transport Statement. This plan is essentially diagrammatic and shows the layout of the proposed access and the alterations

- to the priority at the junction with Thrupp Lane, superimposed on the existing contours.
25. The Highway Authority has raised concerns about the proposed access route. Firstly, it is concerned about the lack of visibility to the right when emerging from the re-prioritised junction with Thrupp Lane, which is shown to cross over third party land. Secondly, it states that the additional traffic generated from the site would have a significant effect (compared to access being served from Bourne lane) on the substandard junction with the A419. The Council did not give highway safety as a reason for refusal, but in its appeal statement it clarifies its position that it considers that the proposal would fail, due to lack of information, the requirements of policy CP13.
26. The previous Inspector's comments<sup>3</sup> made in 2008 with respect to an outline scheme for 28 houses, have been raised. Although the access point was similar, with altered priorities at Thrupp Lane, the scheme also included staggering the junctions at the A419. On this basis the Inspector found that the proposal would be "roughly neutral" in terms of its impact on highway safety, because of the beneficial effect of the junction improvements at the A419.
27. The appellants point out that the accident records in the locality do not indicate a problem with this junction. Data has been collected and a development trip generation prediction (adjusted to National Census data)<sup>4</sup> has been made, which demonstrates that the capacity of the road network is adequate. Safety audit measures have been incorporated in the design. Reference has been made to the possibility of further traffic calming measures in the form of a give way feature in Brimscombe Lane, although the Highway Authority has not mentioned the need for this. Given concerns about visibility at the re-prioritised junction, a condition could be used to clarify visibility splays and to incorporate further mitigation measures if necessary.
28. However, whilst the A419 is restricted to 40mph at this point, I saw that even at a quiet time of the day it was a busy road and speed restrictions are likely to be exceeded. The previous Inspector pointed to the acknowledged difficulty in turning right into the A419 and from my observations, I agree. I have no clear evidence before me that the increased risks for highway users at this junction would be adequately mitigated. Although there would be likely to be technical solutions, none are suggested as part of this proposal and this matter is too important to leave to a condition.
29. I therefore conclude that the proposals would fail the requirements of Policy CP13 and similar requirements set out in paragraphs 32 and 35 the Framework, which are that schemes should not be detrimental to highway safety.

#### *Sustainability in terms of location*

30. Brimscombe is classified as an accessible settlement, with limited facilities. Recently the post office closed, but there is a shop and a takeout, some community uses, a pub and a primary school all within walking distance on footpaths, albeit narrow at some points. The steep slopes and narrow footpath along Brimscombe Lane would be a definite barrier to walking, with special

---

<sup>3</sup> APP/C1625/A/07/2057243

<sup>4</sup> Transport Statement Table 5.4

difficulties for wheelchair users and pram pushers exacerbated by cars parked over the footpath. Brimscombe Lane is 20mph, but is unlit. That said, the steep upper valley sides throughout the District share these difficult characteristics and pedestrians and drivers generally become accustomed to local conditions.

31. Cycling into Stroud along the A419, although feasible would be risky and unpleasant. Neither party has mentioned whether the use of the canal tow path is possible for walking or cycling. Reasonable bus connections, with onward connections to rail services are available on the A419, although I accept the previous Inspector's point that the controlled crossing, which is essential to cross this busy road, is inconveniently located for the west bound routes.
32. Since the previous appeal, a number of developments have been identified or approved in the valley bottom on brown field sites. The gradual increase in the local population would be likely to lead to improvements in the local services, although the impact of internet shopping is being felt in all locations.
33. The future residents would still be likely to own one or two cars, and would be likely to use them to get to work or for most services. The appeal site, in common with the other housing sites mentioned by the appellants<sup>5</sup> in the locality, cannot therefore be said to be fully sustainable in terms of access to services or alternative modes of transport. However, I cannot identify this as a clear conflict with Core policy CP3 *Settlement hierarchy*, because it recognises the varying degrees of transport sustainability in its classification system.

#### *Other matters*

34. The Industrial Heritage Conservation Area abuts the appeal site on the southern side. This conservation area largely encompasses the historic developments on the valley floor focussed on the substantial 18<sup>th</sup> and 19<sup>th</sup> century industrial structures clustered about the River Frome, the Thames and Severn Canal and the Great Western Railway. Some local residents refer to the use of the appeal site for overnight pastures for the horses and mules working on the canal. No documentary evidence for this association has been put before me, but even if this was the case, the field was not included in the boundary at the time of designation.
35. Due to the sharp difference in levels between the "heart" of the conservation area on the valley floor and the appeal site above, and the screening effect of the existing buildings and tree belts, the proposed development would not be visually intrusive within the conservation area. I therefore conclude that the character and appearance of the conservation area would be preserved, as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
36. I have read the recommendations arising from the Phase 1 Habitats survey and I note specific concerns about the local hedgehog population expressed by the nearby rescue charity. However, I am satisfied that adequate mitigation and improvements to biodiversity could be achieved through the use of a mitigation

---

<sup>5</sup> Allocated sites SA1d: Brimscombe Mill, SA1e: Brimscombe Port, SA1f: Wimberley Mills, SA1g: Dockyard Works.

and landscape management condition. The requirements of the Habitats Regulations 2010 are therefore satisfied with regard to protected species.

37. I visited the closest neighbouring properties to the appeal site and find that although there would be an impact on the aspect from these dwellings, this would not cause such harm to their living conditions as to be a reason for refusal.
38. A Unilateral Undertaking (UU) under Section 106 of the Act was submitted after the appeal was made. This commits the developer to provide 7 affordable and shared ownership dwellings. Contributions towards education and library services, and a conservation contribution for the purpose of funding projects within the Rodborough Special Area of Conservation are also included. Neither the Officer's report nor the Council's Statement makes reference to the justification for these latter contributions other than to suggest a condition for the mitigation of the impact of recreational impact on Rodborough Common.
39. The affordable housing contributions could be the subject of a condition, but I am required by paragraph 204 of the Framework and the Community Infrastructure Regulations 2010, regulation 122, to assess whether the other contributions would be lawful. However, in view of my conclusions on the substantive issues in this appeal, I have not sought further information or the views of the Council on the submitted UU.

*Other material considerations*

40. The appellants draw on the information in the Authority's Monitoring reports (the last one being 2010) to show that there is likely to be a serious shortfall in the supply of affordable housing. They point out that there is to be an early review of the Local Plan and that the Joint Core Strategy being developed by neighbouring authorities is likely to have an impact on the District's housing numbers and the full assessment of need (including affordable housing).
41. The Council accepts that there is a shortage of affordable homes in the District, but considers that the delivery of 7 affordable homes would not make a significant impact on the overall figures. It explains that the figures produced for the Local Plan Examination were not the "whole story", as the District is pursuing a number of other strategies to boost the supply of affordable housing.
42. I also note the loss of affordable housing previously approved on a nearby site due to viability problems with the scheme and that other sites may have similar infrastructure cost difficulties, given their brown field location. These are typical of the many issues to be resolved on brown field sites, but the overall social and economic benefits arising from regeneration of such sites are well recognised. One of the stated aims of Core policy CP3 is also to prioritise development on brown field sites, which is entirely consistent with the Government's approach.
43. The Framework is a plan led system and the Local Plan has only recently been found sound and adopted (November 2015). Further rises in the housing and affordable housing requirements are likely, but the Council's commitment to an early review gives a strong indication that the plan-led approach would resolve these matters on a strategic District wide basis.

## Conclusions

44. I have concluded that the proposal would have a significantly harmful effect on the character and appearance of the area and the natural landscape beauty of the AONB and in particular the special qualities of the Cotswold escarpment, which are inseparably linked with the appeal site. The Framework paragraph 115 requires me to give great weight to conserving the landscape and scenic beauty of the AONB.
45. I have concluded that the appeal site would be moderately sustainable in terms of transport links and the ability of the occupiers to have access to services and employment using other alternatives to the private car. I have identified a likely harmful effect on the safety of highway users.
46. Whilst there would be some short term economic benefits from the construction project, I do not give these significant weight.
47. The existence of an identified 5 year housing land supply is not in itself a reason for refusing sustainable development, which should be approved in order to boost the supply of housing, particularly affordable housing. The acknowledged shortage of affordable homes in the District is an important consideration, to which I give significant weight. However, the scale of benefit in this case would be very modest in the light of the District's shortfalls.
48. Sustainable development has parallel economic, social and environmental roles, as set out in the Framework, paragraph 7. I find that the proposal would not satisfy these sustainability criteria and the modest benefits to the supply of affordable housing would be clearly outweighed by the significant harms to the character and appearance of the area and the natural and scenic beauty of the Cotswolds AONB.
49. I have read the letters received from local residents and the Parish Council. I have considered all the evidence submitted by the appellants of other local plan examination reports, appeals etc (too numerous to quote individually) and none of these leads me to a different conclusion.
50. I therefore conclude that the appeal should fail.

*Jacqueline Wilkinson*

INSPECTOR