
Appeal Decision

Inquiry held between 14 and 15 June 2016

Site visit made on 15 June 2016

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 3 August 2016

Appeal Ref: APP/P1615/W/15/3134518

Land at Drury Lane, Redmarley, Gloucester GL19 3JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Millstrand Properties Limited against the decision of Forest of Dean District Council.
 - The application Ref P1593/14/FUL, dated 30 September 2014, was refused by notice dated 15 April 2015.
 - The development proposed is the erection of 11 dwellings (comprising 7 market dwellings and 4 affordable dwellings) with associated garages/outbuildings and construction of a vehicular and pedestrian access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 11 dwellings (comprising 7 market dwellings and 4 affordable dwellings) with associated garages/outbuildings and construction of a vehicular and pedestrian access at land at Drury Lane, Redmarley, Gloucester GL19 3JX in accordance with the terms of the application, Ref P1593/14/FUL, dated 30 September 2014, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The application as originally submitted proposed 8 dwellings, but following discussion between the appellant and the Council the proposal was amended before the Council made its decision. The amended proposal was subject to publicity and consultation so no party would be prejudiced by my considering the proposal on the basis of the amended plans. The amended description was agreed between the parties and I have used that description in my decision.
 3. I understand that the proposal as originally submitted included the option of a new access to the southern road frontage. That was deleted in the amended proposal but drawing number D1424.22A indicates the removal of trees adjacent to the southern boundary. For the sake of clarity my decision does not relate to that plan but to the later Tree Protection Plan (01) dated December 2014 which indicates those trees to be retained.
 4. A section 106 Agreement which had been signed by the appellants was referred to at the Inquiry. The Council was unable to sign and seal this until after the Inquiry closed and consequently the document was not formally submitted until then. I do not consider that any party would be prejudiced by my taking this document into account in my decision.
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Main Issues

5. The main issues in the appeal, having regard to housing land supply and applicable planning policies, are:
 - i) the effect of the proposed development on the character and appearance of the area;
 - ii) whether the proposed development would make adequate provision for infrastructure and affordable housing; and
 - iii) whether the proposal would accord with the three dimensions of sustainable development.

Reasons

Housing Land Supply and Planning Policies

6. The appeal site is outside but adjoining the settlement boundary for Redmarley as defined in the development plan. The Forest of Dean Core Strategy (CS) (2012) includes policy CSP.5 which restricts new housing development outside settlement boundaries. Policy CSP.4 requires that new development reinforces the existing settlement pattern. Redmarley is defined as a small village in the CS and policy CSP.16 provides for about 89 new dwellings to be built in those villages, subject to consideration of matters including scale, function and the accessibility of services.
7. While those policies restrict development outside settlement boundaries, government policy as contained in paragraphs 49 and 14 of the National Planning Policy Framework (the Framework) is that where the Council cannot demonstrate a five year supply of deliverable housing sites, policies for the supply of housing should be considered out-of-date. Furthermore, where this is the case, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
8. When making its decision on the application the Council considered that it could demonstrate a five year supply of deliverable housing sites. Its draft Allocations Plan (AP) has been subject to examination. However there are a number of unresolved objections to the AP and the Inspector's interim conclusions are awaited. The Council now accepts that, given the uncertainties with regard to the final form of the AP, for the purposes of this appeal it cannot demonstrate a five year supply. On this basis the Framework presumes in favour of permission being granted subject to consideration of any adverse impacts. Policies CSP.4, CSP.5 and CSP.16 of the CS are policies for the supply of housing in as far as they limit development outside settlement boundaries and control the numbers of dwellings to be provided in settlements. The parts of those policies concerned with housing supply are out of date.

Character and Appearance

9. Redmarley is a small village mainly consisting of houses along The Causeway and Bromsberrow Road. Most of the village is designated as a Conservation Area. The appeal site is a vacant field which lies immediately to the north-east of the built up area of the village. The site is surrounded by belts of trees and those trees along the frontages of Bromsberrow Road and Drury Lane are

included within the Conservation Area whereas the majority of the site lies beyond the designated heritage asset.

10. To the north of the site off Drury Lane is Kings End House, a grade II listed building, partly timber framed and dating from the 17th century. That building is separated from the appeal site by a high evergreen hedge around the boundary of its garden. Although described in the list description as a farmhouse, there are no associated farm buildings. The appellant's Heritage Statement notes that there is no evidence of any historic functional association with the appeal site.
11. The site is at a higher level than Kings End House and the proposed development would be visible from the upper storey of that property. However the boundary hedge provides a clearly defined separation between the listed building and the site. The proposed dwellings would be built at a low density and would have good sized gardens which would be in keeping with the spaciousness of the garden to the listed building. The building on plot 1 would be quite close to Drury Lane but would be separated from Kings End House by about 35 metres. Part of the car parking area to plot 1 and its bin storage area would be closer to the boundary but they would not be visible from the listed building.
12. For these reasons I share the Council's view that the proposal would not adversely affect the setting of the listed building.
13. The historic buildings along The Causeway, many of which are timber framed and the narrowness of the roads define the character of the Conservation Area but much of that area is occupied by modern development. The trees around the boundaries of the site provide a verdant boundary to the Conservation Area and mark the edge of the open countryside.
14. Those trees are protected by a Tree Preservation Order and would be retained with the exception of three trees which would be removed to form the access from Drury Lane. Those trees are at the northern end of the group. From what I saw on my visit and having taken into account the appellant's Arboricultural Report the trees proposed to be removed are not of particular individual value although they contribute to the group as a landscape feature. Given the limited number of trees to be removed and that new planting may be secured by planning condition, this aspect of the proposal would not be visually harmful.
15. The visibility splays on either side of the proposed access would necessitate the cutting back of vegetation within the highway verge but those works would not materially affect the value in landscape and visual terms of the tree group.
16. The site is at a higher level than Bromsberrow Road and part of Drury Lane but the proposed development would be substantially screened from view by the wooded areas which surround most of the site. The trees are significantly higher than the proposed dwellings and the widths of the wooded areas would be likely to be sufficient to ensure a high degree of visual screening from the south, east and west even when the trees are not in leaf. The site is in any case closely associated with the existing built up parts of the village as it adjoins the settlement boundary on two sides.

17. The site is within an area described in the Council's Landscape Character Assessment as 'Low Hills and Orchards'. This covers a mainly rural area including isolated farmsteads and dwellings. Because the site benefits from a high degree of enclosure by the surrounding trees, is well-related to the village and is not visible from higher land the proposal would not adversely affect the landscape even though there would be a modest amount of encroachment of development into open countryside. The Council accepts this position.
18. The proposed dwellings would be built at a low density with generous garden areas. Their designs would reflect the local vernacular in terms of the use of traditional materials including timber framing. The existing trees would help to assimilate the development into its setting and further planting would be provided. Policies CSP.1 and CSP.4 of the CS require special regard to be given to the character of the area and policy CSP.5 of the CS encourages low densities in rural locations. For the reasons given the proposal would accord with those requirements.
19. The scale of the proposed development in terms of the number of dwellings is similar to that of the recently approved development at Rock Meadow. I have taken into account the potential for cumulative effects on scale in relation to the limited size of the village. However there is no evidence before me of any other such recent development in the village or that the character of the village is under threat in this way. Although there would be physical and functional limitations to the scale of development that could be absorbed in this small village, to my mind that limit would not be reached by the proposal. Moreover, the CS policies do not impose any specific limit on the number of dwellings deemed to be acceptable in small villages. The proposal would not harm the character of the village in terms of its scale and would accord with policy CSP.16 of the CS in this respect.
20. For the reasons given I conclude that the proposal would not adversely affect the character and appearance of the area and that the character and appearance of the Conservation Area and its setting would be preserved. The proposal would accord with policy CSP.1 of the CS in this respect.
21. Although the weight that can be given to AP policies is reduced having regard to their status, the proposal would accord with draft policies AP4 and AP5 which require local character and traditional characteristics, styles and materials to be taken into account.
22. A previous appeal¹ in 1988 for residential development on the site was dismissed. The planning policy at that time differed from the policies now applicable however. Moreover the proposal in that case would have had a greater visual effect than the current proposal in that it involved the formation of an access and consequent significant tree removal on Bromsberrow Road. In addition to those considerations the Highway Authority had objected to that scheme. The proposal thus is not comparable with the previous scheme in a number of important respects.

Infrastructure

23. The Head Teacher of Redmarley Primary Academy has requested a contribution towards improvement of the school facilities. Although the number of pupils at

¹ T/APP/P1615/A/86/058465/P4

the school is less than the capacity of the school, the number of pupils in each class group vary according to the numbers in each age group which has implications for the available accommodation.

24. Gloucestershire County Council as Education Authority is not directly responsible for the school because of its academy status but has nevertheless provided evidence that the proposed development would result in about 2 additional pupils of primary school age. Interested parties expressed doubt regarding this figure but it is based on the County Council's extensive experience of planning for education provision as a result of new development.
25. The school currently has spare capacity of 16 places and although this is forecast to reduce over the next year there is no dispute that the school has more than adequate capacity to accept the additional pupils likely to arise from the proposed development. The school receives government funding on the basis of pupil numbers and therefore some financial provision would be made for the additional pupils.
26. For these reasons it has not been demonstrated that a financial contribution towards education facilities would be necessary. Any contribution in this respect would not accord with the tests in Regulation 122 of the CIL Regulations² and as set out in paragraph 204 of the Framework.
27. The Council's submissions in respect of the need for a contribution towards open space facilities refer to a need for both adult and children's provision. However the Parish Council has only identified a need for improved children's play facilities. No evidence has been provided to demonstrate a need for improved adult recreation facilities and indeed there appears to be a good level of provision of such facilities in the village.
28. The Council's Supplementary Planning Guidance (SPG) on play area provision³ sets out a standardised approach to calculation of the cost per dwelling of such provision. In accordance with that approach and discounting the sum for the purchase of land a contribution of £7,465.70 would be secured by the section 106 Agreement. The need for this contribution as set out in the definition of the 'Open Space Contribution' (ii) has been demonstrated and it would meet the tests in the Framework and the CIL Regulations. The Council has confirmed that the pooling restriction in Regulation 123 of the CIL Regulations would not be breached.
29. For these reasons the proposal would make adequate provision for the necessary infrastructure and would accord with policies CSP.1 and CSP.4 of the CS in this respect.

Affordable Housing

30. The proposed affordable housing provision was subject to negotiation between the appellant and the Council's Housing Strategy and Enabling Officer. The 40% provision secured by the section 106 Agreement would accord with the policy requirement in CS policies CSP.5 and CSP.16.
31. The proportion of rented affordable units would exceed that normally required by the Council but there is clear evidence of a particular need in this respect in

² The Community Infrastructure Levy Regulations 2010

³ Forest of Dean District Local Plan Review Play Area Provision Supplementary Planning Guidance (July 2000)

the local area. There are said to be over 2,400 households on the housing register for the Council area in need of affordable housing. In this context the proposal would be of clear benefit in terms of securing needed affordable housing.

Sustainability

32. There are some local community and recreational facilities in the village consisting of the primary school, the church, village hall and recreation facilities. There is a twice weekly bus service to Ledbury and I understand that there are other transport services such as a school bus. To some extent local facilities would be accessible to the residents of the development on foot. Nonetheless the local bus service is infrequent and those residents would rely on the car to a large extent to gain access to services, facilities and sources of employment.
33. In terms of the economic dimension of sustainable development the proposal would provide employment and benefits to the local economy during the construction period.
34. The social dimension would be met by providing housing to address the identified shortfall and in providing much needed affordable homes. The location of the site close to existing community facilities would also accord with the social dimension.
35. I have found that the proposal would preserve the character and appearance of the area. The house designs and materials to be used would minimise energy use. In these respects the proposal would accord with the environmental dimension. Reliance on the car for transport to a large extent would weigh against the environmental dimension but I do not find that this would make the development unsustainable having regard to all other factors including the potential for home working.

Other Matters

36. Interested parties have raised concerns about the widths of the roads and visibility at the junction of Drury Lane and Bromsberrow Road. I saw on my visit that visibility to the west of that junction is limited. This being the case I am satisfied that there is sufficient visibility for emerging drivers taking into account vehicle speeds. The appellant satisfied the Highway Authority on the basis of vehicle surveys undertaken that there would be no harm to highway safety and this did not form a reason for refusal. I see no reason to disagree with that view.
37. Neighbouring residents have expressed concerns that the development would result in overlooking of their properties and general noise arising from the development. These matters did not form reasons for refusal. I consider that the proposed dwellings would be sufficiently far away from the nearest neighbouring properties to avoid any unacceptable level of overlooking or noise.
38. The Council has referred to a number of other appeal decisions. In appeal reference APP/P1615/W/15/3009016 the evidence on housing land supply was inconclusive. Where land supply was an issue in the dismissed appeals the degree of weight given to each of the identified harms was sufficient to

outweigh the benefits. While taking those decisions into account I am mindful that the circumstances of each case vary.

Planning Balance

39. I have found no harm in terms of the character and appearance of the area. Although the future occupiers would be reliant on the car to a large extent there are facilities available locally and in this respect I consider that lack of accessibility by sustainable modes of transport would carry limited to moderate weight against the proposal.
40. Against this, however significant weights should be given both to the benefit of the market housing in addressing the shortfall and to the affordable housing in addressing local need. The limited to moderate adverse impacts would not significantly and demonstrably outweigh the significant benefits arising from the housing, including the affordable homes.
41. The proposal would accord with draft policy AP1 of the AP which requires sustainable development.
42. The proposal would not accord with the requirements for the location of new housing in policies CSP.4, CSP.5 and CSP.16 of the CS but those policies carry only limited weight given that they are out of date on the basis of the lack of the required housing land supply. The limited weight that I give to those policies leads me to the conclusion that the conflict with the development plan would be outweighed by other material considerations. For these reasons, when considered as a whole the proposal would be a sustainable form of development.

Conditions

43. I have imposed the conditions as suggested by the Council with some changes to wording to accord with the tests set out in paragraph 206 of the Framework. Two additional conditions were agreed between the parties at the Inquiry which I have also imposed.
44. A condition requiring the development to be carried out in accordance with the approved plans is necessary to provide certainty.
45. Conditions requiring approval of details of foul and surface water drainage are necessary to ensure that those systems meet the required standards and provide for sustainable drainage.
46. Conditions requiring approval of full details of the facing materials to be used including their colour, the finished floor levels of the dwellings and landscaping are necessary to ensure the appearance of the development in its setting is acceptable. Conditions requiring the protection of trees during construction and the future management of those trees are necessary in order to safeguard the protected trees which contribute to the character and appearance of the Conservation Area.
47. Conditions requiring details of construction methods and waste minimisation to be approved are necessary to ensure sustainable construction practices and to minimise disruption on the highway network and to nearby residents during construction and to accord with policy CSP.1 of the CS in terms of waste minimisation.

48. The submitted Ecological Statement recommends biodiversity enhancement measures which should be carried out but because the details of those measures require further clarity I have imposed a condition in this respect as agreed at the Inquiry.
49. Finally, conditions requiring the provision of the access road, visibility splays, car parking provision and a new passing bay on Drury Lane are necessary in the interest of highway safety. On my visit I noted that there appeared to be adequate width available within the highway verges to provide the passing bay without affecting the trees.
50. A scheme requiring fire hydrant provision is necessary to ensure that the development meets the required standards in this respect. The provision of charging points for electric vehicles is necessary to encourage the use of sustainable transport in accordance with paragraph 35 of the Framework. The avoidance of overhead services is necessary in the interest of the appearance of the area.

Conclusion

51. For the above reasons and having taken into account all other matters raised I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: D1424.1G, D1424.2A, D1424.3, D1424.4, D1424.5, D1424.6A, D1424.7A, D1424.10, D1424.11, D1424.12, D1424.13, D1424.14A, D1424.20A, D1424.23B, D1424.24, D1429.1, D1429.2 and Tree Protection Plan 01.
- 3) No development shall take place until foul water drainage proposals have been submitted to and approved in writing by the local planning authority. The approved scheme shall be provided before any dwelling hereby approved is occupied. Surface water shall be drained separately from foul water.
- 4) No development shall take place until a surface water drainage scheme which incorporates the principles of sustainable drainage has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of relevant hydrological influences and make allowances for climate change, and shall include a timetable for provision and a management plan. The scheme shall make provision for improvement in water quality and biodiversity enhancement as appropriate. Development shall take place in accordance with the approved details and timetable and the drainage scheme shall subsequently be maintained in accordance with those details.
- 5) No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of existing and proposed ground levels and the finished floor levels of the dwellings have been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved details.
- 7) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 8) Development shall be carried out in accordance with the Arboricultural Method Statement in Section 4 of the Arboricultural Report dated 16 August 2014.
- 9) A tree management plan, including management responsibilities and maintenance schedules shall be submitted to and approved by the local planning authority prior to the occupation of the development. The tree management plan shall be carried out as approved.
- 10) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall:
 - i) specify the type and number of vehicles;
 - ii) provide for the parking of vehicles of site operatives and visitors;
 - iii) provide for the loading and unloading of plant and materials;
 - iv) provide for the storage of plant and materials used in constructing the development;
 - v) provide for wheel washing facilities;
 - vi) specify the intended hours of construction operations, and
 - vii) measures to control the emission of dust and dirt during construction.
- 11) No development shall take place until a Waste Minimisation Statement has been submitted to and approved in writing by the local planning authority. The Statement shall include:
 - i) details of the types and volumes of construction waste likely to be generated including measures to re-use and recycle that waste and minimise the use of raw materials.
 - ii) All construction waste should be re-used on site unless it can be demonstrated that this is not the most sustainable, suitable or safe option.
 - iii) Where waste is generated that cannot be re-used or recycled the Statement shall set out proposed measures for the disposal of this waste in an environmentally acceptable manner.
- 12) No development shall take place until a biodiversity enhancement scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details and thereafter maintained.
- 13) The vehicular access shall be laid out and constructed and visibility splays of 22 metres in both directions from the centre of the access measured from a point 2.4 metres back from the carriageway edge shall be provided before any dwelling hereby approved is occupied. The visibility splays shall subsequently be maintained.
- 14) Before any dwelling is occupied the car parking and manoeuvring facilities shall be completed in accordance with the approved plans and shall thereafter be retained for those purposes.
- 15) No development shall take place until details of a passing bay on Drury Lane between the site access and the junction with Bromsberrow Road have been submitted to and approved in writing by the local planning

authority and the bay has been constructed in accordance with the approved details.

- 16) No dwelling shall be occupied until the carriageway, including surface water drainage and vehicular turning head providing access from the public highway to that dwelling have been completed to at least binder course level and footways to surface course level.
- 17) No development shall take place until a scheme for the provision of fire hydrants served by mains water has been submitted to and approved in writing by the local planning authority. The scheme shall be provided in accordance with the approved details prior to the occupation of any dwelling.
- 18) All services required to be connected to the development hereby approved shall be laid underground and each dwelling shall be provided with an electric vehicle charging point before it is first occupied.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Tom Graham, Advocate	Instructed by Forest of Dean District Council
He called	
Nigel Gibbons BSc MRTPI	Forward Planning Manager
Martin Hillier Dip TP MRTPI	Principal Planning Officer
MCMC CMS	

FOR THE APPELLANT:

Peter Goatley, of Counsel	Instructed by Tufnell Town and Country Planning
He called	
Peter Tufnell Dip TP MRTPI	Tufnell Town and Country Planning

INTERESTED PERSONS:

David Anderson	Redmarley Parish Council
Bob Pate	Governor, Redmarley Primary Academy
Jeremy Evans	Local resident
Mark Baldwin	Local resident
Jeff Wheeler	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

Submitted by the Local Planning Authority

- 1 Opening statement on behalf of the Council
- 2 Forest of Dean Core Strategy 2012
- 3 Forest of Dean Allocations Plan Submission Draft August 2015
- 4 Letter from Allocations Plan Inspector 20.5.16
- 5 Appeal decision APP/P1615/W/15/3141057
- 6 E-mail correspondence from Jonathan Medlin, Gloucestershire County Council 10.6.16
- 7 Closing submissions on behalf of the Council

Submitted by the appellant

- 8 Preliminary legal submissions on behalf of the appellant in response to those made by Forest of Dean District Council
- 9 Judgement in Wainhomes v Secretary of State for Communities and Local Government
- 10 Closing submissions on behalf of the appellant

DOCUMENT SUBMITTED AFTER THE INQUIRY CLOSED

- 11 Signed section 106 Agreement

Richborough Estates