



Appeal Decision

Inquiry held on 26, 27 and 28 July 2016

Site visit made on 28 July 2016

by J C Clarke BSc BTP MRTPI

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

Decision date: 12 September 2016

Appeal Ref: APP/F1610/W/16/3144113

Berry Hill Crescent, Cirencester, 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 Piper Ventures Ltd against the decision of Cotswold District Council.
 - The application Ref 15/03539/OUT, dated 11 August 2015, was refused by notice dated 17 November 2015.
 - The development proposed is described as 'Development of up to 69 new dwellings, including affordable housing (including demolition of an existing dwelling), a new access, landscaping and other associated works'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future approval with the exception of access. Whilst a site layout was submitted¹, this and the submitted sectional drawings are of an indicative nature except insofar as they show details of access.
3. The application was refused for four reasons. The Council confirmed before the Inquiry that it did not intend to contest reasons for refusal 3) or 4), relating to drainage and archaeological matters. This followed the submission of further information by the Appellant.
4. The Council also did not contest reason for refusal 2) at the Inquiry, relating to the provision of public open space, affordable housing, and contributions towards school capacity and library services. Two signed planning obligations were submitted during the Inquiry covering these matters.

Main Issues

5. As the Council does not wish to contest reasons for refusal 2, 3 or 4, the matters in dispute between it and the Appellant relate solely to the first reason for refusal, concerning landscape and visual matters and the planning balance. Therefore, the main issues are:

¹ shown on drawing numbers BGL_100_rev_D_site_layout and BGL_100_rev_E_illustrative layout

- (a) The effect that the proposed development would have on the character and appearance of the site and the surrounding area, including the Special Landscape Area within which the site is located; and
- (b) The planning balance between the benefits of the proposal and any harm which may arise from it.

Reasons

Policy Context

6. The relevant development plan for the area is the Cotswold District Local Plan (CDLP), adopted in 2006. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires my decision to be in accordance with the CDLP unless material considerations indicate otherwise.
7. Although it was adopted in 2006, the CDLP was intended to cover the period 2001-2011. However, relevant Policies were 'saved' by the Secretary of State in 2009 and remain part of the adopted development plan.
8. The National Planning Policy Framework (the 'Framework') post-dates the CDLP and forms an important material consideration. Paragraph 215 of the Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.
9. The appeal site falls outside the Development Boundaries set by the CDLP. Policy 19 of the CDLP confirms that outside these Development Boundaries development which is appropriate to a rural area will be permitted provided, for example, it would not result in new build open market housing except that which would help to meet the social and economic needs of those living in rural areas. The supporting text to Policy 19 confirms that its purposes include constraining development in the peripheral areas around Cirencester².
10. Due to its location outside the Development Boundaries of Cirencester, the proposal would not accord with Policy 19. The Council has, however, accepted³ that Policy 19 is out of date. Because it forms part of a strategy which was designed to meet development needs up to 2011 and fails to reflect the need to plan positively for the currently evidenced development needs of the area, as required by the Framework, I agree that this is the case. This Policy therefore carries substantially reduced weight in accordance with paragraph 215 of the Framework.
11. The site is just within the North Cirencester Special Landscape Area (SLA) as identified in the CDLP. This SLA covers the stretch of the Churn Valley from Cirencester to Baunton, about 1 km to the north of the site, and an area of countryside wrapping around the northern edge of Cirencester to the east. The boundary of the SLA runs along the eastern, southern and a small part of the western edge of the site bounding the adjacent housing areas. Policy 8 of the CDLP guides the type of development which may be permitted within the SLAs and I set out my findings in relation to this later in my decision.

² See paragraph 3.3.17 of the CDLP

³ Proof of evidence, Ms Brommage, paragraph 5.7

12. The site is also about 0.5 km from the Cotswolds Area of Outstanding Natural Beauty (AONB), the nearest part of which is across the Lower Churn Valley to the west. Whilst part of the Cotswolds AONB can be seen from the site, and vice versa, the Council accepts, and I agree, that the site does not form part of the setting of the AONB⁴.
13. The Council's emerging new Local Plan for the period 2011-2031 proposes that the appeal site should remain outside the Development Boundaries for Cirencester and that it should be designated as Local Greenspace. These elements of the emerging Local Plan, whilst consistent with the aspirations of interested parties expressed at the Inquiry, have attracted objection from the Appellant⁵. At the time of the Inquiry the emerging Local Plan had not been independently considered at Examination in Public, and the Council has accepted⁶ that it carries limited weight. Given the current stage in its preparation and the existence of unresolved objections to it, this approach is in accordance with paragraph 216 of the Framework.

Landscape and Visual Impact

14. Paragraph 109 of the Framework places significant emphasis on the need to contribute to and enhance the local environment by protecting and enhancing '*...valued landscapes*'.
15. The site is situated on the side of the Churn Valley, next to the Bowling Green and Berry Hill Crescent housing estates, in an area which forms the transition between the town of Cirencester and the rolling, pastoral countryside of the Cotswolds.
16. The site is open pasture and generally slopes down towards the nearby bottom of the Churn valley. Its north western side forms a prominent steep slope which plays a significant role in defining the valley side at this point. The site can be seen in views from across the Churn valley to the west. Whilst many of the neighbouring dwellings in the Bowling Green area are two storeys in height, those which back onto the site along its upper, eastern boundary off Berry Hill Crescent are bungalows.
17. Part of the site displays a distinctive 'lumpy' appearance, resulting from past stone quarrying, from which I understand the affectionate local name 'The Humpty Dumps' is derived. At the Inquiry I heard that the quarrying extended across a significant area in the past, although physical evidence of it in the current landform is now most apparent in the southern part of the site.
18. The nearby countryside to the north and west of the site contains a patchwork of fields, hedges and small copses, and its northern boundary is marked by trees and hedging. A Public Right of Way runs through the site, and the Monarch's Way long distance footpath runs alongside its western boundary. Various other rights of way exist in the nearby countryside and 'desire lines' within the site provide evidence of informal recreational use by the local community. The site is in overall terms a prominent feature in the landscape.

⁴ Proof of Evidence, Mr Ryder, paragraph 5.68

⁵ Inquiry document 15

⁶ Statement of Common Ground, paragraph 5.12

19. Whilst the site falls within National Character Area 107 'Cotswolds' this covers a very large area. As a result, whilst NCA107 identifies general landscape management priorities, I have considered these in the context of the more fine grained assessments provided by other documents.
20. The appeal site is within, albeit on the edge of, the Lower Churn Valley Landscape Character Area (LCA) as defined by the 'Gloucestershire Landscape Character Assessment' of 2006 (GLCA)⁷. This LCA covers a very short section of the valley between Baunton and Cirencester⁸, and is one of only two small areas formed by the 'Dip Slope Lowland Valley' Landscape Character Type (LCT).
21. The key landscape characteristics of the 'Dip Slope Lowland Valley' LCT as identified in the GLCA include (in summary): an intimate, small scale, settled landscape with landform and woodlands which restrict long distance views; a predominance of open pastoral farmland between intermittent woodland and copses; generally restricted access to the valleys; areas which retain a remote rural character and are accessible only on foot; and stone built villages which occupy secluded locations in the valley bottoms and on valley sides. The sheltered, intimate, small scale wooded and pastoral pattern of the valleys contrasts with the more open, exposed tracts of the surrounding Dip Slope Lowland areas⁹.
22. The White Report of 2000¹⁰ states that the 'Lower Dip Slope Valleys' (as identified in that document) have attractive features where vegetation, stone and water provide a '*...delightful contrast to the adjacent dipslope*' and that the Churn Valley is very vulnerable to further suburbanisation.
23. As already stated, the appeal site also falls within, albeit on the edge of, the North Cirencester SLA. The 2001 White Report¹¹ identifies that the purpose of SLA designation was to provide a second tier of landscape protection below AONBs. The White Reports of 2000 and 2001 formed part of the evidence base for the subsequently adopted CDLP and, notwithstanding the points which I make about the appeal site itself below, I have no reason to doubt the accuracy with which these documents and the 2006 GLCA describe the general landscape of the area.
24. The North Cirencester SLA includes most of the Lower Churn Valley LCA and therefore shares many of its characteristics. In the vicinity of the appeal site it also has clear visual links with the old core of Cirencester. The valley itself provides an important degree of landscape and visual separation between Cirencester and Stratton. The 2001 White Report identified the North Cirencester SLA, in common with other SLAs, as being of high intrinsic landscape value, and that it exhibits many of the characteristics of the adjacent part of the AONB whilst also being affected by detractors including the housing on the edges of Cirencester¹². These points still apply.

⁷ 'Gloucestershire Landscape Character Assessment' LDA Design 2006, section 6.4

⁸ The boundaries of the Lower Churn Valley LCA are shown in Appendix A of the Land off Berry Hill Crescent Landscape and Visual Impact Assessment (LVIA), PBA 2016

⁹ Gloucestershire Landscape Character Assessment' LDA Design 2006, paragraph 6.4.2

¹⁰ 'Assessment of Landscapes Outside the Cotswold Area of Outstanding Natural Beauty' White Consultants 2000, paragraphs 2.41 and 2.43

¹¹ 'Local Countryside Designation Review: Special Landscapes' White Consultants 2001

¹² 'Local Countryside Designation Review: Special Landscapes' White Consultants 2001, paragraph 5.9

25. Having regard to the characteristics as described above and my site visits I agree that the parts of the North Cirencester SLA which I have seen provide a pleasant and distinctive rural landscape albeit one which, partly due to the prominence of the sloping valley sides of the Churn Valley, could easily be harmed by the enlargement of the existing built development on the north side of Cirencester. I consider the area to be a valued landscape which extends beyond being '*...mere countryside...*'¹³.
26. Furthermore, whilst the appeal site fell outside the boundaries of the North Cirencester SLA as recommended in the 2001 White Report, it was included in the SLA when the CDLP was adopted. The Local Plan Inspector's Report, whilst acknowledging that the site is less expansive in scale than the open countryside to the north and has a character which is affected by the adjacent housing areas, stated that it would be arbitrary to exclude the site from the wider SLA as it had the same underlying landscape¹⁴. I agree with this assessment, which still holds true, and consider that the site contributes positively to the character of the Churn Valley as identified in the Study of Land Surrounding Key Settlements in 2014¹⁵.
27. For these reasons, and due to its open pastoral nature, characteristic valley side slope, and locally valued unusual 'lumpy' landform across part of it, I consider that the appeal site itself, notwithstanding the existing development next to it, forms part of the valued landscape within the SLA. Furthermore, partly due to its open nature, prominence in some views including from some nearby rights of way, and convex profile, it is sensitive to intrusion by new development.
28. The precise extent of any landscape character and visual effects that would arise from the proposal would depend on the extent to which such effects would be mitigated at the detailed layout and design stage. For example, measures which may be considered include locating the proposed buildings as closely as possible to the existing neighbouring development (subject to satisfactory interface distances being provided between the proposed and existing dwellings), designing some or all of the new dwellings as bungalows to limit their impact on the skyline and on distant views, using local materials and vernacular design style, ensuring the retained open space is of an interesting landform, and enhancing tree coverage within and around the site. It would also be possible to ensure that the siting of new buildings would minimise any effects on the views of the Church of St John the Baptist which serve to link the site visually with the historic core of Cirencester.
29. Despite the scope for such mitigation, however, and the relatively small number of dwellings proposed for a site of this size (ca 4.8 hectares) the proposal would inevitably cause a substantial loss of the currently open landscape character of the site itself. It would also cause a loss of the primarily open context within which the adjacent countryside can be seen from the site.
30. Due to the elevated and sloping landform of the site, the proposal would also inevitably and substantially alter the balance between development

¹³ Stroud DC v SSCLG and another (2015) EWHC 488, paragraph 16

¹⁴ Cotswold District Local Plan – Inspector's Report paragraph 7.158

¹⁵ Inquiry document 3

and open pasture as perceived within the nearby part of the Churn Valley and thereby affect its current sense of seclusion. Although domestic architecture is a feature of the landscape character in this area, this does not justify what would be a prominent extension to the existing housing estates on the northern side of Cirencester.

31. Whilst the development would be of limited size compared to the valley and the SLA as a whole, would be softened to a degree by existing trees and hedging around the site, and be seen in the context of existing neighbouring development, it would cause suburban development to encroach into an area which is sensitive to harm from such encroachment.
32. Although the existing bungalows on Berry Hill Estate present rear elevations and rear garden boundaries towards the site and adjacent countryside, the design detailing of these and other existing neighbouring dwellings, and the physical inter-relationship between them is not sufficiently poor as to warrant the construction of a prominent and intrusive development between them and the adjacent countryside as is proposed.
33. For these reasons, I consider that the proposal would, even assuming it would be well designed and after any planting proposed has matured, cause substantial harm to the landscape character of the site and its immediate environs. Whilst its effects on the character of the Churn Valley LCA and the North Cirencester SLA as a whole would be more limited this would not detract from the more localised harm that would be caused.
34. Turning to the effects of the proposal when viewed from specific viewpoints and routes, the proposal would inevitably cause an urbanising effect upon views from the public footpath which crosses the site. These include the currently open views from the upper part of the site towards the Churn Valley, the traditional village of Stratton and the Cotswolds AONB. Whilst these views are already experienced in a partly urban context due to the presence of the housing areas next to the site, this effect would be increased significantly by the proposal and would not be fully addressed by siting the proposed dwellings so as to maintain views of the countryside between them.
35. Furthermore, users of the footpath walking across the site from its northern corner¹⁶ would be presented with development in the foreground at a much earlier stage than at present, which would extend over the skyline for at least part of this route. Although the extent of this effect would depend upon the siting, design and height of the proposed dwellings, the convex profile of the site and number of dwellings proposed means that there would inevitably be a considerable urbanising effect on these views which are currently characterised by the open grassed hillside which defines the valley side at this point.
36. Even from the central area of the site¹⁷, from where the existing housing has a fairly substantial influence on the views, much of the existing openness would be lost. The distant views of the Church of St John the Baptist, if and where still available, would be likely to be seen in the context of a more developed foreground.

¹⁶ See photographs 01,02 and 03 in Inquiry Document 5

¹⁷ see viewpoint 1B in the LVIA

37. Users of the stretch of the Monarch's Way alongside the site¹⁸ are likely to see at least part of the proposed development extending down the slope of the site, and with some new roofs on or close to the skyline. For northbound users this would delay the sense of arrival in the countryside which is currently experienced as they pass the houses at Rosehill Court¹⁹.
38. In views from the footpath which runs across the Churn Valley from Stratton, the development would, again to an extent which depends on detailed design matters, extend the area of the current housing at Rosehill Court across the brow of the currently green and open hillside within the site²⁰. From the footpath which runs down the valley to the south of this²¹ the development would be likely to be seen in front of the existing bungalows off Berry Hill Crescent. Although these views are framed and part screened by vegetation, particularly in summer, and have some existing built development in them, the proposal would erode their still partly tranquil rural nature.
39. Whilst the proposal could be designed to avoid being a prominent feature in views from the Monarch's Way to the north of the site²² and would be seen in other more distant views²³ in the context of the background provided by the adjacent urban area, these points do not mitigate the harm that I have identified earlier. The fact that some of the viewpoints discussed at the Inquiry are within the site does not reduce the impact of the proposal particularly given the existence of the right of way in this location.
40. Taking account of the factors set out above, I consider that the proposals would cause substantial harm both in landscape and visual terms. Whilst the harm to the Lower Churn Valley LCA and North Cirencester SLA would necessarily reflect the size of the site in relation to these areas as a whole, there would be unavoidable and substantial harm within the site itself and its immediate surroundings including the adjacent stretch of the Monarch's Way.
41. Policy 8 of the CDLP establishes that within the SLAs development that meets the economic and social needs of communities will be permitted provided it does not unacceptably harm the area's landscape character or appearance. Paragraph 2.3.20 of the CDLP identifies the purpose of SLA designation as being '...to provide protection to locally significant landscapes that, although not nationally designated, are of comparable quality to AONBs...'. Paragraph 2.3.21 explains that designation identifies those landscapes that are of particularly high intrinsic value and which require protection for their own sake. The intended level of protection for the SLAs is therefore very high. Furthermore, where it applies to sites such as the appeal site which form part of a 'valued landscape' the objectives of Policy 8 as explained in its supporting text are fully in accordance with paragraph 109 of the Framework and must accordingly be given due weight.

¹⁸ See Mr Ryder's Proof of evidence, appendix B panorama 4 and 5

¹⁹ See viewpoint 2 in the LVIA

²⁰ See viewpoint 4 in the LVIA

²¹ See viewpoint 3 in the LVIA

²² See viewpoint 6 in the LVIA

²³ See viewpoints 5 and 7 in the LVIA

42. The question of how to determine whether harm is unacceptable for the purposes of Policy 8 is clearly important. I have considered the argument that unacceptability can only be considered in the context of the overall planning merits of the scheme. However, policies must be read in a straightforward manner. The essential purpose of Policy 8 is to protect the landscape character and appearance of the SLA, and it seems to me that this is what must be considered in deciding whether the particular effects of a development would breach the policy. Of course, the overall merits of the scheme must be considered before reaching a final decision on it. However, that principal applies in every planning case, and schemes within the SLA are no different in that regard.
43. Due to the substantial harm that it would cause to the landscape character and appearance of the appeal site and surroundings, and having regard to the purposes of Policy 8 as explained above, the proposed development would conflict with this Policy and with paragraph 109 of the Framework.
44. In order to meet housing needs, the Council has accepted that development of greenfield land is required. Whilst the development of greenfield sites for housing, irrespective of their location, can in many cases result in landscape or visual harm, it cannot be assumed that proposals on other sites would necessarily involve harm which equates to that which would be caused by the appeal proposal, either in terms of its magnitude or effect on a valued landscape. This is particularly so given the elevated and prominent position of the appeal site. Given the policy protection given by Policy 8, the Appellant's proposal to maintain part of the site as undeveloped land in perpetuity does not provide a substantive landscape or visual benefit.
45. Whilst Policy 42 'Cotswold Design Code' of the CDLP refers to the need for new development to be environmentally sustainable and to setting, this is in the context of a Policy which provides guidance on design matters, which are not subject to consideration as part of the appeal proposal. Whilst any outline approval would set parameters within which a detailed scheme would need to be designed it is not clear to me that the current outline proposal breaches this Policy.

Planning Obligations

46. During the Inquiry two planning obligations²⁴ were executed, by the Appellant and Cotswold District Council (the 'District Obligation') and by the Appellant and Gloucestershire County Council (the 'County Obligation'), to address the matters in the Council's second reason for refusal.
47. The District Obligation requires in summary that 50% of the proposed dwelling units shall be affordable, with a mix of affordable rented and shared ownership units, and that an area of public open space be identified, agreed and maintained in perpetuity for this purpose. The County Obligation requires the payment of index linked sums of £213,193, to be used towards the expansion of Powell's Church of England Primary School, and £13,524 to be used towards improving services in Cirencester Library.

²⁴ Inquiry documents 19 and 20

48. I am satisfied from the evidence before me²⁵ that the District Obligation and the County Obligation are required to meet policy requirements in the CDLP and that both satisfy the requirements of Regulations 122(2) and 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended).

Other Considerations

49. The Appellant has stated that the development would bring a range of benefits including (in summary): increased choice and competition in the housing market and a contribution to the overall supply of housing; the provision of affordable housing; diversion of development pressure from the Cotswolds AONB; the location of the development near to the District's main service centre; economic benefits; removal of contamination; ecological enhancements; provision of publicly accessible open space; provision of a new Puffin crossing on Abbey Way; and a financial contribution to New Homes Bonus.
50. Paragraph 47 of the Framework establishes that local planning authorities should boost significantly the supply of housing. The proposal would, taking account of the loss of one dwelling to form the site access, contribute up to 68 net dwellings to the overall supply of housing in Cotswold District, and would therefore make a notable contribution in this respect.
51. In the context of the requirements of paragraph 47, the Council is currently preparing a new Local Plan which is intended to meet the full, objectively assessed needs for market and affordable housing up to 2031. The emerging Local Plan proposals include substantial sites elsewhere in the area including most notably that at Chesterton, to the south of Cirencester, which has an estimated capacity of 2,350 dwellings²⁶.
52. The Appellant has also accepted that the Council can demonstrate a five year housing land supply and the Council considers, on the basis of its latest assessment²⁷, that its supply is sufficient to cover a period of 7.54 years. Inspectors in appeal decisions relating to sites at Mickleton and Willersey²⁸ estimated that a supply totalling nearly 9 years and 7.63 years respectively existed, albeit on the basis of there being a slightly lower annual requirement of 380 dwelling completions rather than the figure of 420 dwellings per annum now accepted by the Council²⁹. The Council's view is that, although the appeal proposal would be deliverable in the next 5 years, there is no need for the proposal in this respect.
53. The 5 year supply requirement in paragraph 47 of the Framework includes a 5% or 20% buffer to ensure choice and competition in the market for land. The Council considers that by having a supply which exceeds the 5% buffer it is meeting its policy obligation to ensure choice and competition under the Framework.

²⁵ Inquiry documents 9,10, and 11

²⁶ Evidence of Councillor Harris

²⁷ Inquiry document 4

²⁸ Appendices 4 and 5, Council statement of Case

²⁹ Inquiry document 4, page 5

54. There is no indication in the Framework that the presence of a 5 year supply (including an applicable buffer) would preclude further housing which would be available within this period from being regarded as beneficial.
55. As stated by the Appellant, the Council's assessments of Objectively Assessed Needs (OAN) and its evidence of site supply, which underpin its 5 year supply calculations, have yet to be subject to independent examination in the Local Plan process. Similarly the proposed strategy and site allocations which will shape delivery particularly in years 6-10 and indeed up to 2031 have yet to be made subject to scrutiny through this process. The Council has also accepted that there will be a continuing need in the meantime to release sites outside the Development Boundaries. However, these points must be seen in the context of the agreed position that there is currently a 5 year land supply.
56. As confirmed by the planning obligation which was executed during the Inquiry, 50% of the 69 proposed dwellings would be affordable. The Council has identified that over the remainder of the Plan period of its emerging Local Plan, there is a total need for 144 affordable homes per annum in the District³⁰. Whilst the Council states that it is not reliant on the delivery of affordable homes in the appeal site to meet this need³¹, it accepts that it is important for it '*...not to be complacent...*' with regard to the delivery of affordable housing³². I agree that this is so, particularly given recent changes to national Planning Practice Guidance³³ which now precludes contributions being sought towards affordable housing on small sites, and the high cost of housing compared to income levels referred to in the Mickleton appeal decision (APP/R3650/A/14/2223115).
57. The Council accepts the importance of the contribution that the appeal proposal would make to affordable housing. Having regard to the points set out above and the other evidence before me, including the other appeal decisions referred to by the Council, I agree that the provision of the affordable housing would add notably to the benefit to be provided by the new housing.
58. The Appellant set out an argument³⁴ that the proposal would benefit Cotswold District by diverting development pressure from the Cotswold AONB, particularly given the existence of other constraints on housing supply in the area such as flooding, heritage and agricultural land. Evidence submitted at the Inquiry³⁵ suggests that about 80% of the District is AONB and a further 6% included within SLAs and 6% within the Cotswold Water Park. The desirability of developing land outside the AONB where possible is also recognised in the Willersey appeal decision referred to by the parties (APP/F1610/W/15/3121622).
59. Paragraph 115 of the Framework establishes that great weight should be given to conserving landscape and scenic beauty in National Parks, the

³⁰ Ms Brommage Proof of Evidence para 7.24, which confirms that this figure is from the 2016 Strategic Housing Market Assessment

³¹ Ms Brommage Proof of evidence, paragraph 7.24

³² Ms Brommage Proof of Evidence para 7.25

³³ Paragraph: 020 Reference ID: 23b-020-20160519

³⁴ See for example the Appellant's Statement of Case paragraph 5.22

³⁵ Inquiry document 12

Broads and AONBs, which have the highest status of protection in relation to landscape and scenic beauty. Paragraph 116 confirms that planning permission should be refused for major developments in these designated areas except in exceptional circumstances and that consideration of such applications should include an assessment of the need for the development, and the scope for developing elsewhere outside the designated area.

60. The granting of permission for the appeal proposal would, by adding to the supply of housing sites, be likely to lead to some reduction in the pressure to develop elsewhere. However, given its limited scale in relation to housing needs in the area this diversionary effect would be very limited in scale, and it is unlikely to solely apply in relation to the AONB. In addition, whilst it may be beneficial in general terms to develop outside the AONB where possible, this does not in itself justify allowing development which is also inherently harmful. For these reasons, I give only limited weight to this potential benefit of the appeal proposal.
61. As stated by the Appellant, the appeal site is close to Cirencester town centre, which is the main service centre in the District, providing a range of shopping, community and other local services. This means that the site is likely to be more accessible to these services, by a choice of walking, cycling and public transport as well as private car, than many other potential locations for development in the District would be. However, this factor is also likely to influence the location of sites more generally including those being brought forward through the Local Plan process. This benefit is not likely to be unique to the appeal site, and I accordingly give it very limited weight.
62. The Appellant claims that the appeal proposal would generate 104 direct jobs during the construction period, based on a ratio of 1.5 jobs per dwelling and that there would be a further 1.5 jobs per dwelling generated in the supply chain for materials and arising from the spending of those who are directly employed. Whilst I have no evidence before me to refute these figures, and the Framework encourages the creation of a strong, responsive and competitive economy, the jobs created would be for a temporary period over the duration of the construction works. I accordingly give this benefit limited weight.
63. The proposal would also result in there being additional spending power in the local area, associated with the occupation of the new dwellings. However, I have no substantive evidence before me to counter the Council's estimate that the proposal would result in just a 0.82% increase in Cirencester's population. The contribution that the proposed development would make to the viability of local services and the amount of spending power in the local economy compared to that which would exist without it is therefore likely to be limited and I give limited weight to this benefit.
64. The Appellant has stated that the proposal would bring benefits by securing the remediation of contaminated land within the site. The Appellant's Initial Geotechnical and Phase II Contamination Report³⁶ states that one trial pit (TP10) was terminated at shallow depth because suspected asbestos roofing tiles were encountered. Local residents have also stated

³⁶ Initial Geotechnical and Phase II Contamination Report, Integrale Limited 2015

that there may be asbestos within the site, and that local people including children use the site for recreational purposes. This enhances the possibility that, if there is contamination present and this remains untreated, persons could be harmed by contaminated material.

65. If the proposed development were permitted it would be possible to require by condition that any asbestos or other contamination which may be present would be investigated further and that any necessary remediation works would be undertaken. However, the evidence before me does not demonstrate conclusively that there is contamination present on site which, if left in its current state, would pose a serious risk to public health. For this reason, I give the potential for the proposal to secure necessary remediation limited weight.
66. The Appellant proposes, as part of the scheme, to implement a 10 year landscape and ecological management plan³⁷ based on the recommendations set out in the submitted Ecological Assessment and Bat Survey. This indicates that the existing improved grassland within the site is in general terms species poor. Following the implementation of the development the areas of retained grassland could be managed in a way which would encourage a more diverse flora and fauna to be present on the site. This could include the provision for example of enhanced foraging habitat for birds, mammals and reptiles. Whilst these benefits would be material there is limited evidence to suggest that a major net enhancement in the quality and diversity of habitats present would be achieved and I therefore give this benefit limited weight.
67. Under one of the planning obligations executed at the Inquiry, if permission is granted part of the site would be made available in perpetuity for use as public open space. However, whilst the current community use of the site appears to be on an unsecured basis, a proportion of the proposed open space would be needed in any event to meet pressures arising from the development. I therefore give this benefit limited weight.
68. The Appellant has agreed to provide a new traffic light controlled Puffin crossing on Abbey Way, at the location of the existing uncontrolled crossing. Whilst this could benefit the safety and convenience of existing residents as well as future occupiers of the proposed development, there is limited evidence before me to identify the degree to which its provision would either reduce waiting times or improve safety at this location. I therefore give this benefit limited weight.
69. As stated by the Appellant, the proposal would be likely to result in additional New Homes Bonus payments being provided by the Government to the Council. The Planning Practice Guidance³⁸ establishes that whether or not a 'local financial consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It also states that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority.

³⁷ Condition 25 of the list of suggested conditions in the Statement of Common Ground

³⁸ Paragraph: 011 Reference ID: 21b-20140612

70. I have not been made aware of any mechanism by which any additional award of New Homes Bonus that would arise from the development would help to make the appeal proposal acceptable in planning terms, or convincing argument to suggest that it would do so. I therefore give this claimed benefit no weight.
71. I address below other matters which interested parties have raised in writing or at the Inquiry.
72. I acknowledge that the junction of Berry Hill Crescent and The Whiteway has restricted visibility to the north. However, drivers would have a choice of alternative routes of egress which would enable them to avoid using this junction. The County Highway Authority³⁹, having assessed the effects of the proposal on the safety and capacity of this and other junctions in the area, parking provision for dwellings off Berry Hill Crescent, pedestrian circulation and other highway matters concluded that the proposal would not cause severe impacts in these respects. There is no substantive evidence before me to come to a different conclusion.
73. Whilst local residents appear to have used the site for recreation for many years, I have no substantive evidence before me to dispute the Appellant's view that the existing community use of the site is not on a secure and formalised basis and could be prevented even if the proposed development does not proceed.
74. There is also no substantive evidence before me to support the concerns expressed by some interested parties about the effects of the development in relation to flooding and drainage, or that it would cause unacceptable risks in relation to any contamination which could not be addressed by condition on a planning permission. The site is also not subject to any formal designation relating to ecological interest and I am not aware of any substantive evidence to suggest that the proposal would cause harm to the habitat of any protected species which could not be appropriately mitigated. There is also no firm evidence that the proposal would, in conjunction with other developments in the area, cause unacceptable pressure on community services or infrastructure provision in the area.

The planning balance

75. I have found that the proposed development would be prominently located next to the edge of, but within, a valued landscape. I have also found that, even if well designed, it would cause substantial harm to the landscape character and visual appearance of the site and the nearby area within the valued landscape. Due to this harm, the proposal would conflict with Policy 8 of the CDLP and paragraph 109 of the Framework. Given the statutory duty to determine the appeal in accordance with the CDLP unless material considerations indicate otherwise, and the high degree of consistency between Policy 8 and the aim of protecting and enhancing valued landscapes set out in paragraph 109 of the Framework, the landscape and visual harm that would be caused carries substantial weight.
76. Although I have found that the other points raised against the proposed development by interested parties do not add substantially to the harm

³⁹ Letter from Gloucestershire County Council, 22 October 2015

that would be caused by the proposed development, this does not detract from the weight to be attached to the landscape and visual harm.

77. Set against the identified harm, I have found that the appeal proposal, by delivering new market and affordable housing, would be consistent with the Government's aim of boosting the supply of all types of housing and delivering a wide choice of homes. However, whilst this constitutes a notable benefit of the proposal, particularly in relation to affordable housing, it must be viewed in the context of the existence of a 5 year land supply and the likelihood that other sites within the supply will help to meet the needs for affordable and market housing.
78. I have also found that a number of other points weigh in favour of the proposal as set out in the preceding sections. However, these are all of limited or very limited weight.
79. The Council has agreed that, as Policy 19 of the CDLP is out of date paragraph 14 of the Framework requires that planning permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Whilst participants at the Inquiry were not able to draw my attention to cases where an Inspector had found a local landscape designation to be sufficient to outweigh the paragraph 14 presumption and mentioned others where harm had been accepted in an AONB to help meet housing needs, it is a fundamental principle of the planning system that each case is determined on its merits having regard to the specific balance of harm and benefits which relate to it. I have therefore done so in this case, having regard to the aim, expressed throughout the Framework, of securing sustainable development.
80. Due to the substantial harm that I have found to a valued landscape, which paragraph 109 of the Framework advises should be protected and enhanced, and its lack of substantial environmental benefits the proposal would fall notably short of fulfilling the environmental role of sustainable development referred to in paragraph 7 of the Framework. Whilst the proposal would bring economic and social benefits, primarily in relation to housing I do not regard the proposed development in overall terms to constitute sustainable development.
81. Given the conflict that it would cause with paragraph 109 of the Framework, including the requirement that it sets to protect and enhance valued landscapes, I conclude that the adverse effects of granting permission would in this case significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework as a whole.

Conclusions

82. I have found that the proposal would cause substantial harm to the landscape character and appearance of the site and its environs. Whilst the proposal would bring benefits in terms of market and affordable housing delivery and other matters these are, applying the approach to decision making set out in the Framework, collectively insufficient to justify the granting of planning permission contrary to the provisions of the development plan.

83. I therefore dismiss the appeal.

Jonathan Clarke

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr George Mackenzie of Counsel
Instructed by Susan Gargett, Principal Solicitor,
Cotswold District Council

He called
Stuart Ryder BA(Hons) CMLI Director, Ryder Landscape Consultants Ltd
Katherine Brommage Senior Case Officer, Cotswold District Council
MPLAN MRTPI

FOR THE APPELLANT:

Mr Anthony Crean QC Instructed by Hunter Page
He called
Nigel Evers DipLA CMLI Director of Landscape, Peter Brett Associates LLP
Guy Wakefield BA Director, Hunter Page Planning
(Hons) MRTPI

INTERESTED PERSONS:

Cllr Mark Harris Cirencester Town Council and Ward Councillor
Richard Gunner North East Cirencester Amenity Society (NECAS)
Philip Cook Local resident

DOCUMENTS HANDED IN DURING THE INQUIRY

Documents submitted by the Council

- 1 Extracts from Cotswold District Local Plan, 2001-2011
- 2 Representations received on planning application 15/03539/OUT
- 3 'Study of Land Surrounding Key Settlements', White Consultants 2014
- 4 Report on 'Five Year Housing Land Supply May 2016', Cotswold District Council 2016
- 5 Panoramic photographs and map of viewpoints
- 6 E-mails - Thames Water and Cotswold District Council, 14 September 2015 to 15 July 2016
- 7 Policies Map - Cotswold District Local Plan Regulation 19 Draft
- 8 E-mails - Hunter Page Planning and Cotswold District Council (12 May to 27 May 2016)
- 9 Planning Obligations - CIL Compliance Statement for Affordable Housing
- 10 Planning Obligations - CIL Compliance Statement for Public Open Space
- 11 Planning Obligations - CIL Compliance Statement for Community

- Infrastructure on behalf of Gloucestershire County Council
- 12 Extracts from Cotswold District Local Plan 2011-2031: Submission Draft June 2016
- 13 Policies Map – Cotswold District Local Plan Regulation 19 Draft (annotated with ‘undesigned landscape’)

Documents submitted by the Appellant

- 14 Appeal decision APP/X0360/2209286 – Land west of Beech Hill Wood, Berkshire
- 15 Representations by Piper Ventures Ltd on Cotswold District Local Plan 2011-2031, Regulation 19 Draft
- 16 Planning agreement – Piper Ventures Ltd and Cotswold District Council (draft and final executed versions)
- 17 Planning agreement – Piper Ventures Ltd and Gloucestershire County Council (draft and final executed versions)
- 18 Appeal decision APP/Y3940/A/14/2223354 and draft conditions – Land at the Forty, Cricklade

Joint Documents

- 19 Affordable Housing Supplementary Planning Document, 2007
- 20 Map of viewpoints for Inspector’s site visit

Documents submitted by Interested Parties

- 21 Photographs of appeal site and surroundings
- 22 E-mail from Cirencester Town Council to Cotswold District Council 27 July 2016

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