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## Appeal Decision

Site visit made on 27 June 2017

**by Richard S Jones BA (Hons) BTP MRTPI**

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

**Decision date: 20 July 2017**

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**Appeal Ref: APP/F1610/W/17/3171444**

**The Quarry and adjacent Overdale Equestrian Centre, Nether Westcote, Chipping Norton OX7 6SD**

- 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 Quarry House Investments against the decision of Cotswold District Council.
  - The application Ref 16/01562/OUT, dated 15 April 2016, was refused by notice dated 13 October 2016.
  - The development proposed is the demolition of stables and shop buildings and erection of 3 affordable and 7 market dwellings and associated works (Outline application).
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The application was made in outline with matters relating to appearance, landscaping and layout reserved for future consideration. I have determined the appeal on the same basis and have treated the plans showing the elevational treatment and layout as indicative only.

### Main Issue

3. The main issues are:
  - Whether the proposal would represent a sustainable location for new housing development;
  - the effect of the proposal on the character and appearance of the site and its surroundings having particular regard to its location within the Cotswolds Area of Outstanding Natural Beauty (AONB); and
  - whether the proposal amounts to major development within the AONB and if so, whether exceptional circumstances in the public interest exist.

### Reasons

#### *Planning policy*

4. The appeal relates to land used for equestrian purposes, located on the western edge of the village of Nether Westcote within the Cotswolds AONB. The site and the village are located outside a Development Boundary as designated in the Cotswold District Local Plan (LP). LP Policy 19 covers
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development outside development boundaries. Although the Council's position is that it can demonstrate a robust five-year supply of deliverable housing sites, it acknowledges that LP Policy 19 is out-of-date in the context of the National Planning Policy Framework (the Framework). It is time-expired and restricts the supply of housing rather than boosting it in a positive manner. As such, I give limited weight to it.

5. LP Policy 42 relates to design and is broadly consistent with the Framework. I therefore give significant weight to it.
6. The emerging Cotswold District Local Plan 2011-2031 (eLP) does not identify Nether Westcote as a settlement that has sufficient facilities and services to accommodate new market residential development. Policy DS3 of the eLP supports small-scale development outside development boundaries, subject to specified criteria. However, having regard to paragraph 216 of the Framework and its stage of preparation, this plan has limited weight.

#### *Sustainable location*

7. Paragraph 55 of the Framework advises that, to promote sustainable development, rural housing should be located where it would enhance or maintain the vitality of rural communities and avoid new isolated homes unless there are special circumstances.
8. Whilst the site is not isolated in the sense that it is located close to an established group of dwellings, the village itself, other than a public house/restaurant and equestrian facilities, has very little in the way of local services and facilities to be supported by the occupiers of the proposed dwellings. It has no shop to cater for even basic day to day needs and the Council say that the nearest is a small convenience store in Upper Rissington, approximately 3.5km away. Whilst I acknowledge that this distance is not verified by the appellant, it is nevertheless material that it is reached through a combination of narrow rural lanes and the A424, with little or no footpaths and lighting. The route would not, therefore, be attractive for pedestrians and would be unlikely to encourage cycling, particularly during winter.
9. In any case, services and facilities at Upper Rissington are also limited. Therefore, further travelling distances would be required to access a greater range. In this regard, both parties refer to Stow-on-the-Wold and Bourton-on-the-Water, which are approximately 8km away. However, the Council has evidenced that Nether Westcote has a very limited bus service, restricted to one service per day only on a Wednesday and Thursday.
10. I have noted the appellant's reference to the appeal decision at Bell Lane<sup>1</sup> and acknowledge that the Framework does not expressly preclude every development that might result in some increase in car-borne commuting. Nevertheless, as highlighted by that Inspector, by "*taking an overview of guidance in the Framework it is readily apparent that concentrating most new housing development in those towns and villages with most services and facilities is an effective means of achieving the aims of maximising use of sustainable transport modes and minimising both journey lengths and the need to travel.*"

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<sup>1</sup> Appeal Ref: APP/F1610/A/14/2228775

11. Moreover, it is clear that that appeal related to a proposal in a built up area of a village which has a shop/post office; public house; church; village hall; and some employment opportunities and on this basis found not to be highly unsustainable. This materially differs to Nether Westcote, which has very little in the way of services and facilities. I do not therefore agree that the Inspector's conclusions are directly applicable to that currently before me.
12. Taking account of all the above matters, I consider that the appeal site is poorly located in terms of access to services and facilities. The linkage between the site and basic service provision is poor and occupiers of the proposed dwellings would in practice be very reliant on a private car. Consequently, the proposal would not contribute to sustainable travel patterns. The proposed dwellings would in this sense be quite isolated. Whilst this is not necessarily fatal, it does weigh against the proposal in the planning balance.
13. Moreover, I have no evidence to demonstrate that the proposal would enhance or maintain the viability of other rural communities, for example by supporting the services in a village nearby, as envisaged by paragraph 55 of the Framework. The appellant's Transport and Access Statement makes reference to there being aspirations to open a community shop in Bledington, however, I have no evidence that this is likely to come to fruition.
14. I therefore conclude that the appeal site would represent an unsustainable location for new housing development, contrary to paragraphs 17, 35 and 55 of the Framework, which, in addition to the above and amongst other matters, support the transition to a low carbon future and state that development should be located to give priority to pedestrian and cycle movements and have access to high quality public transport facilities. The proposal would also conflict with the third criteria of LP Policy 19 in that it would lead to an increase in car-borne commuting, and with the second and third criteria of eLP Policy DS3 as it would not enhance sustainable patterns of development or demonstrably support or enhance the vitality of the local community and the continued availability of services and facilities locally. However, for the reasons I have explained, I have applied only limited weight to the conflict with these LP and eLP policies.

*Character and appearance*

15. The site is presently occupied by an equestrian shop, 'L' shaped stable block with storage, stable yard, caravan, manege and grassed paddock. An existing bungalow is also located at a lower level in the north east corner of the site.
16. I acknowledge that matters relating to appearance, landscaping and layout are reserved for future consideration. Nevertheless, scale is a matter currently before me and the scheme proposes three bungalows (Plots 1 – 3), one detached house (Plot 4), four semi-detached houses (Plots 5 – 8) and two semi-detached bungalows (Plots 9 & 10).
17. Evidently part of the site comprises previously developed land. However, the main above ground built development is confined to the eastern part of the site. The buildings here are rural in appearance, set back from the road and generally reflective of a countryside location. The western part of the site is either laid to grass or is ground level manege. The existing development therefore has limited influence on the character and appearance of the village.

- The Overdale Equestrian Centre is set further behind an earth bund and has even lesser effect.
18. From the lane the unmanaged hedge across the appeal site contrasts with the manicured hedges to the front of the bungalows on the opposite side of lane and presents a distinctly rural character. In doing so the site as existing creates a visual and physical transition from the edge of the village to the undeveloped countryside beyond, rather than appearing as contained within the settlement area.
  19. Whilst the existing hedgerow and trees along the northern boundary of the site would provide a relatively high degree of screening from the road, this would be substantially reduced during the winter months when views into the site would be more easily achieved through the existing vegetation. Moreover, the appellant's Arboricultural Report highlights that the quality of the individual trees and the hedge as a whole is relatively poor and requires management in order to maintain continuity. It recommends that the hedge should be managed through a mixture of cutting and coppicing which in turn is likely to make the development more visible.
  20. The survey plan also shows that the main part of the site is elevated above road level by approximately 2m. The site itself also slopes from the front to the back. Consequently, in approaching views from the east, the development would be visible above the existing bungalow known as the Quarry, and the hedge surrounding it. This would materially differ to the view of the existing bungalows to the north of the lane where generally only the tops of the buildings are visible set back from and slightly below road level. The proposal would therefore have a discernible effect to pedestrians and from passing vehicles and on the character and appearance of this part of the village.
  21. Whilst I have noted the intention to follow the Cotswold Design Code, the indicative layout and elevations do not demonstrate that the proposed quantum of development can be achieved on this site without introducing a suburban estate style development. The indicative layout shows two rows of residential development with the bungalows on plots 1-3 turning their back to the road in contrast with the Quarry bungalow. A second tier of development behind this main frontage would also relate poorly to the existing pattern of development in the village, and the local distinctiveness of this part of the AONB, which in the main has an organic character with dwellings fronting onto the roads.
  22. I accept that views of the scheme in its entirety would be limited. Nevertheless, given my findings on the visual influence of the existing buildings, I do not agree that their removal would justify a scheme with a much greater built coverage and urbanising influence which would visually encroach into the AONB countryside from this edge of village location, thereby eroding its existing rural character. The proposal would not therefore improve the appearance of the AONB in this location as suggested and would be substantially more harmful than the existing. Moreover, just because the existing residential development of the village falls within the AONB, this does not in itself make additional residential development acceptable in terms of its effect on the character and appearance of the area.
  23. I conclude therefore that the proposal would result in significant harm to the character and appearance of the site and surroundings within the Cotswolds AONB, contrary to LP Policy 42 and paragraphs 17, 109 and 115 of the

Framework. These state, amongst other matters, that great weight should be given to conserving landscape and scenic beauty in AONB's, which have the highest status of protection in respect of the same.

24. The proposal would also be contrary to the second criteria of LP Policy 19 in that it would cause significant harm to existing patterns of development, and to the third and fourth criteria of eLP Policy DS3 in that it is not of proportionate scale and does not complement the form and character of the settlement. However, for the avoidance of doubt I have applied limited weight to these policies and this conflict.

#### *Major development*

25. The Framework states in paragraph 116 that planning permission should be refused for major development in designated areas such as AONB's, except in exceptional circumstances and when it can be demonstrated they are in the public interest. The Framework does not provide a definition of what constitutes a major development but the Planning Practice Guidance indicates<sup>2</sup> that this will be matter for the decision maker, taking into account the proposal in question and local context.
26. The local context here is a village of approximately 35 dwellings, according to the Council. This figure is not disputed by the appellant. A proposal for ten houses would therefore significantly increase the size of the settlement. I have also found that the proposal would result in significant harm to the character and appearance of the AONB and for the reasons I have explained it would extend the perception of the settlement beyond that of the existing. However, the proposal will not be readily viewed in its entirety as a development of ten dwellings, other than from within the site. Moreover, part of the site amounts to previously developed land and presently accommodates a number of buildings.
27. On balance, I do not therefore find that the proposal would amount to major development in the AONB in the context of paragraph 116 of the Framework.

#### **Planning balance**

28. Paragraph 14 explains that at the heart of the Framework is a presumption in favour of sustainable development. The Council's position is that LP Policy 19 is out-of-date in the context of the Framework and as such the tests set out in paragraph 14 are applicable. However, the second strand of the fourth bullet point of paragraph 14 makes clear that the tilted planning balance should not apply if specific policies in the framework indicate development should be restricted. Footnote 9 provides a non-exhaustive list of such policies and includes those relating to AONB's, with which I have found conflict.
29. Paragraph 7 of the Framework sets out the economic, social and environmental dimensions of sustainable development. Dealing firstly with the social dimension, the proposal for three affordable and seven market dwellings would increase housing supply and the combination of houses and bungalows would increase housing choice in accordance with paragraphs 47 and 50 of the Framework.

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<sup>2</sup> Paragraph: 005 Reference ID: 8-005-20140306

30. The Council's position is that it can demonstrate a five-year supply of deliverable housing sites and this is not disputed by the appellant. Nevertheless, as stated by my colleague in an appeal decision<sup>3</sup> referred to by the appellant, irrespective of whether the five-year housing land supply figure is met or not, the Framework does not suggest that this has been regarded as a ceiling or upper limit on permissions. The Council recognise it will need to continue to release land for housing in the AONB to meet future housing requirements but as a material consideration this carries less weight than if the Council were unable to demonstrate a five-year supply of deliverable housing sites. Moreover, the benefits are further limited by the modest number of dwellings proposed and my conclusion that this is not a sustainable location for new housing development.
31. I note the appellant's case law<sup>4</sup> reference and that the Council's Housing Officer has confirmed that the provision of three affordable housing units would fully meet the identified needs within the parish and as such would directly benefit the local community. This would be secured by the Section 106 Agreement which has been provided to me and for which I am satisfied would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework. This therefore is a significant benefit in favour of the appeal proposal and one which may not otherwise be realised. In this regard the proposal would help support the vitality of the local community, which, taken in isolation, would comply with the third criteria of eLP Policy DS3. Moreover, paragraph 54 of the Framework states that local planning authorities should consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs.
32. In terms of the economic dimension, the proposal would provide employment and benefits to the local economy during the construction period. However, this temporary benefit is significantly tempered by the loss of an existing equestrian business with accompanying shop.
33. In terms of the environmental dimension, I acknowledge that one of the core principles of the Framework is to encourage the effective use of land that has previously been developed. However, the proviso is that it is not of high environmental value. In this regard the appeal site is located within the Cotswolds AONB which has the highest status of protection in relation to landscape and scenic beauty. Moreover, not all of the site amounts to previously developed land, thereby further reducing the weight I have given to this aspect. I have noted the appellant's reference to the Consultation Changes to the National Planning Policy Framework, December 2015, in terms of brownfield land, however, this has limited weight.
34. Whilst I have not found that the proposal amounts to major development in the AONB, I have found that it would result in significant harm to the AONB. In this regard the Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable. This harm to the environment outweighs the benefits set above and, as such, the proposal does not represent sustainable development.

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<sup>3</sup> Appeal Ref: APP/D0840/A/13/2209757

<sup>4</sup> Old Hunstanton Parish Council v Secretary of State for Communities and Local Government [2015] EWHC 1958 (Admin)

**Conclusion**

35. For the reasons explained, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

*Richard S Jones*

INSPECTOR

Richborough Estates