
Appeal Decision

Hearing Held on 11 July 2017

Site visit made on 11 July 2017

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

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

Decision date: 2nd November 2017

Appeal Ref: APP/F1610/W/16/3165805

Land at The Leasows, Chipping Campden GL55 6EB

- 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 WR Haines (Leasow Farms) Ltd against the decision of Cotswold District Council.
 - The application Ref 16/01256/OUT, dated 21 March 2016, was refused by notice dated 21 June 2016.
 - The development proposed is a residential development of 30 dwellings, public open space, drainage and new access, with matters of layout, appearance, scale and landscaping reserved for future consideration.
-

Decision

1. The appeal is allowed and planning permission is granted for a residential development of 30 dwellings, public open space, drainage and new access, with matters of layout, appearance, scale and landscaping reserved for future consideration on land at The Leasows, Chipping Campden GL55 6EB in accordance with the terms of the application, Ref 16/01256/OUT, dated 21 March 2016, subject to the conditions set out in the Annex to this decision.

Procedural matters

2. An amended site plan was submitted at the Hearing. The site plan submitted with the application omitted to show that the land between the appeal site and Littleworth was in the ownership of the appellants, and the amended plan corrected this. It does not alter the proposal in any way, and no one would be prejudiced by my accepting it. I have therefore taken it into account,
3. A Section 106 obligation was submitted at the hearing. The obligation makes arrangements for the provision of affordable housing, arrangements for the provision of and responsibility for public open space and the payment of library and education contributions. I shall refer to this in more detail below.

Main Issue

4. Whether the site is a suitable location for residential development, having regard to local and national policies, and the effect of the proposal on the character and appearance of the area, which lies within the Cotswold Area of Outstanding Natural Beauty (AONB).

Reasons

5. The appeal site forms part of an open field to the south-west of the town, with built development present on the south and eastern boundaries. Dyers Lane forms the western boundary with open fields lying to the north. Chipping Campden is identified in the Cotswold District Local Plan 2001-2011, (DLP) as a "principal settlement", where new development should be focussed. The site is within easy walking distance of the town centre, where shops, facilities and transport links can be found.
6. The site abuts, but is outside, the Chipping Campden Development Boundary as designated in the DLP where Policy 19 provides that only development appropriate to a rural area will be permitted. However, the Council accepts that the policy is not consistent with the National Planning Policy Framework (the Framework), and I agree. This reduces the weight attributed to the conflict with the policy.
7. The emerging Cotswold Local Plan 2011-2031 has recently been submitted for examination. Policy DS1 is a strategic policy which provides that sufficient land will be allocated, which together with existing commitments, will deliver at least 8400 dwellings during the plan period in specific principal settlements, which include Chipping Campden. This deals with allocations, and therefore it is not relevant to a non-allocated site such as this. However, the proposal accords with the broad strategy of directing new housing development to the town, and of particular relevance is that the figure of 8400 new dwellings is a minimum.
8. Policy DS2 supports development within development boundaries, but the proposal is not within the proposed development boundary, and therefore the policy does not apply to this proposal. Policy DS3 deals with small-scale development in non-principal settlements, but because Chipping Campden is a principal settlement, this policy is not relevant to the proposal. Policy S16 sets out sites within the town where housing is to be allocated. It does not preclude housing on other sites, and therefore the proposal does not conflict with this policy. I therefore find no direct conflict with the emerging plan; however, as the plan has not yet been examined, it carries only limited weight.
9. The Chipping Campden Neighbourhood Plan is under preparation and a draft has been submitted to the Council. Amongst other things, it proposes that new housing sites should not exceed 10 dwellings, with which the proposal would conflict. However, the plan is at an early stage of preparation, and it carries little weight at this stage.
10. It is not disputed that the Council can demonstrate a 5 year supply of housing land. Moreover, there have been a number of approvals of residential development in Chipping Campden and nearby settlements in recent years, and local residents in particular feel that the town has provided "more than its fair share." Whilst I understand this sentiment, the wider picture includes the objective of the Framework to boost significantly the supply of housing, a recognition that a 5 year supply is not to act as a maximum figure, and the Council's acceptance that it will continue to need to release additional sites outside of development boundaries to meet the housing needs of the district.
11. Accordingly, I consider that in terms of housing policy the site is a suitable location for new residential development.

12. Paragraph 116 of the Framework provides that major development in the AONB should be refused except in exceptional circumstances and where it can be demonstrated they it is in the public interest. The appellants accept that if I find that the proposal is major development, there are no grounds for satisfying the special circumstances and public interest test in this case.
13. It is common ground that there is no definition of what constitutes “major development”. The Planning Practice Guidance indicates that it will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. The proposal, for 30 dwellings, using the normal meaning of the word “major” is capable of amounting to major development, depending on the context. In this case, the Council concedes that the scale of the proposal in relation to the size of the settlement would not be major, amounting to about 2.5% of the size of the town. Whilst the site is a greenfield one, it abuts the built-up part of the town, with residential development flanking two sides of the site, and therefore relates reasonably well to it. Although the application is in outline, the illustrative masterplan provides a good indication of the likely implications of the proposal. Other than the new access from Dyers Lane, there would be no significant earthworks or provision of off-site infrastructure which would have a wider impact on the area.
14. In terms of its potential impacts, despite footpaths crossing the site, it is visually well-contained, so that wider views are constrained by the combination of topography and planting. The Council commissioned a report from White Consultants entitled *The Study of Land Surrounding Key Settlements in Cotswold District* (The White Report), which reported in 2000, and provided an update in October 2014. It identified specific areas surrounding Chipping Campden where it recommended that development would not be suitable. The appeal site does not lie within any of these areas.
15. The Council also considered the site in its Strategic Housing and Economic Land Availability Assessment Consolidation Report dated January 2016, using information derived from a Strategic Housing Land Availability Assessment dated June 2014. It concluded that the site was unsuitable as the topography rises steeply to the north-west and development would be highly intrusive and visible in a sensitive part of the AONB. This clearly contradicts the findings of the White Report assessment. However, I attach greater weight to the White Report, because it is a more comprehensive assessment, looking at all land around the key settlements, and it was carried out by landscape specialists.
16. A further consideration is the recent decision of the Council to treat an application for 40 dwellings on land off Aston Road¹ as not being major development in the AONB. The site lies on the north-west side of the town, in the broad location of one of the areas which the White Report found to be unsuitable for development. I accept that as the unsuitable areas are not mapped, it is arguable as to whether the site falls within this area, although the Parish Council considers that it does. Even so, the Aston Road site is part of two areas examined in the White Report 2014 update which are described as being of high/medium and medium landscape sensitivity. Although the site circumstances are not identical, I nevertheless find that this decision is a relevant consideration to take into account.

¹ Ref: 16/00937/OUT

17. Looked at in the round, having regard to the scale of the proposal, its local context and the way in which the Council regarded the Aston Road proposal, I consider that the proposal does not constitute “major development”, and therefore the stricter AONB test set out in paragraph 116 of the Framework does not apply here.
18. Instead, the appropriate test is that contained in paragraph 115 of the Framework, which says that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.
19. Looking at the wider context, the whole of the town is washed over by the AONB, and the Council accepts that necessary growth will have to occur in the AONB, and to this end, sites have been allocated in the LP to accommodate some additional growth. Thus, merely being within the AONB is not a reason alone to prevent further housing development.
20. The appeal site is part of a large sloping field, with no physical boundary separating it from the higher agricultural land to the north. Dyers Lane forms its western boundary, but no views of the site can be obtained from the road, as high, well vegetated banks hide the site. The eastern and southern boundaries are largely flanked by the rear gardens of properties on Park Road and Littleworth. Two public footpaths cross the site, one being parallel with, and close to the southern boundary, running from Dyers Lane to Littleworth, whilst the other runs at an angle from the footpath connection with Littleworth bisecting the site, and emerging onto Dyers Lane some way to the north-west.
21. It is common ground between the parties that there would be a major change in the appearance of the site when seen from the footpaths crossing the site and from the properties bordering it. Although the illustrative masterplan indicates that there would be a view from the southern boundary through an open area within the estate to the rising ground to the north, the impression of being within a housing estate would be inescapable. As the site is open, gently sloping farmland, it has a rural appearance, and that would change. However, its rural qualities are heavily influenced by its context; there is built development on two sides, and views into the open countryside to the west are blocked by planting along the boundary with Dyers Lane. Contiguous farmland exists only to the north, where the steeper slopes are visually more striking, and which link to the open countryside beyond.
22. I therefore consider that the rural character of the site is not of the highest quality, but the degree of change would be significant and localised. This would result in only small harm to the overall character and appearance of the countryside.
23. When seen from other public viewpoints, the impact would not be as significant. The houses would be clearly seen on entering the footpath from Dyers Lane to the west of the site. However, the houses would be seen against a backdrop of built development within the town. Although buildings along Park Road are sporadic, they are nevertheless seen as forming part of the built-up area, whilst the houses in Littleworth are more consolidated.
24. Essentially, the houses on the site would appear similar to the existing view, but would start further to the north. Currently the houses on Littleworth

abutting the site have a mix of boundary treatments, allowing views towards the rear of the houses and of rear garden outbuildings and domestic paraphernalia. The proposal offers an opportunity to provide planting along the northern boundary of the site, to create a strong rural demarcation between the limit of urban development and the countryside.

25. Views of the site from further afield are even more limited. The site would be glimpsed in places from the footpath which connects Kingscomb Lane with Littleworth, but those views would be fleeting. The site would not be seen to any material extent either from the Cotswold Way, which runs parallel with the footpath which links to Littleworth, or from Kingscomb Lane. There would perhaps be glimpses of dwellings when seen from parts of Dyers lane, but these would not be significant.
26. Accordingly, the well-contained nature of the site means that it has a very limited impact on the wider landscape of the AONB. The Cotswolds Conservation Board's Landscape Character Assessment includes the site within the Vale of Morton Farmed Slopes character area, and lists 11 characteristics of this landscape type, only 3 of which apply to the appeal site. One of these is that it is a transitional landscape between two other landscape types; this is a description that applies to the whole of the character area, and does not relate to specific features of the landscape. The second is that it has a smooth gentle landform with gentler landform on lower slopes; this is applicable to the whole of the site. The last is that it is productive arable and pasture farmland with a strong pattern of hedgerows; this is only partly true of the site, in that it has been until recently productive farmland, but it is contiguous with more exposed farmland on higher slopes, and lacks a strong pattern of hedgerows.
27. The site would be accessed from a new road in the vicinity of an existing track from Dyers Lane into the appeal site. I saw the track on my visit, and whilst I accept that it could be negotiated by a four-wheel drive vehicle, it has the character of a farm track, which fits in relatively well with the semi-rural character of Dyers Lane, resulting from its narrowness, lack of a footway and street lighting, and being sunken between vegetated roadside banks.
28. However, the position of the access would be on the approach to the town, and a more formal hard surfaced access exists on the opposite side of Dyers Lane, which serves a single private dwelling at Courts Piece, and these features serve to thus a new access in this position would not be as inimical to the rural character of the lane as one further along the lane. The proposed access would be wider than the Courts Piece access, with appropriate visibility splays, and would be cut into the embankment. It would need to incorporate lighting, which no matter how sensitively designed, would give it a more urban feel. The works to create the access would also result in the loss of at least two trees, which, although not significant specimens, nevertheless contribute to the continuity of the greenery along the bank, and reinforce the semi-rural character of the lane. There is the potential to carry out landscaping alongside the route of the access road which would help to soften its impact. Even so, I recognise that the creation of an estate road would result in some limited and localised harm to the rural character of this part of Dyers Lane. However, having regard to the particular qualities of the AONB, referred to above, I consider that it would not harm its natural beauty, which would be conserved.

29. In my view, the site possesses few of the important characteristics of the landscape type and the proposal would have very limited impact on the special qualities of the AONB as listed in the AONB Management Plan. I therefore conclude that the proposal would conserve the natural beauty of the AONB, but would result in some small harm to the character and appearance of the countryside. The Council alleges a conflict with DLP Policy 42, which deals with the Cotswold Design Code, and whilst it refers to character, it is aimed more at the details of design which are not before me at this stage, and therefore I consider that there is no material conflict with this policy.

Other matters

30. Many local residents expressed concern about highway safety. Dyers Lane is narrow, lacking a footway, unlit, fairly steep and with limited forward visibility. The appellants' speed survey shows 85th percentile speeds of less than 40 mph, and I am satisfied that the required visibility splays would be appropriate for this speed. Whilst some vehicles might travel faster than the 85th percentile speed, this does not mean that the access would be unsafe.
31. I recognise that the lack of footways and the narrowness of Dyers Lane pose some risks for pedestrians, cyclists and horse riders. However, the road is well used with a weekday average of 85 movements an hour during the morning peak periods, and a weekday average of 524 movements. The proposal would add a further 15 movements during the morning peak and 114 to the daily average. More vulnerable users of the lane already face some potential danger, and I consider that the additional traffic would not materially affect highway safety conditions. In this regard I note that the highway authority had no objection to this or the previously refused 76 dwelling scheme, and this reinforces my finding that the proposal would not harm highway safety to a degree which would justify withholding permission.
32. Similarly, there were a number of concerns about the prospect of increased flood risk. Following previous flooding events, local people are understandably anxious to ensure that the proposal would not add to flood risk. Precise details of surface water drainage have not been submitted, but neither the highway nor the drainage authorities object to the proposal, subject to details being submitted.
33. The drainage strategy submitted by the appellants indicates that it is intended to store run-off within the site, either through soakaways below the overlying layer of clay, or to provide an attenuation tank which would then release water into the existing drainage system at "greenfield" rates. This would be an improvement on the existing drainage pattern, where run-off accumulates on the site until it overflows in an uncontrolled manner into the Dyers Lane ditch. The Council has suggested a number of conditions requiring drainage details to be provided, along with setting out criteria to be met, and I am satisfied that flood risk is capable of being adequately dealt with. The Town Council wished for local people to be able to examine and comment on the details to be submitted in discharge of those conditions, but that is a matter for the Council to decide upon.
34. The site abuts a small part of the Chipping Campden Conservation Area, but I am satisfied that the proposal would have no material impact on its significance, and would at least preserve its character and appearance.

Planning balance

35. The proposal would bring with it a number of benefits. Notwithstanding that the Council can demonstrate a 5 year supply of housing land, against a background of a need to boost significantly the supply of housing, the provision of 30 further dwellings carries significant weight. The proposal would also provide 50% affordable housing, which is more than the target amount sought in the emerging plan. The Council's Housing Officer indicates that there are 194 people on the housing register with local connections to the town, but comments that there may be more people who have not been identified. This conflicts with the Town Council's findings as set out in the draft Neighbourhood Plan, but as yet, this carries only limited weight.
36. The proposal has the support of a registered housing provider, and the site is deliverable, and so there are no impediments to the housing coming forward. Although the Council has recently permitted a number of local schemes with significant elements of affordable housing, the shortfall accruing from previous years' under-provision, and the considerable demand for affordable housing in the district more generally, leads me to afford this element of the proposal considerable weight.
37. The proposal would also bring with it economic benefits arising from the construction and occupation of the houses, which carries modest weight. The provision of affordable housing would also help to support businesses which otherwise rely on workers being able to travel into the town, in some instances from considerable distances. I also attach some weight to the benefits of the proposal in improving accessibility along the rights of way and the environmental advantage in providing a stronger, and more appropriate boundary between the urban limits of the settlement formed by the northern boundary of the site and the open countryside beyond.
38. When balanced against the small harm that I have found in respect of character and appearance, I find that the benefits of the proposal outweigh the harm, and thus the appeal should be allowed.

Conditions and obligation

39. The Council has suggested a number of conditions which I have considered in the light of national guidance. Besides the standard conditions, I consider that a condition to require compliance with the submitted site layout is necessary in the interests of appearance. For the same reason a condition requiring levels to be submitted and approved is also necessary. A condition to require the access to be carried out in accordance with the approved plans is needed to ensure certainty. A landscape and ecological management plan is required to be submitted in the interests of appearance and to promote biodiversity.
40. Conditions relating to the disposal of surface water are needed to ensure that the site is satisfactorily drained without increasing flood risk. Details of the treatment of the public rights of way across the site are needed to promote and encourage walking and cycling. The site needs to be provided with adequate access for construction traffic prior to development. A condition is also needed to ensure that the roads are adequately managed and maintained. The provision of fire hydrants is needed for safety reasons.

41. The provision and retention of parking, loading and turning space, along with cycle parking, is justified in the interests of highway safety and the promotion of travel other than by car. A condition dealing with construction management is needed to protect the living conditions of nearby residents and in the interests of highway safety.
42. The Section 106 obligation submitted by the appellants makes provision for the payment of financial contributions in respect of education and library facilities, together with arrangement for the provision of affordable housing and the provision and management of public open space. On the basis of the information before me, I consider that the obligation is necessary and relevant to the development proposed, and otherwise conforms with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Conclusion

43. For the reasons given above, I conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mary Cook of Counsel
Wendy Hopkins
Charles Mylchreest
William Haines

Instructed by Mrs Wendy Hopkins
Brodie Planning Associates
Environmental Dimension Partnership
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Martin Perks
Katie Smith

Cotswold District Council
Cotswold District Council

INTERESTED PERSONS:

David Crofts
John Ellis
Michael Allchin
Diana Green
Hon. Philip Smith

Estcourt Planning on behalf of CPRE
Chipping Campden Town Council
Local resident
CPRE
Local resident

DOCUMENTS

- 1 Letters of notification
- 2 Section 106 obligation
- 3 Addendum to the Statement of Common Ground
- 4 Amended location plan
- 5 Landscape plan based on photo montage
- 6 Letter from Bromford dated 6 July 2017

ANNEX

CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) This decision relates to the land outlined in red on drawing number BM152-001 A and the access shall be carried out in accordance with the details shown on plans Ref: BM152-005 B, BM152-008 A
- 5) The details to be submitted as required by condition 1 shall broadly comply with the indicative site layout plan Ref: BM152-Figure 3.
- 6) The reserved matters to be submitted as required by condition 1 shall include full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels.
- 7) No development shall take place until a ten year landscape and ecological management plan for the site (in line with the recommendations in the Phase 1 Habitat Survey Report - Windrush Ecology Dec 2014 and the Design and Access Statement - Brodie Manning) has been submitted and approved in writing by the Local Planning Authority. The approved management plan shall be implemented in full according to the timescales laid out in the plan, unless otherwise agreed in writing by the Local Planning Authority.
- 8) No development approved by the permission shall be commenced until a detailed drainage strategy including a scheme of surface water treatment has been submitted to and approved in writing by the Local Planning Authority. The Strategy should be supported by evidence of ground conditions and modelling of the scheme to demonstrate it is technically feasible and where applicable adheres to the NPPF, PPG, Non-Statutory Technical Standards for Sustainable Drainage, Building Regulation H and local policy. The drainage scheme shall be carried out in accordance with the approved details. Where surface water requires disposal off site (i.e. not infiltrated) evidence must be provided of consent to discharge/connect through 3rd party land or to their network, system or watercourse.
- 9) Development shall not take place until an exceedance flow routing plan for flows above the 1 in 100+30% event has been submitted to and approved in writing by the Local Planning Authority. The proposed scheme shall identify exceedance flow routes through the development based on proposed topography with flows being directed to highways and areas of public open space. Flow routes through gardens and other areas in private ownership will not be permitted. The scheme shall

- subsequently be completed in accordance with the approved details before the development is first brought into use/occupied.
- 10) No development shall take place until soakaway tests have been carried out in accordance with BRE Digest 365, or such other guidance as may be agreed in writing by the local planning authority. The results of the tests shall be submitted to and agreed in writing by the local planning authority. The scheme shall subsequently be completed in accordance with the approved details before the development is first brought into use/occupied.
 - 11) No development shall take place until details on the location of any proposed soakaway have been submitted to and agreed in writing by the local planning authority. Any soakaway should be located no less than 5m from any building or boundary. If soakaway drainage is not possible on this site, an alternative method of surface water disposal shall be submitted to and approved by the local planning authority prior to the commencement of the development. The scheme shall subsequently be completed in accordance with the approved details before the development is first brought into use/occupied.
 - 12) No dwelling shall be occupied until a Sustainable Urban Drainage (SuDS) maintenance plan for all SuDS/attenuation features and associated pipework has been submitted to and approved in writing by the local planning authority. The approved SUDS maintenance plan shall be implemented in full in accordance with the approved details.
 - 13) Prior to the erection of any external walls of the development hereby approved, details of the improvements (to include but not limited to surfacing, lighting and means of preventing vehicle access) to the Public Rights of Way between the site and Littleworth shall have been submitted to and approved in writing by the local planning authority and no dwelling shall be occupied until the approved works have been completed and are open to the public.
 - 14) No works shall commence on site until the first 20m of the proposed access road, which provide access to the site, including the junction with the existing public road and associated visibility splays shown on BM152-008 A, has been completed to at least binder course level and the works shall be maintained as such thereafter unless and until adopted as highway maintainable at public expense.
 - 15) Prior to first occupation of any dwelling, details shall be submitted to, and agreed in writing by the local planning authority, for the provision of fire hydrants (served by mains water supply) and no dwelling shall be occupied until the hydrant serving that property has been provided.
 - 16) Prior to first occupation of any dwelling, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a dedication agreement has been entered into.
 - 17) No development shall take place, including any works of demolition, 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;
 - vii. specify details of construction vehicle routes
- 18) The car parking, vehicular loading and turning, and cycle parking arrangements agreed as part of the Reserved Matters application shall be provided prior to occupation of the dwelling to which they relate and shall be retained thereafter.