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## Appeal Decision

Site visit made on 23 September 2014

**by Paul Griffiths BSc(Hons) BArch IHBC**

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

**Decision date: 2 October 2014**

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**Appeal Ref: APP/C1625/A/14/2215851**

**Bowden Hall Farm, Bondend Road, Upton St. Leonards, Gloucester GL4 8ED**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Reino Kahkonen against Stroud District Council.
  - The application Ref.S.13/1844/OUT is dated 20 August 2013.
  - The development proposed is described as an outline proposal for the construction of 15 dwellings and associated vehicular access.
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### Preliminary Matters

1. The originating application was made in outline with appearance, landscaping and scale reserved for future determination. Details of access and layout are shown on drawing P002. I have treated everything on that drawing that does not bear on access or layout as illustrative. I have treated all the other drawings submitted as illustrative, in their entirety.
2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

### Decision

3. The appeal is allowed and planning permission is granted for the construction of 15 dwellings and associated vehicular access at Bowden Hall Farm, Bondend Road, Upton St. Leonards, Gloucester GL4 8ED, in accordance with the terms of the application, Ref.S.13/1844/OUT, dated 20 August 2013, subject to the conditions listed in Annex A to this decision.

### Main Issue

4. The appeal site lies outside the settlement boundary of Upton St. Leonards as designated in the LP<sup>1</sup>. LP Policy HN10 says that outside defined settlement boundaries, residential development will not be permitted unless it is essential to the efficient operation of agriculture or forestry. The proposal fails to comply with that policy. However, that is not the end of the matter because, notwithstanding the views expressed by some interested parties, the Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites. In those circumstances, paragraph 49 of the Framework<sup>2</sup> tells us that relevant policies for the supply of housing, like LP Policy HN10, should not be considered up-to date.

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<sup>1</sup> The Stroud District Local Plan adopted November 2005

<sup>2</sup> The National Planning Policy Framework

5. Paragraph 14 of the Framework sets out the workings of the presumption in favour of sustainable development which, we are told, should be seen as a golden thread running through both plan-making and decision-taking. Where the development plan is absent, silent or, as in this case, relevant policies are out of date, decision-makers are directed to grant permission<sup>3</sup> unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.
6. On that basis, the main issue here involves balancing any adverse impacts of the proposal against any benefits.

### **Reasons**

7. A number of adverse impacts have been referred to by the Council and local residents. A series of benefits have been highlighted by the appellant. I consider each in turn:

#### *Flooding*

8. This is the main concern of the Council, outlined in their representations on the appeal. It is a matter referred to by many local residents too. The concerns stem from flooding events that have taken place in recent times though it is noteworthy that, as the appellant points out, these were upstream of the appeal site. According to their submitted Technical Memorandum<sup>4</sup>, the concerns expressed by the Council when it considered the application revolved around whether the site is genuinely in Flood Zone 1, or 2. Moreover, there were questions about the details of storage tanks, the hydro-brake, and rights of access to the adjacent river.
9. As the Council's Technical Memorandum points out, residential development falls into the Flood Risk Vulnerability Classification 'More Vulnerable' as defined in the PPG<sup>5</sup> and as such, is compatible with Flood Zone 1 or 2. The Council's concern about the exact classification of the site does not take matters very far therefore and certainly does not go to the principle of development.
10. On the matters of detail, and rights of access, the Officer's report to Committee set out a range of conditions. Taking account of the suggestions from Severn Trent Water, and the Council's own Water Resource Engineer, condition No.10 sets out, in very simple terms, that no development should commence until details of surface water drainage have been submitted to and approved by the Council and that development shall be implemented in accordance with the approved details. There is no convincing indication that through such a condition, a scheme that ensured the development did not increase flood risk elsewhere could not be arrived at within the confines of the layout put forward. If such a scheme could not be arrived at within those confines, as the Council appears to suggest, and/or access to the adjacent river proved impossible to secure, then the proposal could not be implemented.
11. On that overall basis, I see no good reason to conclude that the proposal need cause any difficulties in terms of flood risk on-site, or elsewhere. There is compliance with the Framework in this specific regard. The concerns raised by the Council and others are no barrier to a grant of outline planning permission.

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<sup>3</sup> Unless material considerations indicate otherwise

<sup>4</sup> Prepared by CH2MHILL dated 9 April 2014

<sup>5</sup> Planning Practice Guidance

### *Character and Appearance*

12. While the Council raises no issue in this regard, local residents have voiced a series of concerns. LP<sup>6</sup> Policy NE10 seeks to conserve or enhance the special features and diversity of the landscape. The policy only permits development where natural features that contribute to the landscape setting are retained and managed; there is no unacceptable impact on long-distance views; and the benefits of the proposed development outweigh any harmful effects on the landscape. LP Policy NE8 seeks to protect the Cotswolds AONB<sup>7</sup> and its setting. It sets out that development within, or affecting the setting of the AONB will only be permitted where the nature, siting and scale are sympathetic to the landscape; the design and materials complement the character of the area; and important landscape features and trees are retained and appropriate landscaping measures are undertaken. Broadly following the line of the Act<sup>8</sup>, LP Policy BE12 seeks to protect the settings of listed buildings.
13. The site is undeveloped field, bounded by attractive trees. Some are the subject to TPOs<sup>9</sup>. The open nature of the site marks a transition between the more built-up parts of the settlement and the surrounding rural area and to that extent, it is an attractive space. Building relatively large houses and an access road upon it, and dividing the site into separate curtilages, would obviously reduce the sense of openness and the impression of the site as a transitive element. As a consequence, although the existing trees could be retained and augmented through the landscaping scheme, the development would cause a degree of harm, contrary to LP Policy NE10.
14. Nevertheless, while it lies outside the settlement boundary<sup>10</sup>, the site is not perceived as part of the wider landscape – it is more a part of the settlement, albeit lying on the boundary between the built-up area and the rural surroundings. As such, and having regard to the degree of separation involved, development of the site would cause no harm to the setting of the AONB. There would be no divergence from LP Policy NE8, therefore.
15. The Council has drawn my attention to two Grade II listed buildings to the north east of the site namely Bondend Farmhouse and Wanless (or Tudor) Cottage. Others have pointed out that the nearby hotel is a listed building too. The appeal site is too far removed from any of these listed buildings to contribute anything to their significance as designated heritage assets. In that context, the development of the appeal site would have no harmful impact on their settings. The proposal would comply therefore with the requirements of the Act and LP Policy BE12.

### *Highway Safety*

16. LP Policy GE5 says that permission will not be granted for any development that would be likely to be detrimental to highway safety. The Framework requires safe and suitable access to the site for all people and asserts that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

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<sup>6</sup> The Stroud District Local Plan Adopted November 2005

<sup>7</sup> Area of Outstanding Natural Beauty

<sup>8</sup> Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>9</sup> Tree Preservation Orders

<sup>10</sup> As defined in the LP

17. At the request of local residents, I remained in the vicinity of the site to assess traffic conditions in the area when children were in the process of being collected from the nearby school. At this time, the roads were relatively busy and there were lots of parked cars in the vicinity. However, I see nothing unusual about that situation; it is one commonly found around the start and finish of the school day in many places up and down the country. While some of the roads in the immediate area of the school are relatively narrow, it does not necessarily follow that increased traffic, and the presence of parked cars, make for difficulties in terms of highway safety. Indeed, I saw nothing during the course of my site visit that gave me any concerns about it.
18. The traffic generated by the development would be added to the mix but I see no good reason why that need cause a harmful impact on highway safety. The Highway Authority took a similar view, subject to the imposition of conditions. I consider that the proposal complies with LP Policy GE5 and the Framework in this regard.

### *Benefits*

19. Put simply, one of the main planks of the Framework is to boost significantly the supply of housing. In that context, the provision of 15 dwellings, including 5 affordable units<sup>11</sup>, carries significant weight in favour of the proposal. That weight is magnified given that the Council cannot demonstrate a five-year supply of deliverable housing sites.
20. On top of that, the proposal would bring economic benefits in terms of the construction process. Neighbouring residents have questioned whether jobs in that process would be filled by local people but the Framework does not make any such differentiation. It seeks to build a strong, responsive and competitive economy – the proposal would contribute to that. Moreover, residents of the proposal would bring increased spend to the area and there is the New Homes Bonus to consider too.
21. These benefits carry significant weight in favour of the proposal

### *The Balancing Exercise*

22. As set out above, where the development plan is absent, silent or, as in this case, relevant policies are out of date, paragraph 14 of the Framework directs decision-makers to grant permission<sup>12</sup> unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole. The proposal would have a limited harmful impact on the character and appearance of the area. In my judgement, that is nowhere near sufficient to outweigh the very obvious benefits that would be brought forward. On that basis, the proposal benefits from the presumption in favour of sustainable development.

### **Conditions and the Obligation**

23. I have considered the suggested conditions in the light of paragraph 206 of the Framework and what remains of Circular 11/95<sup>13</sup>. The normal commencement conditions are necessary, as is another to identify the approved plan.

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<sup>11</sup> Secured by the completed Agreement under Section 106

<sup>12</sup> Unless material considerations indicate otherwise

<sup>13</sup> Circular 11/95: *The Use of Conditions in Planning Permissions*

24. There is a need for conditions requiring details of the footpath link and its implementation and to ensure occupation of the dwellings does not take place before parking and turning facilities have been provided. Provision also needs to be made for the accesses to be completed, to a degree, before any other development takes place. Conditions are required to secure details of cycle storage, fire hydrants and their provision, and to deal with foul and surface water drainage. In order to control flood risk, a condition is also required to secure details of the finished floor levels of the dwellings. I have composed this to require details of those floor levels to be submitted for approval as a condition specifying a finished floor level at least 300mm above historic flood levels, along the lines suggested, could result in the dwellings being set higher than is necessary.
25. Given the proximity of the site to existing residences, it is reasonable to limit working hours and to secure the submission of a Construction Method Statement. It is also necessary to apply a condition to address arboricultural matters.
26. There is no requirement for a condition to address details of the landscaping scheme as this will be covered under reserved matters. It is reasonable to apply a condition to deal with implementation of the landscaping and ongoing maintenance, however. A condition to secure samples of external materials is not required as this can be dealt with through reserved matters.
27. The completed Agreement under Section 106 addresses satisfactorily the need for a recreation contribution, the provision of on-site open space and its maintenance, and affordable housing.

### **Final Conclusion**

28. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Paul Griffiths*

**INSPECTOR**

### **Annex A: Schedule of Conditions**

- 1) Details of appearance, landscaping, and scale, (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins 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 three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: P002.
- 5) No development shall take place until details of the footpath link shown on the approved plan, including a timetable for implementation, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No dwelling shall be occupied until the access, parking and turning facilities serving that dwelling have been provided in accordance with the approved plan.
- 7) None of the dwellings shall be occupied until cycle storage facilities have been provided in accordance with details first submitted to, and approved in writing by, the local planning authority.
- 8) No other development shall take place until the first 10 metres of the proposed access roads, including junctions with the highway and visibility splays, have been provided to at least binder course level.
- 9) No development shall take place until details of fire hydrants, including a timetable for their provision, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and completed before any of the dwellings are first occupied.
- 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) Construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays. There shall be no construction work on Sundays or Bank Holidays.

- 13) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) wheel washing facilities; and
  - vi) measures to control the emission of dust and dirt during construction
- 14) All works connected with the development shall comply with the submitted Arboricultural Implications Assessment and Method Statement prepared by Tim Pursey, dated 12 January 2014, and no activity associated with the development shall take place on-site until a pre-start meeting between the main contractor and the Council's Tree Officer has taken place.
- 15) No development shall take place until details of the finished ground floor levels of the dwellings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Richborough Estates