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## Appeal Decision

Site visit made on 5 January 2015

**by Tim Belcher FCII, LLB (Hons), Solicitor (Non Practising)**

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

**Decision date: 6 February 2015**

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**Appeal Ref: APP/F1610/A/14/2227938**

**Parcel of land west of Field House, Broadway Road, Willersey, Gloucestershire**

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant outline planning permission.
  - The appeal is made by Beechcroft Land Limited against the decision of Cotswold District Council (the Council).
  - The application Ref 14/01739/OUT, dated 14 April 2014, was refused by notice dated 14 August 2014.
  - The development proposed is residential development of up to 20 dwellings.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of up to twenty dwellings on a parcel of land west of Field House, Broadway Road, Willersey, Gloucestershire in accordance with the terms of the application, Ref 14/01739/OUT, dated 14 April 2014, subject to the conditions set out in the Schedule of Conditions below.

### Procedural Matters

2. The application was made in outline form with all matters other than the means of access to be determined at a later date. The various details of the proposed development (other than the access) shown on the application plans were provided for illustrative purposes only.

### Relevant Background Matters

3. The appeal site forms part of the Cotswold Area of Outstanding Natural Beauty (the AONB). It is self-evident that the proposal would result in the extension of built development into an agricultural field within the AONB.
4. The administrative boundary between Cotswold District and Wychavon District is a short distance to the west of the appeal site.
5. There are houses within the Wychavon District that are very close to the administrative boundary. These either front onto Broadway Road or are clustered around Smallbrook Road or Foster Drive (cul-de-sacs off Broadway Road). For ease of reference I will refer to this group of houses within Wychavon as "the Wychavon Housing". The Wychavon Housing is, in my judgement, physically closer to the centre of Willersey than it is to the centre of Broadway.

6. It is also self-evident that the proposal would reduce the gap between the existing built development in Willersey and the Wychavon Housing.
7. The site at Field House is in a mixed use. Field House itself is a residential dwelling-house. The remainder of the Field House site appears to be used for commercial purposes by Systematic Servicing (Equipment) Limited.
8. Section 85 of the Countryside and Rights of Way Act 2000 explains that in exercising or performing any functions in relation to, or so as to affect, land in an AONB the decision maker shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The National Planning Policy Framework (the Framework) reflects this in its advice and explains that great weight should be given to conserving landscape and scenic beauty in the AONB.
9. I understand that there is no plan within the Cotswold District Local Plan (the Local Plan) which defines the settlement boundary for Willersey. However both the Council and appellant agree that the western boundary of the site known as Field House forms the settlement boundary for this part of Willersey. I agree with that assessment.
10. The Statement of Common Ground confirms the agreement between the appellant and the Council that the proposal does not constitute "major development" for the purpose of applying the advice in the paragraph 116 of the Framework. I agree, for the reasons stated in the Statement of Common Ground, with that assessment.

### **Policy**

11. The Development Plan for the area includes saved policies 19 and 42 of the Local Plan.
12. I have also been referred to policy and other advice in:
  - a) The Framework.
  - b) The Emerging Cotswold Local Plan (the Emerging Local Plan).
  - c) Manual for Streets.
  - d) The Cotswold Conservation Board's Landscape Character Assessment (the Landscape Character Assessment).
  - e) The Cotswold AONB Management Plan 2013 – 2018 (the Management Plan).
13. It is agreed in the Statement of Common Ground that the Emerging Local Plan is at a very early stage of its preparation. The examination of the Emerging Local Plan is not likely to take place before 2016.

### **Main Issues**

14. I consider the main issues in this case are:
  - a) Whether it is important to retain the entirety of the existing largely undeveloped gap between Willersey and the Wychavon Housing.
  - b) Whether the proposal would result in a form of ribbon development that would have a detrimental impact on the character of Willersey.

- c) The effect of the proposal on the character and appearance of that part of the AONB within which the proposal would be situated and the surrounding area.

## Reasons

### Whether it is important to retain the entirety of the existing largely undeveloped gap between Willersey and the Wychavon Housing?

- 15. The Local Plan explains that outside development boundaries development appropriate to a rural area will be permitted provided that the proposal relates well to the existing development and would not, amongst other things, :
  - a) Cause significant harm to existing patterns of development.
  - b) Result in development that significantly compromises the principles of sustainable development.
- 16. The Statement of Common Ground sets out details of the existing gap between the edge of Willersey and the first dwelling within the Wychavon Housing. It also acknowledges that the Wychavon Housing and housing immediately to the east of the existing settlement boundary does not reflect the Cotswold vernacular in terms of their character or appearance. The indicative layout plan for the proposal shows that the majority of the proposed dwellings would be built on the eastern side of the appeal site.
- 17. It is also agreed between the Council and the appellant that the development would:
  - a) Screen the existing coniferous hedgerow which delineates the settlement boundary to this part of Willersey.
  - b) Result in the removal of storage buildings on the appeal site.
  - c) Result in the removal of a driveway and an area of hardstanding.
  - d) Result in the removal of items which could be stored on the hard surfaced areas referred to in (c) above.

All of those matters would improve the character and appearance of the approach towards the settlement of Willersey.
- 18. I do not share the Council's concerns that the gap between Willersey and the Wychavon Housing is particularly important. The gap that would remain would be sufficient to show that the Wychavon Housing was separate from, and did not form part of, the housing in Willersey. I have explained that character and appearance of the Wychavon Housing does not reflect the Cotswold vernacular. The appeal proposal provides an excellent opportunity of building housing at the entrance to Willersey which could reflect that which was typical of this part of the Cotswolds. In so doing this would emphasise the difference between the Wychavon Housing and the settlement of Willersey to the benefit of the area.
- 19. There is no evidence before me that the proposal would diminish the separate identities of Willersey or Broadway. The fact that the gap between the Wychavon Housing and Willersey would be reduced would not impact on the identities of either Willersey or Broadway. Neither do I agree that the proposal

would lead to the coalescence of Willersey and Broadway as suggested by the Council.

20. I therefore conclude, for the reasons explained above, that it is not important to retain the entirety of the existing largely undeveloped gap between Willersey and Wychavon Housing.

*Whether the proposal would result in a form of ribbon development that would have a detrimental impact on the character of Willersey.*

21. In my assessment, ribbon development is the building of houses along the frontage of a main road, especially roads leading out of towns or villages with rear gardens behind them. The rear boundaries of those rear gardens then abut open countryside.
22. The Council describe the pattern of Willersey as being a nucleated settlement. This suggests that the pattern of development within Willersey is that of houses clustered around a community facility such as a Church or village green. Whilst this may reflect some of the housing within Willersey it does not accurately reflect the housing development on the west of the centre of the village where houses have been built fronting onto cul-de-sacs off Colin Lane and Broadway Road.
23. The layout of the proposal is a matter to be dealt with at the reserved matters stage. The indicative plans show that there would be some housing fronting on to Broadway Road but the majority of the houses would front onto the proposed cul-de-sac off Broadway Road. This pattern of development is no different to what is already found to the east of Field House at Field Lane or at other locations within Willersey. I consider the indicative layout reflects the character of this part of Willersey.
24. I therefore conclude, for the reasons explained above, that there would be no harm to the character of Willersey as a result of the proposal.

*The effect of the proposal on the character and appearance of that part of the AONB within which the proposal would be situated and the surrounding area.*

25. I am advised that the appeal site falls within Area 19 (Unwooded Vale) of the Landscape Character Assessment. The key characteristics of this area include:
- a) Soft rolling landscape on the lower slopes of the Cotswold escarpment (the Escarpment) forming a transition between the Escarpment and the vale area.
  - b) Stretches of the Escarpment provide a dramatic backdrop to many views across the vale.
  - c) Within the boundary of the AONB the areas of land classified as "unwooded vale" are very limited and confined to narrow and fragmented sections of the landscape type at the base of the Escarpment merging into the broader lowland vales beyond.
26. The Management Plan explains the special qualities of the Cotswolds. These special qualities include:
- a) The Escarpment (including views to and from it).

- b) Dry stone walls which give the AONB its essential character in many areas.
27. The Local Plan explains that development should be designed in a manner that respects the character, appearance and local distinctiveness of the Cotswold District with regard to specified matters.
28. The appeal site is not currently enclosed by any visually attractive means or in a way that is typical of the Cotswolds. The development would allow the use of dry stone walls to be introduced as well as the planting of native hedges and trees. I have no doubt that the reserved matters would allow the Council to control the development in such a way so as to improve the visual appearance of the area, especially the approach into and when leaving Willersey. This would enable to Council to reinforce the local distinctiveness found in parts of Willersey.
29. The appeal site is visible from Broadway Road and various public rights of way both to the north and south. I walked these public rights of way so as to judge the impact of the loss of the appeal site as a field and its replacement by the proposed development on the AONB.
30. I am aware that views of the appeal site from the public right of way to the north would change in that it would introduce some built development into the foreground of views towards the Escarpment. However, the Escarpment would be the backdrop to the proposed new built development. The Escarpment would still be seen rising above the proposed houses and it would remain the dominant feature in the landscape when viewed from this public right of way.
31. The appeal site is often obscured by intervening landscaping and topography from many of the public rights of way crossing the slopes of the Escarpment to the south. However, I am also aware that there are some public views from parts of this higher land to the south. Where the new dwellings would be seen they would form a very small part of the much wider landscape including the Vale of Evesham and stretching onwards to the Malvern Hills. The appeal site is a small element of a much larger landscape view. It would be seen in the context of the built development immediately adjacent at Willersey. If no development were to occur at the appeal site the views of the appeal site already includes built development which is seen to the north. The proposal would be a very small addition of built development within a vast landscape. In my assessment there would be no adverse impact caused by the proposal when viewed from public viewpoints within the AONB to the south. In particular I note that the Council's Landscape Officer considers that the appeal proposal can be accommodated within the appeal site without having a significant adverse landscape impact.
32. Clearly, the development would lead to the loss of a field but that field does not have within it any features that are special to the character of this part of the AONB.
33. I therefore conclude, for the reasons explained above, that the proposal would not harm the character or appearance of that part of the AONB within which it would be situated or the surrounding area.

## Other Matters

34. Two Unilateral Undertakings given under Section 106 of the 1990 Act, both dated 23 December 2014, have been submitted by the appellant.
35. The first Unilateral Undertaking is referred to by the Council and the appellant as the "Agreed Obligations". The Agreed Obligations deals with the issues of the provision of affordable housing and a financial contribution towards secondary education at a local school. The Council are satisfied with the form of the Unilateral Undertaking and consider that the Agreed Obligations comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the Regulations). I wholly agree with that assessment.
36. The second Unilateral Undertaking is referred to by the Council and the appellant as the "Un-agreed Obligations". It provides for the payment of monies towards:
- a) The maintenance and upgrading of a Doctors' Surgery in Broadway.
  - b) The maintenance and improvement of the Village Hall in Willersey.

There is no evidence before me that the monies specified in this Unilateral Undertaking are justifiable and they do not meet the tests set out in Section 122(2) of the Regulations. The Council agrees with that assessment.

37. I have noted the concerns raised about possible localised flooding from the surface water run-off from the proposed development. The Statement of Common Ground makes it clear that those responsible for assessing possible flooding resulting from new development have assessed the proposal and they raise no objections subject to appropriate conditions being imposed. The proposed Sustainable Urban Drainage System would mimic the existing hydrological characteristics of the site. There is no convincing evidence before me that indicates that the professional assessments made by the relevant experts are flawed in anyway.
38. I have had regard to the various representations made regarding whether or not the Council have a sufficient housing land supply to meet their needs. It is not possible through the written representations procedure to come to a firm conclusion on that matter. However, it is clear that there have been problems in achieving a five year housing land supply in the past and Council Officers explained in their report of Members that that the five year housing land supply plus a 20% buffer is a minimum supply and that the Council should continually be seeking to ensure that the housing land supply stays above the minimum. As a result there will continue to be a need to release suitable sites outside development boundaries identified in the Local Plan.
39. It has also been suggested that the housing needs in Willersey can be met by developing land which is not within the AONB. However, there is no evidence that planning applications have been approved on such sites and it is very difficult to speculate whether applications for residential development on those sites will be made or what the outcome of any assessment as to the suitability of those sites would be.
40. I am also aware of the claim that there may be alternative sites which are outside the AONB within the administrative area of the Council which could be used to provide the housing needs for the District without the need to extend

settlements into the surrounding AONB. This is a matter that needs to be assessed in the light of full evidence when the Emerging Local Plan is examined by an independent Inspector.

**Conditions**

41. The Council and the appellant have agreed the conditions that should be imposed if planning permission is granted. The conditions and the reasons for imposing those conditions are set out in Section 8 of the Statement of Common Ground. I agree with the parties that these conditions are reasonable and necessary for the reasons explained. I have made some minor amendments to their wording so as to aid their understanding.

**Overall Conclusions**

42. For the reasons given above I conclude that the proposal would not:

- a) Compromise the principles of sustainable development.
- b) Be contrary to the provisions of the Local Plan.

Accordingly, the appeal should be allowed.

*Tim Belcher*

**Inspector**

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## **Schedule of 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 begins and the development shall be carried out as approved.
- 2) 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.
- 3) 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.
- 4) The details to be submitted for the approval of reserved matters shall include vehicular parking and turning facilities within the site, and the buildings hereby permitted shall not be occupied until those facilities have been provided in accordance with the approved plans and they shall be retained available for those purposes thereafter.
- 5) The submitted reserved matters details shall accord with the principles of layout, scale and landscaping as shown in Drawing Number AP01 B and shall not exceed 20 residential units in number with a residential unit being either a single dwelling or a single flat.
- 6) This decision relates to drawing numbers AP 01B, AP 02 & AP 03.
- 7) Development should not be commenced until impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.
- 8) The development shall not be commenced until such time as a scheme to dispose of foul sewage has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented fully in accordance with the approved scheme. No dwelling shall be occupied until the necessary infrastructure to serve that unit has been installed and made operative.
- 9) Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details of the size, position and construction of the drainage scheme, the results of soakage tests carried out at the site to demonstrate the infiltration rate, a timetable for its implementation and details of the future maintenance and management of the scheme. The development shall be carried out fully in accordance with the approved details and the drainage scheme shall be maintained fully in accordance with those details thereafter.
- 10) 1. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to, and

approved in writing by, the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins.

2. No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural environment has been submitted to, and approved in writing by, the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, a proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. The Remediation Scheme, as agreed in writing by the local planning authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the local planning authority in advance of works being undertaken. On completion of the works the developer shall submit to the local planning authority written confirmation that all works were completed in accordance with the agreed details.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to, and approved in writing by, the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 11) No development works shall take place on site until a Badger Mitigation Strategy and a ten year Landscape and Ecological Management Plan (the Management Plan) based on the recommendations in Section 5 of the "Ecological Assessment" (prepared by Ecology Solutions Limited and dated April 2014) has been submitted to, and approved in writing by, the local planning authority. Once approved all the works must be carried out as per the Management Plan and thereafter permanently maintained.
- 12) Demolition or construction works shall not take place outside 07:30 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 13) Prior to the commencement of development a vehicle routing agreement for delivery and construction traffic to and from the site shall be submitted to, and approved in writing by, the local planning authority. The development shall be undertaken fully in accordance with the approved routing agreement for the duration of the construction of the development.
- 14) No works shall commence on site until the proposed site access, including footways and pedestrian crossing points, has been provided fully in accordance with the Proposed Site Access plan in Appendix 6 of the "Transport Statement" dated April 2014 and produced by Peter Evans Partnership. The site access shall include 2.4m by 120m visibility splays to a height of between 0.6 and 2.1m above the adjacent footway level and the first 20m of the access road from Broadway Road into the

application site shall be surfaced in a bound material with the access being retained and maintained in that form until and unless adopted as highway maintainable at public expense.

- 15) No dwelling on the development hereby permitted shall be occupied until the access road(s) (including surface water drainage/disposal, vehicular turning head(s), street lighting, and footways where proposed) providing access from the nearest public road to that dwelling have been completed to at least binder course level with the footways complete to surface course in accordance with the approved plans, and those access road(s), shall be maintained in that form until and unless adopted as highway maintainable at public expense.
- 16) No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development 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 either a dedication agreement has been entered into or a private management and maintenance company has been established.
- 17) No development shall commence on site until a scheme has been 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 in accordance with the agreed details.
- 18) 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 CMS). The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
  - a) The parking of vehicles of site operatives and visitors.
  - b) The loading and unloading of plant and materials.
  - c) The storage of plant and materials used in constructing the development.
  - d) Wheel washing facilities.
  - e) Measures to control the emission of dust and dirt during construction.
- 18) Prior to the commencement of development a management agreement detailing the timescales for the provision, the type of facilities to be provided and the maintenance and long term management of the open space (the Management Agreement) shall be submitted to, and approved in writing by, the local planning authority. The open space shall be provided and permanently retained fully in accordance with the Management Agreement unless otherwise agreed in writing by the local planning authority.
- 19) The development shall not commence until a scheme for protecting the occupiers of the development from road traffic noise and any other external noise (the Noise Protection Scheme) has been submitted to, and approved in writing by, the local planning authority. No dwelling shall be occupied until the works agreed as part of the Noise Protection Scheme

have been carried out to that respective dwelling fully in accordance with the agreed details.

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