



Appeal Decision

Site visit made on 21 October 2013

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 12 November 2013

Appeal Ref: APP/F1610/A/13/2202439

Land adjacent to Badgers Field, George Lane, Chipping Camden, Gloucestershire GL55 6EL

- 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 Longborough Developments Limited against the decision of Cotswold District Council.
 - The application Ref 13/01538/OUT, dated 10 April 2013, was refused by notice dated 23 July 2013.
 - The development proposed is the erection of up to 16 dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 16 dwellings and associated works on land adjacent to Badgers Field, George Lane, Chipping Camden, Gloucestershire GL55 6EL in accordance with the terms of the application Ref 13/01538/OUT, dated 10 April 2013, subject to the conditions set out in the schedule to this decision.

Procedural matters

2. The application was submitted in outline with details of access to be considered at this stage and matters of scale, layout, appearance and landscaping reserved for future consideration. I have assessed the proposed development on the same basis.
3. The appellant has submitted a Planning Obligation in the form of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990, as amended. The UU, dated 8 October 2013, relates to the provision of affordable houses on site. The obligation is complete and has been placed before the Council as an appeal document.

Main Issues

4. In the light of objections raised by the Council and others, I consider that there are two main issues. The first issue is whether the release of the site for market and affordable housing is justified by housing land supply considerations. The second issue is the effect of the proposal on the character and appearance of the local area bearing in mind the location of the site within the Cotswold Area of Outstanding Natural Beauty and close to designated heritage assets.

Reasons

5. The site is a largely hedged pasture field that is located on the southern fringe of Chipping Camden. The proposal is to erect up to 16 dwellings on the site with access provided off the public highway at the northwest corner of the land. Eight of the new dwellings would be affordable units. The development follows a scheme for 9 affordable units and 9 private houses with landscape enhancements at this location that was recently dismissed at appeal¹.

Housing Provision

6. The site lies outside but adjacent to the development boundary of the town and therefore falls within the countryside, which should be recognised for its intrinsic character and beauty. Because Policy 19 of the Cotswold District Local Plan (LP) states that open market housing outside defined settlement boundaries will not be permitted, the proposal would conflict with this policy.
7. The appellant considers that the Council is unable to demonstrate a 5-year supply of deliverable sites for housing, as required by the Framework. That opinion is accepted in the Officer's report, which refers to several recent appeal decisions in which Inspectors have consistently found a serious shortfall in the District's housing land provision. While there appears to be some uncertainty regarding the current level of housing land supply due partly to legal challenges to two sites that are included in the latest schedule of housing sites, the appellant's position is unequivocal. Even with these two sites accounted for, there is, at best, a 4.57 years supply of housing land, including a 20% buffer, which the Council has not contested in this appeal.
8. Several interested parties consider differently and refer to other potential candidates that they consider would add to the supply of housing land and affordable dwellings such as Berrington Mill Nurseries. However, few details are before me regarding the exact suitability, genuine availability, viability and precise timing in which these particular sites will come forward. While reference is also made to the preparation of a Parish Plan and possible candidates for new housing within it, I have not been provided with a copy of this document nor am I aware of its precise status. I also note that the Officer's report refers to the appeal site as a candidate for future housing that is identified in the latest Strategic Housing Land Availability Assessment.
9. Paragraph 49 of the Framework states that if a local planning authority cannot demonstrate a 5-year supply of housing, relevant policies for the supply of housing should not be considered up-to-date. This in turn has implications for the application of paragraph 14 of the Framework, which sets out the presumption in favour of sustainable development. Paragraph 14 says that where relevant policies of the development plan are out of date, the presumption in favour of sustainable development means that unless material considerations indicate otherwise permission should be granted. That is unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted.

¹ Ref APP/F1610/A/12/2173963 dated 25 September 2012

10. However, the special emphasis in the presumption in favour of granting planning permission in such circumstances does not automatically apply in this case. That is because the specific policies in the Framework indicate development should be restricted and there is a duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The serious shortfall in the supply of housing land is a material consideration that weighs heavily in favour of allowing the proposed development. However, there are other material considerations that also need to be weighed in the planning balance. These considerations include the effect of the proposal on the CAONB, on designated heritage assets and on affordable housing.

CAONB and Designated Heritage Assets

11. Like the remainder of the town and much of the District, the site is within the Cotswold Area of Outstanding Natural Beauty (CAONB). This is a nationally designated area with the highest status of protection in relation to landscape and scenic beauty. The National Planning Policy Framework (the Framework) advises that great weight should be attached to conserving the landscape and scenic beauty in Areas of Outstanding Natural Beauty.
12. To the north of the site is the Chipping Camden Conservation Area (CA), which covers much of the historic settlement. To the northeast of the site lie the picturesque remains of Campden House, which is a Scheduled Ancient Monument (SAM) and the landscape of the Coneygree beyond. The Campden House complex has multiple national designations and is amongst the most significant of the heritage assets in the town. Lady Juliana's Gateway and the Banqueting House are listed buildings that are also to the northeast of the site. The former reflects the portal between 'tamed and untamed nature' but it now stands alone in the landscape. These designated heritage assets positively contribute to the setting, character and appearance of the historic settlement.
13. Although the site is an undeveloped field, existing development forms a backdrop in views especially from the south where the land visually reads with the adjacent Badgers Field housing scheme. This housing provides a rather harsh and abrupt edge to the town and is has a less than sympathetic relationship with the surrounding landscape. Although hedgerows and some trees that generally mark the site's western and southern boundaries visually enclose the site to some degree the housing beyond these boundaries is also evident from vantage points within and close to the site. There is a more open feel along the site's eastern boundary with a line of poplar trees and a post and wire fence beyond which the undulating landscape is visible.
14. Against that background, I consider that the proposal has been carefully designed to take into account these important considerations. The indicative layout shows the new buildings concentrated around the north and west parts of the site closest to the existing settlement, which would also take advantage of the sloping ground. The remaining land, which is higher, would be given over to open grassland and new planting with the existing public footpath rerouted to meander from one corner of the site to the other, linking George Lane and the countryside further to the east. A mix of dwelling types and sizes are illustrated in the Cotswold vernacular tradition that would be laid out in a way that would create visual interest in the local street scene, with areas for vehicle parking and turning generally away from public view.

15. With the new buildings set back from the site's southern and eastern boundaries there would be a sizeable landscaped area between the new built form and the countryside. Taken together with a new dry stonewall, railings and additional planting, as shown, the landscaped area would visually soften the new built form and provide an attractive setting to the new development. Additional planting in the northeast corner would over time provide a more effective buffer to this edge of the development than the existing poplar trees.
16. Because an open view towards the east would be maintained the appeal scheme would retain the pastoral character and a sense of continuity with the surrounding countryside. Coupled with a high quality architectural frontage to the new landscaped area, as illustrated, the proposal would create an edge to this part of the town that would be pleasing on the eye. To my mind, there would be an appropriate transition between the new built form and the surrounding landscape, as exemplified at Arlington Row in Bibury and Allcourts Meadow in Lechlade.
17. As the indicative layout avoids new buildings on the higher, more prominent parts of the site, walkers heading south west from the Coneygree would continue to enjoy the sense of passing through the sensitive interface between settlement and landscape without being interrupted by new buildings, albeit the development would be in view for part of that experience. In this way, the kinetic experience of views and of passing through the tamed and untamed realm of the relict landscape would be kept. With the realigned footpath positioned centrally within the new landscaped area, the awareness and appreciation of the different characteristics of the landscape would also be evident for those walking across the site towards George Lane.
18. From the public footpaths to the east of the site, views of the new development would be filtered through the foliage of trees, which would remain the predominant feature in this part of the landscape. Based on the indicative layout and the landscape sketch plan, it is unlikely that the proposed built form would draw the eye from this direction. Further to the east, limited parts of the new development would be seen from the Coneygree although from some distance with views heavily screened by tree cover and against the backdrop of the existing settlement. In that context, the proposal would not be obtrusive.
19. Those walking along the rerouted footpath in the opposite direction would continue to experience a relatively clear view towards the Campden House Complex, Lady Juliana's Gate and the Coneygree, provided the new built form is concentrated towards the north and west parts of the site, as shown. From this vantage point there would be a clear line of vision towards the wider pasture to the east, thereby preserving the important link between the site and the landscape. The visual character of the meadow to the east of the site would alter as a result of the appeal scheme. It would become less 'tamed' but not in a materially harmful way because the proposed development would replace one edge of the settlement, which is relatively harsh and abrupt, with another, which is more in sympathy with its rural setting.
20. There is some inter-visibility between the site and the Banqueting House. However, the generous separation distance is such that the new development would not, in my judgment, have any appreciable impact on the setting or significance of that heritage asset.

21. Overall, I consider that the proposed development would have significant benefits in terms of visually improving this part of the southern edge of Chipping Camden and thus enhancing the setting of the town. The appeal scheme, as illustrated, would successfully achieve the subtle balance between settlement and landscape at this sensitive interface. While the development would result in the loss of a field and alter the appearance of this part of the CAONB, the scenic and natural beauty of the designated landscape would be maintained. Consequently, there would be no conflict with paragraphs 109 and 115 of the Framework.
22. Furthermore, the experience of views to, from and across the site of nearby designated heritage assets would be maintained with the setting of the CA, SAM, the Coneygree and listed buildings preserved. Accordingly, I find no material conflict with LP Policy 42, which requires development to be environmentally sustainable and designed to respect the character, appearance and local distinctiveness of Cotswold District.

Affordable housing

23. The UU commits the appellant, if planning permission were to be granted, to provide 8 affordable dwellings on the site that would be transferred to and managed by a registered provider. The UU sets out the tenure, type and size of the affordable dwellings to be provided with their completion linked to the occupation of the proposed market dwellings. A start of development site would be contingent on the Council's prior approval of details of the affordable housing scheme including location, cost and precise tenure mix.
24. There is convincing evidence before me of the need for affordable housing within Chipping Camden primarily through the latest Housing Needs Survey (HNS), which according to the Officer's report identified 22 households in need of affordable housing. The Officer's report also notes that the HNS and Gloucestershire Homeseeker register indicate that 51 households with a relevant connection to Chipping Camden were in need of affordable housing in 2012. The Framework advises that every effort should be made to meet the housing and other development needs that have been objectively identified.
25. By providing affordable homes for rent and shared ownership, the proposal would positively contribute to meeting this identified need. It complies with LP Policy 21, which provides for affordable housing within or next to settlements such as Chipping Camden if there is a proven local need. Against that background, I am satisfied that the provisions of the UU are in accordance with the statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010, as being necessary, directly related to the development, and fairly and reasonably related to it in scale and kind. The provision of affordable housing on site significantly weighs in favour of the appeal scheme.

Other matters

26. The site is located close to the town centre and within convenient walking distance of many shops, schools and local services. Like the Inspector in relation to the previous appeal scheme, I consider that the site is well connected and that it occupies a very sustainable location. This lends considerable weight to the appellant's case.

27. The appellant's Ecological and Protected Species Appraisal (EPSA) found no habitats that support wildlife and plants of acknowledged value within the site with both the land and hedgerows considered to be of no significant nature conservation interest. The EPSA does, however, recommend measures to enhance bio-diversity through the incorporation of bat and bird nesting boxes within the development and planting up gaps in poor boundary hedgerows. With these measures in place, there would be a net gain in bio-diversity, which is encouraged in the Framework.
28. The probability of flooding across the site is regarded by the Environment Agency (EA) to be very low with the site falling within Zone 1, which has the lowest probability of flooding. A management strategy for the development is recommended in the appellant's flood risk assessment to manage surface water run off, which could be secured by condition. The EA raise no objection and I, too, find no compelling reason to justify withholding planning permission on this ground. Similarly, there is no persuasive evidence that the proposal would cause or exacerbate local drainage problems.
29. Access to the site would be from a reconfigured junction with George Lane and Pear Tree Close. The appellant's Transport Assessment (TA) concludes that the proposed access arrangements would meet relevant design criteria of the Highway Authority with adequate driver and pedestrian visibility at the site's entrance. There is understandable concern that additional traffic using the local roads would pose a threat to the safety of highway users, especially on the approaches to the nearby primary school. Whilst congestion may occur at school drop-off and pick-up time, this would not necessarily be coincident with vehicle movements associated with the appeal scheme because most children attending the school and living within the development would be likely to walk. Furthermore, the TA concludes that traffic generated would have no material impact on the safety or operation of the highway network. Therefore, I share the view of the Council that the site can be accessed safely and find no convincing evidence that the proposal would unduly exacerbate local parking problems or disrupt traffic flows.
30. I also acknowledge the concerns expressed by many interested parties and the petition against the appeal scheme. However, the level of local opposition is not, in itself, a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons, which are supported by substantial evidence. Having taken into account all of the evidence before me, I am not persuaded that the objections raised, taken individually or together, outweigh my findings in relation to the main issues.

Summary

31. The site occupies a sensitive location. It lies close to a settlement of historic, architectural and cultural value in a designated landscape with experiences of designated heritage assets from views towards, from and across the site. In that context, it is inevitable that the proposal would have an appreciable impact and evoke considerable public interest.
32. The appeal scheme would conflict with LP Policy 19 because it would result in new open market houses outside the defined settlement boundary. However, the evidence before me indicates a serious shortfall in the District's housing

provision and the new development would contribute towards meeting some of that shortfall in the short term. While the Framework encourages the effective use of land through reusing previously developed land, it does not preclude the development of green field sites in certain circumstances. To my mind, those circumstances include the provision of much needed open market housing and affordable dwellings on a site in a very sustainable location that would result in visual improvements to this part of the southern edge of the settlement.

33. Overall, I conclude that the planning balance is firmly tipped in favour of the appeal scheme because the benefits of the proposed development clearly outweigh the conflict with the development plan, and all other material considerations, including the effect on the CAONB and nearby designated heritage assets.

Conditions

34. The application was submitted in outline with matters of appearance, landscaping, layout and scale reserved for future determination. Therefore, it is necessary to attach the standard conditions setting out the timetable for submission and approval of these reserved matters. A condition that requires the development to be carried out in accordance with the approved plans is also necessary for the avoidance of doubt and in the interests of proper planning. In effect, these plans define the site's boundaries and the proposed access arrangements as detailed in the TA.
35. Since layout is a reserved matter, the indicative layout plan (Ref 1918.021) is not identified as an approved drawing because it has been submitted for illustrative purposes only. However, my findings regarding the acceptability of the proposal and its visual impact on the local area are contingent upon the final layout and scope of development broadly according with that shown on the indicative layout plan. It is essential that the illustrated approach is broadly adhered to not least because the consequences of the development on designated heritage assets and the landscape setting of the town depend on that outcome. For instance, it is important that no buildings are erected on the grassland area to the south and east of the site, as shown on drawings.
36. To that end, an additional condition is necessary to those suggested by the Council to require the layout to be in conformity with the parameters and principles embodied in the indicative layout plan, the landscape master plan sketch (Ref 1031.L.02A) and the proposed site sections (Ref 1918.011). This can be achieved by requiring the Council's approval of a master plan that is broadly in accordance with these illustrative drawings. Although such a condition would change the status of the indicative plans to more than illustrative, some flexibility would still be retained for any changes that the Council may wish to approve.
37. A condition is necessary to ensure that an assessment is made of any contamination on the site and, if necessary, appropriate remediation takes place in accordance with an approved methodology. This condition is necessary to ensure that the land is suitable for residential use and to safeguard the health and safety of future occupiers and those engaged in the construction phase. Measures governing the arrangements for construction, such as the times in which works on site and associated deliveries will occur

are needed to protect the living conditions of nearby residents and the safety of highway users. This can be achieved by compliance with an approved Construction Method Statement, which is secured by condition.

38. The EPSA refers to measures that would lead to a net gain in biodiversity if bat and bird boxes were incorporated into the development. These measures, in the context of a landscape and ecological plan that also includes post-completion management prescriptions for all areas of grassland, trees and hedges, and other habitat features such as wildflower grassland, would help to ensure that the natural environment within the site complements the high quality required of the built environment. This can be achieved through an agreed Landscape and Ecological Management Plan. For the same reason, it is also necessary to require by condition details of the provision, maintenance and use of the open space within the site be in accordance with an agreed management scheme. In the light of the appellant's Archaeological Trial Trench Evaluation Report and the recommendations of the County Council's Archaeological Officer, a condition is imposed to secure the implementation of an agreed programme of archaeological work.
39. Conditions covering a programme of highway works including the construction of the access roads and of roads within the site, together with vehicle parking and turning areas to serve the dwellings, and timing is necessary in the interests of highway safety. The Council has suggested requiring completion of the road at least to base course level six months after occupation of any dwelling served by it. However, there would be only a single vehicle access from the public highway that may still be in use by heavy construction traffic even after dwellings are occupied. Therefore, I have amended the requirement for completion of the access road to be in accordance with an agreed timetable.
40. To ensure the satisfactory appearance of the development, conditions are imposed requiring details of boundary treatment, ground and floor levels and refuse storage arrangements. To minimise the effect of surface water run off from the site a condition is necessary to require details of a system to regulate surface water. Details of surface and foul water disposal are also required to ensure that the site is properly drained.
41. The conditions largely reflect those suggested by the Council, which I have amended, where necessary, in the interests of clarity and to more closely reflect national guidance.

Conclusion

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

Gary Deane

INSPECTOR

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 on land to which the reserved matters relate 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. 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) The development hereby permitted shall be carried out in accordance with the following approved plans: Ref 1918.006 and 8016-04.
- 4) Notwithstanding condition 3 and the generality of condition 1, the outstanding reserved matters shall not be submitted until a detailed master plan in general accordance with the principles concerning landscaping, layout and scale as shown on the indicative layout plan (Ref 1918.021) and the landscape master plan sketch (Ref 1031.L.02A) for no more than 16 dwellings has been submitted to and approved in writing by the local planning authority. The submitted reserved matters shall accord with the principles of the approved master plan. Development shall be carried out in accordance with the approved master plan and the approved reserved matters.
- 5) 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 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. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. 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 source of 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.
- 6) 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: (a) the parking of vehicles of site operatives and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials used in constructing the development; (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; (e) wheel washing facilities; (f) measures to control the emission of dust and dirt during construction; (g) a scheme for recycling and disposing of waste resulting

- from demolition and construction works; and (h) the times in which construction works on site and related deliveries will take place.
- 7) No development shall take place within the site until the applicant company, or its agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
 - 8) The development hereby permitted shall not commence until a Landscape and Ecological Management Plan (LEMP) for a 5-year period has been submitted to and approved in writing by the local planning authority. The LEMP shall include: (a) details of features to be incorporated into the development that are suitable for use by bats and breeding birds, including a timetable for their implementation; (b) post-completion management prescriptions for all areas of grassland, trees and hedges, with annual maintenance and monitoring schedules; and (c) other habitat features such as any new hedgerow and tree planting, wildflower grassland and enhancement of retained grassland. The LEMP shall be implemented in accordance with the approved details and programme.
 - 9) No development shall take place until a detailed scheme has been submitted to and approved in writing by the local planning authority showing how the open space within the site would be provided, managed and maintained. The scheme shall include the provision, type and layout of facilities and a programme for their implementation. The open space shall thereafter be laid out, maintained and managed in accordance with the approved details.
 - 10) Before the commencement of development, details of existing and proposed ground levels within the site and adjoining land; proposed finished floor levels; and ridge and eaves heights of the proposed buildings and existing buildings on adjacent land to the site shall, concurrently with the reserved matters application(s), be submitted to and approved in writing by the local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform and buildings. Development shall be carried out in accordance with the approved details.
 - 11) No development shall take place until there has been submitted to and approved in writing by the local planning authority details of refuse storage and recycling within the site including a programme for implementation. Development shall be completed in accordance with the approved details and shall be permanently retained thereafter.
 - 12) Notwithstanding the generality of the requirement to submit landscaping details for approval pursuant to condition 1, no development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

- 13) Development shall not commence until details of the junction between the new access road and the highway, visibility splays and the road layout within the site (including street lighting, footways, turning heads) have been submitted and approved in writing by the local planning authority. The junction between the new access road and the highway and the road(s) within the site shall be constructed in accordance with the approved details and completed to at least base course level to a specification to be submitted to and approved in writing by the local planning authority before any of the dwellings hereby permitted are occupied. The approved roadway to any dwelling shall be completed in accordance with a timetable that has previously been agreed with the local planning authority and shall thereafter be maintained in its completed condition unless adopted as highway maintainable at public expense.
- 14) No dwelling hereby permitted shall be occupied until space has been laid out within the site for vehicle parking and manoeuvring facilities in accordance with a detailed scheme that has been submitted to and approved in writing by the local planning authority. The parking spaces and manoeuvring facilities to be provided shall be kept available for these purposes at all times and shall be permanently retained as such thereafter.
- 15) No development shall commence until a scheme for the provision of a surface water drainage system, including arrangements for the management of overland flow that may surcharge from the site's surface water drainage system, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the Flood Risk Assessment (prepared by Enzygo Environmental Consultants, dated November 2011). The scheme shall include details of the size, position and construction of the drainage system; measures to intercept surface and sub soil water flows from and to adjacent land; an implementation plan; and details of how the system will be maintained and managed after completion. Development shall be carried out in accordance with the approved details.
- 16) No development shall commence until a scheme for the disposal of foul and surface water from the site and a programme for implementation has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented in accordance with the approved details and programme.