



Appeal Decision

Site visit made on 2 February 2015

by Louise Phillips MA (Cantab) MSc MRTPI

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

Decision date: 17 March 2015

Appeal Ref: APP/C1625/A/14/2219549

Land at Woodside Lane, Kings Stanley, Stroud, Gloucestershire GL10 3LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lioncourt Homes Ltd against the decision of Stroud District Council.
 - The application Ref S.13/1834/FUL, dated 22 August 2013, was refused by notice dated 22 November 2013.
 - The development proposed is the erection of 48 dwellings (including 15 affordable dwellings) with landscaping and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 48 dwellings, including 15 affordable dwellings, with landscaping and associated infrastructure at Woodside Lane, Kings Stanley, Stroud, Gloucestershire GL10 3LA in accordance with the terms of the application, Ref S.13/1834/FUL, dated S.13/1834/FUL, subject to the conditions set out at Annex A.

Main Issues

2. The decision notice includes two reasons for refusal, the second of which relates to the classification of the site as Grade 3 agricultural land. However, having received additional information from the appellant in support of a more recent planning application¹, the Council confirms at paragraph 4 of its Statement that it will not defend this reason for refusal on appeal. None of the other evidence before me causes me to take a different approach.
3. Consequently, the main issue in this case is the effect of the proposed development upon the character and appearance of the area and, in particular, the natural beauty of the adjacent Cotswolds Area of Outstanding Natural Beauty.

Reasons

4. The appeal site comprises agricultural land adjoining the western edge of King's Stanley. It lies outside the defined settlement boundary for the village where Policy HN10 of the Stroud District Local Plan, 2005 (Local Plan) restricts residential development unless it is essential to the efficient operation of agriculture or forestry. However, the Council does not have a five year supply

¹ Council Ref S.14/0525/FUL. At the time of writing my decision, this application had not been determined.

of deliverable sites for housing as required by paragraph 47 of the National Planning Policy Framework (the Framework). Therefore, having regard to the provisions of paragraph 49 of the Framework, the need for additional housing is a significant material consideration which weighs against the conflict with Policy HN10 in this case.

5. Nevertheless, the Council does not rely upon Policy HN10 in its reason for refusal, but instead refers to Policies NE8 and NE10 of the Local Plan, which concern the conservation and enhancement of the Cotswolds Area of Outstanding Natural Beauty (AONB) and the different landscape character types in the District more generally. The dispute between the main parties is essentially whether the adverse impacts of the proposed development upon the landscape, including the adjacent AONB, would significantly and demonstrably outweigh the benefits of the market and affordable housing it would provide. Having regard to the advice in the Planning Practice Guidance (PPG), I consider it a legitimate aim of Policy NE8 to seek to protect the setting of the AONB².
6. The appeal site is located on the northern side of Woodside Lane adjoining housing in Castle Meads, King's Stanley, to the east. The western boundary is with agricultural land and, while the northern boundary is also with open land between the villages of King's Stanley and Leonard Stanley, outline planning permission has been granted on appeal³ for up to 150 residential units to be built there. This development site is known locally as "Mankley Fields". The boundary of the AONB runs along the southern side of Woodside Lane so that the appeal site is outside but adjacent to it. It is proposed to build 48 new dwellings on the appeal site, as a combination of detached, semi-detached and terraced houses, including 15 affordable units.
7. Woodside Lane is a no-through road and so the main approach to the site is from the east along Castle Street and Woodland View. Castle Street has a footpath, maintained grass verges and houses on both sides which afford it a residential feel. Woodland View also has houses on both sides, but the carriageway begins to narrow, and the western boundaries of No 5 and "Woodleighs", where Woodside Lane begins, mark a clear change between areas of predominantly urban and rural character. National speed limit signs are positioned here, the lane becomes much narrower and it is bordered by an orchard and a farm to the south and the mature tree and hedgerow boundary of the appeal site to the north. Therefore the 48 dwellings proposed would extend the area of built development into the countryside and this change in character would, in my view, cause some harm.
8. However, when in Woodside Lane itself, the trees and hedgerow along the boundary of the site provide a reasonably dense screen, even in winter. Thus, while the new buildings would undoubtedly be evident to passers-by, they would not be unduly prominent or intrusive. I accept that the development would be clearly seen through the point of access adjacent to No 5 Woodland View as some vegetation would be removed, but this would affect a relatively short stretch of the lane closest to the settlement.
9. Moreover, planning permission has been granted for a terrace of three houses on the orchard belonging to Castle Farm⁴. Whilst the approved scheme would

² PPG paragraph 003; Ref ID 8-003-20140306.

³ Ref APP/C1625/A/13/2207324.

⁴ Council Ref S.14/0690/FUL.

be of a wholly different scale to that which is before me, it would nonetheless extend the limit of built development on the southern side of the lane up to the entrance to the appeal site. The impact of the proposed development on the northern side would not be so conspicuous by consequence.

10. Within the site itself, the visual effects of the appeal scheme would be significantly greater than on the lane and this would affect the experience of anyone using the public footpaths which cross it. However, views to the north will be changed dramatically if the 150 dwellings approved in outline are constructed on Mankley Fields and, likewise, anyone entering the site from the north will have come through a built up area. In time, therefore, the proposed development would come to be seen as part of the wider settlement. Whilst it would form a new urban edge, this in itself would not be harmful.
11. Views to the south from within the appeal site are into the Cotswolds AONB. The site itself is within the "escarpment footslopes" of the area characterised as "rolling agricultural plain" in the Stroud District Landscape Assessment and, at present, the open views across it do contribute positively to perceptions of the rising land opposite. In this respect, I do understand the concerns of the residents of Nos 1a to 9 Castle Meads, whose outlook would be totally changed by the presence of housing on this site.
12. However, the value of the site as part of the lowland setting for the AONB is much less than the wide swathe of similar land on the south side of Woodside Lane which is actually within the designated landscape. Indeed there are many points along the lane itself at which the site and the AONB cannot be seen together, either because the former is screened by boundary vegetation or because the latter is not visible over the steeply banked roadside verge. Consequently, while the proposed development would cause some localised harm in terms of the southerly views I have described, it would not compromise the natural beauty of the AONB in any significant way.
13. For the reasons above, I conclude that the proposed development would cause some harm to the character and appearance of the area by extending the built up area of King's Stanley into the countryside. It would also change how people in the immediate vicinity of the site experience views of the Cotswolds AONB to the south. Thus there would be some conflict with the aim of Policy NE10 of the Local Plan to conserve or enhance the special features and diversity of the landscape types within the District. To a lesser extent still, there would be conflict with the aim of Policy NE8 to conserve and enhance the setting of AONBs.
14. However, this harm must be set in the context of the development which is already likely to take place in the immediate vicinity of the site and the need to find additional sites for housing in the District. In respect of the first point, the 150 houses which are likely to be constructed on Mankley Fields will fundamentally change the character of the area by filling the open space between Leonard Stanley and King's Stanley. With these in place, the present proposal would represent a logical rounding off of the larger settlement.
15. In respect of the second point, there is nothing before me to suggest that the type of harm I have found would not generally occur as a result of development on the edge of a settlement. In reaching this view, I acknowledge the advice in paragraph 115 of the Framework that great weight should be given to conserving landscape and scenic beauty in AONBs.

However, I note from my colleague's report in the Mankley Fields case that about half of the District is covered by AONB and that most of the remaining land could probably be seen from somewhere in it.

Other Matters

16. The appellant has submitted a unilateral undertaking pursuant to Section 106 of the Act⁵, which includes the provision of 15 affordable housing units; on-site informal open space; financial contributions of £23,384 and £9,408 to the County Council towards education and libraries respectively; and a financial contribution of £60,891 to the District Council towards youth and adult recreational facilities. Whilst the Council is concerned that Clause 5.2 of the document would remove its ability to enforce the undertaking against successors in title, it would only in fact protect individual residential owners or occupiers of the dwellings proposed. Clause 4.4 would allow for the Deed to be registered as a local land charge, which would tie any future purchaser of the site.
17. None of the planning obligations contained within the undertaking appears to be in dispute, but I have considered them against the tests in Regulation 122 of the CIL Regulations 2010 nonetheless. The Council has identified a substantial need for affordable homes in the District (492 per year), which exceeds total housing delivery in recent years⁶. The 15 units sought in the appeal scheme amounts to just over 30% of the total number proposed on the site, which is consistent with the requirements of Policy HN4 of the Local Plan. I therefore consider that this obligation meets the necessary tests in law and I have taken account of it in reaching my decision. Having regard to the Government's aim in the Framework to boost significantly the supply of both market and affordable housing, the provision of the latter would be a benefit of the scheme for the purpose of any planning balance.
18. In respect of on-site open space, I am satisfied that the area proposed, mainly in the north-east corner of the site, would be proportionate to the scale of the development. It would be necessary to secure good living conditions for future occupiers and, in this case, to provide mitigation for wildlife. Consequently I have had regard to the obligation to provide the space and the associated measures to manage it.
19. Turning to the financial contributions, the County Council has submitted detailed evidence in respect of education and libraries in the area. In each case, it is clear how the contributions have been calculated and how they would be spent on addressing specific local deficiencies. The tests set out in the Regulations are therefore met.
20. I have considered the County Council's objection to the absence of bonding as security against non-payment of these contributions. However, while the Secretary of State upheld a similar objection in the case of a proposal in Lydney in 2009⁷, that scheme concerned a development of 750 houses requiring significant infrastructure provision over time. The Inspector's reasoning in paragraphs 231 and 232 of her decision centres on this matter. In the present case, neither the scale of the development proposed, nor the level

⁵ The Town and country Planning Act, 1990 (as amended).

⁶ Council's comments on Unilateral Undertaking, dated 6 August 2014 (page 5).

⁷ Appeal Ref APP/P1615/A/08/208/407.

or nature of the financial contributions sought, are comparable. Therefore I do not consider that the lack of bonding would pose a significant risk to the public purse. This matter would not lead me to dismiss the appeal.

21. Finally, the contribution to the District Council towards youth and adult recreation open space has been calculated using a formula set out in adopted Supplementary Planning Guidance (SPG)⁸. Policy RL5 requires that new residential development should provide appropriate outdoor playing space and a relatively recent survey⁹ has identified a shortage of 4.66Ha of playing pitches in the 'Stonehouse Cluster', within which King's Stanley is located. It therefore meets the relevant tests and I attach weight to it accordingly.
22. In terms of other matters, I have had regard to the significant number of objections submitted by interested parties. Many relate to the character and appearance of the area. Many more raise concerns about the transport impacts of the proposal and its effect on surface water flooding in the area.
23. The approach to the proposed development along Castle Street and Woodside Lane is certainly quite narrow and I accept that on-street parking might inhibit the free flow of traffic at times. However, having had regard to the Transport Statement¹⁰ submitted by the appellant, and to the capacity of Woodside Land to accommodate additional traffic, the Highway Authority is satisfied that any potential safety risks could be satisfactorily mitigated by conditions.
24. The conditions would include requirements to secure works of a fairly significant nature, including the extension of the 30mph speed limit to the south of the new access; and the provision of a gateway feature to manage road priority at the junction of Castle Street and Castle Mead. However, the representation of the Highway Authority supports these measures. I am therefore satisfied that the imposition of conditions would be effective in addressing highway safety concerns.
25. In respect of surface water drainage, I have been provided with photographs which show that flooding has occurred in the immediate vicinity of the site and so the concerns raised are clearly not without foundation. However, the appellant's Flood Risk Assessment¹¹ concludes that by the installation of a surface water drainage system, consisting of oversize sewers and a detention basin, discharge rates for the outfall would be limited to greenfield rates. The Council's Engineer considers this to be satisfactory and I have no detailed evidence upon which to base a different conclusion.
26. Therefore, having regard to the transport and drainage issues above, and to all other matters raised by interested parties, none would cause me to dismiss the appeal. In reaching this view, I have taken account of what I saw from the rear gardens of the properties bordering the site on Castle Mead. As I have indicated above, the proposed development would change the open outlook presently enjoyed by these residents significantly, as would the Mankley Fields scheme in some cases. However, the layout of the new dwellings would be such that they would, in an objective sense, cause any significant detriment to living conditions.

⁸ Residential Development Outdoor Play Space Provision Supplementary Planning Guidance, November 2009.

⁹ Outdoor Playing Space – A Survey of Local Provision and Needs, September 2013.

¹⁰ Transport Statement, by Key Transport Consultants Ltd, dated August 2013.

¹¹ Flood Risk Assessment, by JMP Consultants Limited, dated 19 August 2013.

Conclusion

27. I have found that the proposed development would cause some harm to the character and appearance of the area and some limited harm to the setting of the Cotswolds AONB in respect of southerly views from within the appeal site itself. Thus it would conflict with Policies NE8 and NE10 of the Local Plan, as well as with Policy HN10, which seeks to restrict new development outside settlement boundaries.
28. In considering the presumption in favour of sustainable development set out in the Framework¹², the harm I have identified would also amount to conflict with the environmental role thereof. However, because the Council cannot demonstrate that its housing needs can be met on other sites, paragraph 14 of the Framework, via paragraph 49, requires that the costs and benefits of the proposal are weighed in the planning balance. In this respect, there is no apparent dispute between the parties that the development would contribute positively to the area in an economic sense; and the provision of 48 new homes, including 15 affordable homes, would represent a significant benefit in terms of the social role of sustainable development.
29. Therefore, in light of the particular nature and limited extent of the harm I have found, I conclude that adverse impacts of the development upon the character and appearance of the area would not significantly and demonstrably outweigh the benefit of the additional housing. Consequently, it would represent a sustainable form of development for which there is a presumption in favour and so the appeal should be allowed.

Conditions

30. I have imposed the standard time limit condition for the commencement of development and another to require the development to be carried out in accordance with the approved plans. These are for the avoidance of doubt and in the interests of proper planning. I have also considered the list of conditions submitted by the appellant, dated 18 July 2014, in light of the advice in the PPG. I understand that these have been prepared in consultation with the Council.
31. The condition requiring the submission of a scheme for surface water drainage is required to manage risks of flooding and/or pollution, while that relating to archaeology is necessary to ensure that any features of interest on the site are properly identified, recorded and protected. The conditions in respect of materials, landscaping and trees are necessary to protect the character and appearance of the area; and that requiring a wildlife enhancement and mitigation strategy is necessary to ensure that conservation of biodiversity is considered comprehensively.
32. I have imposed a condition to require the submission of a Construction Method Statement in the interests of highway safety and to protect the living conditions of nearby occupiers during the construction period. To secure satisfactory and safe living conditions for the residents of the new dwellings

¹² Footnote 9 to paragraph 14 of the Framework indicates that the presumption in favour of sustainable development should not apply where specific policies in the Framework indicate that development should be restricted. Such policies include those relating to AONBs, but the appeal site is not within the designated area. Given the conclusions I have reached in relation to the harm which would result from the development, I am satisfied that the presumption should apply in this case.

themselves, I have included conditions to require the installation of fire hydrants and the completion of road and footway surfaces prior to occupation. The reasons for the conditions requiring the completion of various works to the public highway are explained in my decision and that requiring the installation of Real Time Passenger Information at the nearest bus stop is to facilitate the use of public transport by future occupiers.

33. Finally, I have imposed a condition to limit working hours on the site. This reflects the fact that the site lies adjacent to an existing residential area.

Louise Phillips

INSPECTOR

Richborough Estates

Annex A – Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 002, 01D, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013, 014, 015, 0016, 017, 018, 019, 020, 021, 022, 23 and 24A all with the prefix UG1420; and 001, 002, 003, 004 and 005 all with the prefix MID3438/005.
- 3) No development shall take place until full details of a scheme for the disposal of surface water drainage have been submitted to and approved by the local planning authority. The scheme shall include full calculations to show that surface water disposal would not exceed the current greenfield run-off rate from the site; a timetable for its implementation; and a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 4) No development shall take place on the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted 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 development shall take place until full details of both hard and soft landscape works, including a timetable for their implementation, have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The details shall include proposed finished levels or contours; means of enclosure and boundary treatments; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; and minor artefacts and structures (e.g. refuse or other storage units, signs and external lighting). Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants; and measures for the long term retention of all trees and hedgerows to be retained in accordance with Condition No 7.
- 7) No development shall take place, including any felling, uprooting, removal or pruning of any tree or hedgerow until a scheme for the retention and protection of all trees and hedgerows to be retained has been submitted to and approved in writing by the local planning authority. The scheme shall accord with the advice in British Standard 5837 Trees in Relation to Construction.

Development shall be carried out in accordance with the approved scheme for its duration. Within protected areas, land levels shall not be

- changed; no fires shall be lit; no equipment, machinery or vehicles shall be operated, parked or stored; no materials shall be stored or disposed of; and there shall be no mixing of cement or use of contaminating materials or substances.
- 8) No development shall take place until a wildlife enhancement and mitigation strategy has been submitted to and approved in writing by the local planning authority. The strategy shall include full details of the enhancement and mitigation measures proposed in relation to specific species and habitats, a timetable for its implementation; measures for its future maintenance; and details of the organisation(s) responsible for its implementation and/or maintenance. The strategy shall accord with the recommendations of the Ecological Appraisal submitted with the application (by EDP, dated August 2013) and it shall be implemented and maintained thereafter as approved.
- 9) 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. It 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) wheel washing facilities
 - v) measures to control the emission of dust and dirt during construction
- 10) No development shall take place until details of a change of priority and a gateway feature at the junction of Castle Street and Castle Mead have been submitted to and approved in writing by the local planning authority. The works shall be completed as approved before any of the dwellings hereby permitted are occupied.
- 11) No development shall take place on site (other than that required to comply with this condition) until the first 20m of the new access road, including its junction with Woodside Lane, and the associated visibility splays, have been completed to at least binder course level.
- 12) No development shall take place until a scheme for the provision of fire hydrants, served from the mains water supply, has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the fire hydrant serving that dwelling has been provided to the written satisfaction of the local planning authority.
- 13) The dwellings hereby permitted shall not be occupied until the access arrangements; repositioning of the national speed limit signs; and change in priority shown in Figure 3 of the Transport Statement (by Key Transport Consultants Ltd, dated August 2013) has been completed to the written satisfaction of the local planning authority.
- 14) No dwelling shall be occupied until the carriageway (including provisions for surface water disposal, vehicular turning heads and street lighting) providing access from the public highway to that dwelling has been completed to at least binder course level and the footway to surface course level.

- 15) The dwellings hereby permitted shall not be occupied until a scheme for the installation of Real Time Passenger Information at the nearest bus stop to the site has been implemented as approved in writing by the local planning authority.
- 16) No works of demolition or construction, including the operation of plant or machinery; and no construction related deliveries to or from the site shall take place outside 0800 hours to 1800 hours on Mondays to Fridays and 0800 hours to 1400 hours on Saturdays nor at any time on Sundays or Bank Holidays.

End.

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