

Appeal Decision

Inquiry held on 18 - 21 August 2015

Site visits made on 17, 18 and 20 August 2015

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 23 September 2015

Appeal Ref: APP/G1630/W/15/3002522

Land at Moat Farm, Malleson Road, Gotherington, Gloucs GL52 9ET

- 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 Edward Ware Homes Limited against the decision of Tewkesbury Borough Council.
- The application Ref 14/00749/OUT, dated 25 July 2014, was refused by notice dated 11 November 2014.
- The development proposed is residential development of up to 35 dwellings and associated infrastructure, including the demolition of an annex to the existing property in order to enable vehicular access.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal seeks outline planning permission, with all details reserved except for access. In so far as the submitted plans show details relating to other matters, it is agreed that these are only illustrative.
3. As originally submitted, in July 2014, the application sought permission for a development of up to 42 dwellings. In June 2015, following the Council's refusal of permission and the lodging of the appeal, the appellants sought agreement to reduce the scheme to a maximum of 35 dwellings. This proposal was supported by a revised illustrative plan, No ILM03 Revision A. Further consultation regarding this amended proposal has been undertaken by the appellants with statutory consultees, and with all other respondents to the Council's original consultation. A number of further comments have been received in response to this re-consultation. At the inquiry, neither the Council nor any other party objected to the substitution of the amended plan and description. I am satisfied that all those who might wish to comment have had the opportunity to do so, and that in any event, no one could be adversely affected by the proposed change. I have therefore dealt with the appeal on the basis of the revised proposal for up to 35 dwellings.
4. The Council's refusal was based on six refusal reasons (RRs), of which RRs Nos 3-6 related to a lack of provision for affordable housing, playing pitches, sports facilities, education, libraries, highway improvements, public transport, and pedestrian/cycle access. At the inquiry, the appellants tabled a legal undertaking which provides for affordable housing and various financial contributions. It was also agreed that the provision of bus stop improvements

and a pedestrian crossing could be dealt with by conditions. In the light of these matters, the Council confirmed that RRs 3-6 should be treated as withdrawn.

5. During the inquiry, it emerged that a number of the representations made to the Planning Inspectorate by interested persons had either not been forwarded to the appellants, or had not been received by them. Copies of the relevant letters were provided on the opening day of the inquiry, and the appellants later confirmed that they had had adequate opportunity to respond to these during the course of the inquiry. In the circumstances, I am satisfied that the appellants' case has not been prejudiced.

Planning Background

The adopted Local Plan

6. For the purposes of this appeal, the development plan comprises the saved policies of the Tewkesbury Borough Local Plan (TBLP), adopted in March 2006.

TBLP housing policies

7. In Policy HOU3, Gothington is classified as an 'Other Village'. In such villages, residential development is to be restricted to infilling within the defined village boundaries. In the case of the appeal site, the boundary is drawn so as to include only the existing dwelling Moat Farm House, and its front and side gardens, and the remainder of the site is excluded.
8. Outside village boundaries, Policy HOU4 restricts residential development to certain limited categories, including agriculture and affordable housing. Although the appeal scheme includes some affordable housing, it has not been argued that this makes the scheme admissible under Policy HOU4, and I see no reason to disagree.
9. However, the TBLP made provision for housing only up to 2011, and it is agreed that the Council cannot currently demonstrate a 5-year supply of deliverable sites for housing development. Consequently, whilst these policies remain as part of the development plan, they must be viewed alongside NPPF¹ paragraph 49, which states that in these circumstances housing policies should not be regarded as up to date. I return to this matter later in my decision.

TBLP Landscape policies

10. The TBLP defines a number of Special Landscape Areas. One of these lies between Gothington and the nearby Cotswold escarpment. The greater part of the appeal site is included in this SLA.
11. Within SLAs, Policy LND2 states that special attention will be given to the protection and enhancement of their landscape character. The policy then goes on to say that development in the SLA should not adversely affect the quality of the natural and built environment, its visual attractiveness, wildlife and ecology, or detract from the quiet enjoyment of the countryside.
12. Elsewhere in the rural area, outside the SLAs or AONB and other specially protected areas, Policy LND4 states that regard is to be given to the need to protect the character and appearance of the rural landscape.

¹ The National Planning Policy Framework, published March 2012

13. In relation to these landscape policies, I was referred to two recent appeal decisions, in Alderton and Twynning, in which Inspectors considered the extent to which Policies LND2 and LND4 are consistent with the NPPF². In the light of those decisions, the Council's position at the present inquiry was that it was content for Policy LND4 to be given limited weight; and in the case of LND2, that limited weight should be given to the policy's final sentence³. To the extent that these matters are already conceded by the Council, it is not necessary for me to comment on whether I agree with their position on these, and I do not propose to do so.
14. I acknowledge that the appellants would limit the weight to Policies LND2 and LND4 (or the remaining parts of them) still further, and in this regard I have also considered the effects of the *Colman*⁴ judgement. But the policies in question remain part of the statutory development plan, and as far as I am aware, none has been subjected to any specific ruling by the Courts. To my mind, nothing in either policy presumes against all development, nor precludes a balanced assessment of proposals, in line with the NPPF. I therefore consider that some weight must still attach to the final sentence of LND2 and to LND4, albeit it less than 'full' weight. This conclusion seems to me to be broadly consistent with that of my colleagues in the two previous appeals referred to. And in any event, I also consider that Policy LND2 should be read as a whole. I have dealt with the appeal on this basis.

Emerging Plans

Draft Core Strategy

15. The Submission draft of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (the JCS) was published in November 2014. The public examination commenced in May 2015 and is currently on-going, with further sessions scheduled in November 2015.
16. The draft plan seeks to set housing targets up to the year 2031. Gotherington is classified as one of 12 'service villages', the fourth tier in the settlement hierarchy. Draft Policy SP2 proposes that 752 dwellings be allocated at the service villages, some of which are already committed. The necessary allocations are to be made in new local and neighbourhood plans.
17. Other than on allocated sites, Policy SD11 proposes that housing development at service villages and other settlements should normally be permitted only on previously developed land, within the settlement's existing built-up area. Throughout the plan area, Policy SD7 seeks to protect the character of the landscape for its own intrinsic beauty and its benefits to economic, environmental and social well-being.
18. From the evidence available, it is clear that the proposed housing numbers, distribution and spatial strategy are amongst the key matters being examined. So too, in general terms, is the service village classification. In so far as the draft plan depends on the outcome of these matters, therefore, it carries limited weight. However, in the case of Policy SD7, there is no evidence of any

² (i) St Margarets Drive, Alderton (APP/G1630/A/14/2222147), dismissed on 17 March 2015; and (ii) Cornerways, Twynning (APP/G1630/W/14/3001706), allowed on 13 July 2015

³ In making these concessions, the Council asked for it to be noted that they wished to reserve their position in respect of any future matters where these policies might be at issue

⁴ *Anita Colman v SoS and others [2013] EWHC 1138 (Admin)*

unresolved objections, and it therefore seems to me that this draft policy should carry some weight, albeit less than full weight.

Emerging Tewkesbury Borough Plan

19. The emerging Tewkesbury Borough Plan (TBP) is at a very early stage. The 'Draft Policies and Sites Options', published in February 2015, identifies possible options for site allocations at the service villages, including two in Gotherington. The present appeal site is not included in these.
20. The document makes it clear that the sites identified are intended only for the purposes of consultation, and states that together these would provide for more than the total numbers of dwellings required. The document also contains draft policies relating to settlement boundaries and the SLAs. Objections were received to all of these options and policies. Given its early stage, I have given little weight to the emerging TBP in this appeal.

Emerging Neighbourhood Plan

21. The draft Gotherington Neighbourhood Plan (GNP) was published in July 2015. Draft policy GNDP1 puts forward three alternative options for housing development, spread across one, two, or four sites. No preference is expressed for any of these options. Elsewhere, it is proposed to restrict any development to infill. The appeal site is not included in the options identified.
22. Other draft policies seek to protect views from the village to the surrounding hills, and to protect identified 'significant views', including some views to and from the appeal site; and also to preserve and enhance non-designated heritage assets, which are to be identified in a future version of the plan.
23. In view of its early stage and lack of completeness, it seems to me that little weight can be attached to the neighbourhood plan at this stage.

National Policy

24. Relevant national policy and guidance is found in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The following references are all to the NPPF.
25. The purpose of the planning system is to secure sustainable development. In practice that means development that complies with the policies in the NPPF, taken as a whole (paragraph 6). There is also a presumption in favour of sustainable development. Amongst other things, this means that where the development plan is absent, silent or out of date, permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits (14).
26. The core planning principles include: plan-led growth; high-quality design; recognising the countryside's intrinsic character and beauty; conserving and enhancing the natural environment; conserving heritage assets in a manner appropriate to their significance; and focussing development in sustainable locations (17).
27. In relation to housing, the aim is to boost the supply significantly. Housing applications should be considered in the context of the presumption for sustainable development. In addition, as noted above, where the local authority cannot demonstrate a five-year supply, relevant policies for the supply of housing should not be considered up to date (47 and 49).

28. Developments should function well and add to the quality of an area, establishing a strong sense of place, responding to local character and reflecting local identity (58). Permission should be refused for development of poor design, which fails to take opportunities for improving the quality of an area and the way it functions (64).
29. With regard to the natural environment, the planning system should contribute to and enhance the natural and local environment. This should include protecting and enhancing valued landscapes (109).

Main Issues

30. Taking account of all the submissions made at the inquiry, and those made in written submissions, I consider that the main issues in the appeal are:
- The effects of the proposed development on the character and appearance of the landscape;
 - The effects on the character and appearance of the village of Gotherington;
 - Whether the development would relate satisfactorily to the existing settlement in terms of accessibility, permeability and physical integration;
 - And the effects on the setting of Moat Farm House.

Reasoning

Effects on the landscape

Landscape quality

31. The appeal site lies on Gotherington's northern edge. On this side of the village, the land initially falls towards the valley of the Tirlle Brook, and then sweeps dramatically up to the escarpment formed by Crane Hill, Woolstone Hill and Oxenton Hill, which are all within the Cotswolds Area of Outstanding Natural Beauty (AONB). The AONB continues to the east and south-east, with a further high point at Nottingham Hill. Together, this ring of steep-sided hills creates a dramatic and attractive backdrop to the village.
32. Looking specifically at the Tirlle valley, on the southern side, the upper slopes around the edge of the village are fairly gentle, and there is an intricate pattern of irregularly-shaped smallish fields and meadows. The land then falls away sharply to the densely wooded banks of the Brook itself, before rising even more steeply on the northern side, to the village of Woolstone and beyond. The views across this area, to the dominant hills to the north and east, increase the sense of remoteness and isolation. These physical characteristics give this corridor of land, between Gotherington and Woolstone, an intimate, enclosed character and an air of peace and tranquillity.
33. The whole of this corridor is criss-crossed by numerous public footpaths and bridleways. These include Footpath No 11, which runs along the appeal site's eastern boundary; No 10, which runs through the adjoining recreation ground (Freeman's Field); Nos 8 and 16 which follow the Brook; Nos 9 and 23, which provide lateral connections along the upper slopes; and No 19 and others which link into Woolstone village. From Woolstone, there is also a connection to the Gloucestershire Way, which continues up Crane Hill as Footpath No 14, or returns to the Tirlle Brook and Gotherington village via Bridleway No 27. As I saw on my visits, these public rights of way are used, by local people and visitors wishing to enjoy the special qualities of this part of the countryside.

34. To my mind, this combination of the area's distinctive landscape and visual qualities, its unique sense of place, and the opportunities for the public to enjoy it, more than adequately justify the area's designation as an SLA. They also warrant treating it as a 'valued' landscape, in terms of NPPF paragraph 109.

Impact of the development

35. The existing development on the north side of Gotherington is largely confined to frontage development, along Malleson Road. The appeal site extends back around 200m from the road, and thus projects outwards into the countryside, towards the Tirlle Brook. The revised layout plan would leave the northernmost part of the site free from buildings, and although that plan is illustrative, it is agreed that this is a matter that could be secured by condition. But even so, the development would still appear to jut out significantly from the village edge, with open land on three sides. To my mind, development extending as far back from Malleson Road as proposed, even in the revised plan, would make a substantial incursion into the otherwise open landscape, and as such would appear intrusive and incongruous.
36. This effect would be exacerbated by the site's shape. The slanted alignment of the northern boundary results in the north-eastern corner forming an angular protrusion, which has no relation to either the land form, or to any natural features, or to the existing development pattern. I appreciate that this alignment follows the existing field boundary, but nevertheless it seems to me that this is a feature of the site that would add significantly to the development's impact. Although the revised scheme would effectively redraw this boundary, bringing it further back into the site, it would not change the angle or the resultant shape of the development. There are no other plans before me to show how this aspect of the development might be avoided. Consequently, the proposed development would appear especially jarring and unsympathetic to the landscape.
37. The site's western boundary has some degree of visual containment, due to its relationship to the recreation ground, but the northern and eastern boundaries are almost entirely lacking in existing vegetation or enclosing features of any kind. Seen from these directions, the proposed development would therefore present a harsh and 'raw' edge. In time, this effect could be softened through new planting. But in such an exposed position, that process would be likely to take a considerable number of years to become effective. In the meantime, the development would have a seriously adverse impact on the landscape, for the reasons that that I have identified above.
38. Moreover, it would do so at a particularly sensitive point in the landscape, where the valley is narrow, the sides become steep, and several paths converge around the small footbridge at the bottom of Footpath No 11. To my mind, this is amongst the most tranquil and visually attractive sections of the landscape corridor between the village and the AONB. The development's impact on this area would be particularly noticeable from Footpath 11, which runs directly alongside the appeal site for most of its length. Looking northwards, although the development would not directly block the important views of the valley or the hills beyond, it would completely change the context in which those views are seen, and thus would significantly diminish the experience. Coming the other way, approaching the appeal site from the footbridge, the new development would break the skyline before any other part

of the village became visible, destroying the sense of solitude on the lower valley slopes.

39. Possibly the most damaging of all would be the effect on the views from the opposite side of the Tirlé valley, within the AONB. From just north of the footbridge, Footpath 23 climbs the lower slopes of Crane Hill, giving elevated, panoramic views over the valley, in which the appeal site is seen close behind the Brook. From this direction, the proposed development would appear as a rather randomly-sited urban sprawl, extending into the open valley. As such it seems to me that this development would be quite different from the established and relatively discreet urban edge that currently exists in this part of Gotherington, mainly following the line of Malleson Road and Gretton Road.

Other matters raised in relation to landscape impact

40. I agree that the Tirlé valley, and the appeal site itself, are not necessarily typical of the area described as the Settled Unwooded Vale⁵. Equally, I accept that some parts of that area may not warrant any special protection. But neither of these points changes my view that the landscape around the appeal site justifies the protection given to it by Policies LND2 and LND4 (albeit subject to the caveats that I have noted above), and by NPPF paragraphs 17 and 109.
41. Part of the appeal site is outside the SLA, and in general terms I agree that development on that part of the site would cause less harm than that within the SLA itself. But there is no suggestion that the number of dwellings now proposed could be accommodated without encroaching significantly into the SLA.
42. I acknowledge that there is some other existing development to the north of Malleson Road, including the row of houses at Woolstone Lane. But the latter are visually well contained by existing woodland, and do not intrude on the more open part of the Tirlé valley. There is also the Freemans Field sports ground itself, and the tennis courts to the rear. But these do not have the same impact as buildings. None of the other development identified at the inquiry encroaches on the open landscape in the way that the appeal proposal would. And to the extent that any such existing development did, that would not necessarily make it an example to be repeated.
43. The existing buildings on the rear part of the appeal site are utilitarian and have no aesthetic merit. But they are agricultural in style, and to that extent they are in keeping with the rural nature of the surroundings. In any event, they cover a relatively small proportion of the site, and due to their siting, they are not intrusive in the landscape. Their removal would be a minor benefit, but would not offset the impact of the much larger and more extensive development now proposed.
44. I note the evidence presented regarding the development's effects on views from Freeman's Field. In my opinion the views from this direction are of some significance, bearing in mind the field's role as a focal point for many community activities. To my mind, if development on the appeal site were acceptable in other respects, it could potentially present an opportunity to complement and enhance the recreation ground's setting, without unduly

⁵ In the Gloucestershire Landscape Character Assessment , January 2006

obstructing views to Nottingham Hill. But this does not overcome the other landscape harm that I have identified.

45. In coming to my conclusions on these matters, I have taken full account of the comprehensive and professional landscape evidence presented by both sides' expert witnesses. I recognise that in some respects my findings may differ from these, but I must ultimately rely on my own judgement.

Conclusion on landscape impact

46. For the reasons explained above, I conclude that the proposed development would have a severe and highly damaging impact on the character, appearance and natural beauty of the landscape in the Tirlle Brook valley. In this respect it would directly conflict with the aims of TBLP Policies LND2 and LND4, and with the relevant provisions of NPPF paragraphs 17 and 109.

Effects on the character and appearance of the village

47. The Council argues that the proposed development would fail to respect what it sees as Gotherington's established linear settlement pattern, and would thus not reflect the prevailing 'urban morphology'. It also contends that the scheme would not create a sense of place.
48. As I have already noted, on the north side of Malleson Road and Gretton Road, the existing development is largely confined to the road frontage. In everyday language, this might best be described as ribbon development. To this extent, I accept that this north side of Gotherington has a linear settlement pattern. However, it would be wrong in my view to suggest that this applies equally throughout the rest of the village. To the south of Malleson/Gretton Road, although there is a considerable amount of further linear development, the village has also grown by means of a series of cul-de-sacs and other estate developments. Looking at Gotherington as a whole, it is evident that the latter is the predominant form. Consequently although the development now proposed would necessarily have to form a cul-de-sac, in my view this aspect of the scheme would be in keeping with the village's established character and development pattern.
49. Be that as it may, the Council's argument on this point might still have some validity, if the linearity of the existing development had contributed to creating a visually distinctive settlement, with a strong identity and sense of place. But in truth that is not the case, and none of the evidence before me seriously suggests otherwise. Gotherington is a perfectly pleasant village, with a few attractive older buildings, but it is not a conservation area, and to my mind, it could not properly be described as having any special or distinctive character. Consequently, even if I had agreed that cul-de-sacs were alien to the village, in this case that would not have been a sufficient reason to refuse permission.
50. As noted earlier, the lack of development in depth to the north of the village has benefitted the surrounding countryside. But that is a separate issue. For the reasons that I have now explained, this characteristic is not of any great significance to the character or appearance of the village itself.
51. The Council's use of the term urban morphology has not been defined or explained to any great extent, but in the context of the evidence as presented at the inquiry, this does not seem to me to imply anything additional, beyond

the matters discussed above. I have dealt with the Council's arguments on the matter on this basis.

52. In so far as the Council's concerns relating to matters of character and appearance go beyond those discussed here, it seems to me that they are not matters for this appeal. I agree that the submitted layout plan does not necessarily show a scheme that would be acceptable in all respects. But that plan is illustrative, and is therefore not binding in relation to any future submission. If outline permission were granted, there seems no reason why an acceptable layout could not be devised.
53. I conclude that granting outline permission for development, in the terms currently proposed, would not adversely affect the character or appearance of the village. In this respect therefore, the appeal proposal would not conflict with any local or national planning policies.

Accessibility, permeability and physical integration

54. The Council contends that the proposed development, due to its position away from the existing road frontage, and a lack of accessibility and permeability, would be isolated from and poorly integrated with the village community, and would thus fail to promote social integration. In this context, attention is drawn to NPPF paragraph 61, which states that planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.
55. The proposed development would be located to the rear of existing properties, but that is not an unusual situation. Based on the illustrative plan, the nearest new dwellings could be within about 70-80m from Malleson Road. From the further parts of the site, the distances would be greater, but even so, it appears that none of the new dwellings would need to be more than about 200m from the road, and most would be significantly closer. These are relatively short distances. I see no reason why this relationship should be likely to inhibit interaction between neighbours, or the use of village facilities, or any other aspects of social integration.
56. I agree that the appellants' illustrative plan does not seek to fully exploit the opportunities available for better integration and permeability. To the east of the site there is the opportunity for one or more connections to Footpath 11. If the development were to go ahead, such connections would be of considerable benefit to future occupiers, in terms of accessibility to the eastern part of the village, and to the countryside, and also in terms of general permeability for the general public. However, since the land is in the same ownership, such connections could be secured by conditions. The fact that the path in question is unlit and unsurfaced does not seem to me to be a reasonable objection, since an adequate alternative would exist in any event, via the site's own access road.
57. To the west, there is the opportunity to create a proper access between the appeal site and the recreation ground, or even to open up the boundary completely. I note the reservations about this possibility expressed on behalf of Gotherington Parish Council. However, it seems to me that if permission were to be granted, some such arrangement would potentially be desirable and beneficial, not just in terms of public access, but also in design terms. Here, the issue could not be dealt with solely by conditions, for reasons of ownership.

In this respect therefore, the appeal proposal as it stands would fail to take the opportunity to improve the area's quality and functioning, as sought by NPPF paragraph 64. However, in the circumstances, and particularly given the Parish Council's stated position, it would be disproportionate to refuse permission on this basis.

58. I conclude that in terms of accessibility, permeability and physical integration, the proposed development's relationship to the existing settlement would be acceptable. In this respect therefore, there would be no overriding conflict with any relevant planning policies.

Effects on the setting of Moat Farm House

59. Moat Farm House is said to date from the early or mid 18th century. It is built of coursed limestone rubble, a local building material widely used on older buildings in the area. Its main front elevation has a classically symmetrical composition, typical of the period, with a central doorway and windows above and to either side. Behind there are two barns, one of a similar age to the house, the other slightly later, but originally in a similar style. A remnant of the original moat survives as a large L-shaped pond, to the rear of the group.
60. The house and barns have all been altered to a greater or lesser degree, and the house has been extended somewhat unsympathetically to both the side and the rear. The setting has also changed, particularly with the housing development along the road frontage on either side. But nevertheless, the house remains a good example of its type, and a notable feature in the street scene. Together with its barns and moat, the house forms part of an attractive group, which illustrates something of the village's social and economic history. As such, it has some historic and architectural significance.
61. None of the buildings is listed, and indeed an application for the listing of the house itself was turned down by English Heritage in 2014. But there is no dispute that the building is a heritage asset, albeit a non-designated one.
62. In the development now proposed, the new access road would be designed to adoptable standards, with a 5.5m carriageway and separate footway. The road would enter the appeal site almost centrally within the site frontage, directly in front of the house. It would then run generally towards the building, and almost up to it, before deflecting away so as to just miss the front left-hand corner, requiring the demolition of the side extension. From there, it would curl round between the barns and the pond, to reach the main part of the site.
63. I appreciate the reasons why the proposed access road was designed in the way that it is. I see no reason to doubt that it would provide a safe and adequate means of access for a development of the size currently proposed. However, as currently designed, the road would completely dominate the immediate setting of Moat Farm House. It would almost fill the site frontage; it would take up much of the front garden and most of the side garden area; it would squeeze past the house itself, after the partial demolition, with almost no tolerance at all; and it would divide the space between the building group and their former moat. Above all, with its uniform width, precise kerb lines, and carefully engineered curves, the design would be an alien and jarring feature, cutting through the most sensitive part of the heritage asset's setting.

64. I note the appellants' confidence, based on discussions with the Highway Authority, that a more sympathetic form of access way could be devised, at least to the extent of a 'shared surface' treatment. However, this reinforces my view that realising any development potential that the site may have does not depend on permitting an insensitive design such as that now proposed. And in addition, it seems to me that any consideration of alternatives might need to go further than this, to allow for the possibility of non-standard materials, varying widths, the introduction of angles rather than curves, and other similar features more in tune with a farmyard setting. In any event, in the present appeal these are not matters that can be dealt with by conditions, because access is not a reserved matter.
65. I note the argument that the building would be enhanced by the removal of the side extension, revealing more of the original. Whilst that may be so, the works envisaged would also reveal the more recent mansard-style link building to the rear, which is by far the more insensitive of the extensions. As a result, any benefit to the building's character and appearance would be negated.
66. For these reasons, I conclude that the proposed development would cause material harm to the character and appearance of the non-designated heritage asset Moat Farm House, and to its setting, contrary to the relevant provisions in NPPF paragraph 17.

Other Matters

Housing Land Supply

67. The Statement of Common Ground (SCG) Addendum records the parties' agreement that the current housing land supply is between 2.7 and 3.9 years, depending on which requirement figure the supply is measured against. The lower figure relates to the now revoked South West Regional Strategy (RS), and the higher is based on the emerging JCS. At the inquiry, the appellants argued that the true figure might be even lower, but I give little weight to that suggestion, because the SCG Addendum was agreed less than a week before the start of the inquiry, and none of the evidence suggests that any significant change has occurred since then.
68. The RS figure is clearly no longer up to date, and there is no evidence that it was ever intended to be based on the district's own objectively-assessed needs. The JCS-based requirement is preferable in both of these respects. However, the examination is still continuing, and the examining inspector has specifically indicated that further work is required on this issue. In the circumstances, it seems to me that the range of figures already agreed in the SCG provides a reasonably robust basis for considering the present appeal.
69. On this basis, I agree that the shortfall in the 5-year supply is very significant. The development now proposed would provide a valuable contribution of 35 dwellings towards making good this shortfall. That total would include 12 units of affordable housing, for which it is not disputed that there is a particularly urgent need. These are benefits deserving of substantial weight in the planning balance.

Planning obligations and the CIL Regulations

70. As well as the affordable housing, the legal undertaking provides for contributions to dog bins, education, libraries, off-site open space, play

facilities, playing pitches, recycling, road safety, signage, and sports facilities. Evidence was provided at the inquiry regarding the compliance of these obligations with the relevant Regulations⁶.

71. In the case of the contributions to dog bins, recycling and signage, although these items might be desirable, the Council was not able to show that they would be necessary to make the development acceptable in planning terms, and none of these are related in any way to the refusal reasons. These contributions therefore do not meet the tests in regulation 122, and accordingly I have given them no weight in reaching my decision.
72. In the case of all the other contributions and obligations, in the light of the evidence provided, I am satisfied that these are necessary, and directly related to the development, and fair and reasonable in scale and kind, in accordance with regulation 122, and that none would exceed the pooling requirements of regulation 123. However, the justification for the obligations is to mitigate the development's own impacts, and there is no evidence that any of them, apart from the affordable housing, would have any benefits over and above that purpose. Accordingly, they count as neutral in the planning balance.

Previously developed land

73. The appellants suggest that up to 40% of the site, being those parts associated with the former equestrian use, and the bed-and-breakfast/holiday apartments at Moat Farm House, might be counted as 'previously developed land' (PDL). However, this depends on those uses being shown to be lawful, and also being more than just ancillary. And also, the basis of the calculation is not consistent, since much of Moat Farm House and its garden area is not proposed to be developed at all; whereas the northern part of the appeal site, which is still within the red line, appears to be excluded. But at most, the PDL areas amount to a minor proportion of the overall site.
74. The NPPF gives encouragement to the effective use and reuse of PDL, but that is provided the land is not of high environmental value. Here, given the issues that I have identified, parts of the land have significant landscape value, and other parts are within the setting of a heritage asset. Consequently, the benefits of using PDL carry only modest weight.

Sustainability of Gotherington as a location for housing

75. Gotherington has a primary school, a village hall, a small shop, a church and a pub, but few other facilities of any note. Although it is identified as a Service Village in the draft JCS, that classification remains to be considered. In the meantime, it is an Other Village.
76. I appreciate that the District is rural, and Gotherington is no worse in terms of service provision than many other villages in the area. I also accept that any development would help to underpin those services which do exist. But for all that, Gotherington is not such an obviously sustainable location as to add weight to the present proposal on that basis.

Prematurity

77. The scale of the development would be relatively limited. Granting permission would not prevent the adoption of any of the policies or proposals currently

⁶ The Community Infrastructure Levy Regulations 2010: Regulations 122 and 123

envisaged in either the draft JCS, or the emerging TBP or GNP. The development is therefore not objectionable for reasons of prematurity. However, this does not overcome the other planning objections that I have identified.

Planning Balance and Conclusions

78. The starting point for the balancing exercise is the development plan. In this case, the proposed development would be mostly outside the village boundary, conflicting with adopted Policies HOU3 and HOU4, and would cause harm to the character and appearance of the SLA, contrary to Policies LND2 and LND4. Even though the Council is willing to concede that all of these policies carry reduced weight, or less, the fact remains that, taking the development plan as a whole, the development now proposed is clearly in conflict.
79. The other material considerations are principally the unmet housing need, and the policies of the NPPF, including the presumption in favour of sustainable development. But the proposed development would cause substantial harm to the valued landscape; and also, in its present form, to the setting of a heritage asset. These adverse consequences would be clearly in conflict with the NPPF's own policies and aims. Even taking account of the significant shortfall in the 5-year housing land supply, and the need for affordable housing, in my judgement, the harm would significantly and demonstrably outweigh the scheme's benefits in terms of housing provision and any associated economic benefits. Consequently, in terms of the NPPF presumption, the development now proposed would not constitute sustainable development.
80. In these circumstances, the other material considerations do not outweigh the conflict with the development plan. Having taken account of all the other matters raised, I find nothing else to change this conclusion.
81. I therefore conclude that the appeal should be dismissed.

John Felgate

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Tom Graham Planning Advocate

He called:

Mr Paul Smith, Planning Consultant
BA(Hons) BSc(Hons)

Dip.DesBltEnv MRTPI

Mr Toby Jones, Toby Jones Associates
BA(Hons) DipLA CMLI

Mr Gary Hall, Urban Forward Ltd
BSc(Hons) MSc

FOR THE APPELLANT:

Mr Jeremy Pike Counsel (instructed by Mr Jewson)

Assisted by Mr Alex Greaves Counsel

They called:

Mr Edward Kitchen, Montagu Evans
BA(Hons) MA

Mr Peter Morgan, Thrive Architects
BA(Hons)(Arch)
Dip.Arch RIBA ARB

Ms Catherine Mitchell, SLR Consulting
BA MPhil CMLI

Mr Ian Jewson, Ian Jewson Planning
BA(Hons) DipTP MRTPI

INTERESTED PERSONS:

Cllr Allen Keyte
Mr Philip Aplin
Mr David Crofts MRTPI
Gotherington Parish Council
Gotherington Neighbourhood Plan Steering
Committee and local resident
Estcourt Planning, on behalf of
CPRE Gloucestershire and 12 local residents

DOCUMENTS TABLED AT THE INQUIRY

GENERAL BACKGROUND DOCUMENTS

- 1 Schedule of TBLP policies to be superseded by the JCS
- 2 Report dated November 2014, on consultation responses to the June 2014 pre-submission draft JCS
- 3 Report dated July 2015, on consultation responses to the February 2015 Draft TBP Policies and Site Options
- 4 Gotherington Neighbourhood Plan Consultation Draft, July 2015 (tabled by Cllr Keyte)
- 5 List of persons notified by the appellants re the amended scheme
- 6 List of representations not previously seen by the appellants
- 7 Plan of footpath numbers and agreed viewpoints

DOCUMENTS TABLED BY THE APPELLANTS

- 8 Mr Pike's opening statement
- 9 Draft unilateral undertaking (as tabled on Day 1)
- 10 Addendum to Mr Jewson's proof, correcting housing figures
- 11 Email correspondence between the appellants and Gotherington Parish Council re the draft Neighbourhood Plan
- 12 Plan of adopted highway land in vicinity of Footpath No 11; and related emails
- 13 Land Registry title entries for the appeal site
- 14 Email correspondence re shared surface access
- 15 Shutter Lane development – approved layout
- 16 Willowbank site, Alderton – proposed layout plan
- 17 *Dartford BC v SoS and Landhold Capital Ltd: [2014] EWHC 2636(Admin)*
- 18 *Phides Estates (Overseas) Ltd v. SoS and Shepway DC and David Plumstead: [2015] EWHC 827 (Admin)*
- 19 *Woodcock Holdings Ltd v SoS and Mid-Sussex DC: [2015] EWHC 1173 (Admin)*
- 20 List of additional conditions
- 21 Executed unilateral undertaking, dated 21 August 2015
- 22 Mr Pike's closing submissions

DOCUMENTS TABLED BY THE COUNCIL

- 23 Mr Graham's opening statement
- 24 Note by Mr Jones relating to his photo-montages
- 25 List of proposed amended and additional conditions (in response to Inspector's comments)
- 26 Planning obligations CIL Compliance Statement by Tewkesbury Borough Council
- 27 Planning obligations CIL Compliance Statement by Gloucestershire County Council
- 28 Mr Graham's closing submissions

DOCUMENTS TABLED BY THE OTHER PARTICIPANTS

- 29 Councillor Keyte's statement on behalf of Gotherington Parish Council
- 30 Mr Aplin's statement
- 31 Mr Crofts' statement, on behalf of CPRE Gloucestershire and local residents
- 32 Mr Crofts' summary