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## Appeal Decision

Hearing held on 15 and 16 September 2015

Site visit made on 16 September 2015

**by Jameson Bridgwater PGDipTP MRTPI**

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

**Decision date: 17/12/2015**

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**Appeal Ref: APP/C1625/W/15/3053120**

**Pike Lane, Nailsworth, Gloucestershire.**

- 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 Mr Tom Sheppard (Newland Homes) against the decision of Stroud District Council.
  - The application Ref S.14/2265/OUT, dated 23 September 2014, was refused by notice dated 14 January 2015.
  - The development proposed is residential development of up to 17 dwellings, including affordable housing.
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### Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 17 dwellings, including affordable housing at Pike Lane, Nailsworth, Gloucestershire in accordance with the terms of the application, Ref S.14/2265/OUT, dated 23 September 2014, subject to the 11 conditions set out in the attached schedule.

### Preliminary matters

2. Since the original decision was made the Stroud District Local Plan 2015 was adopted by the Council on the 19 November 2015, this replaces the 2005 Local Plan entirely.
3. The application to which the appeal relates was submitted in outline form with all matters reserved except for access.
4. A Unilateral Undertaking was submitted under section 106 of the Town and Country Planning Act 1990 (s106). I deal with the contents of this below.
5. The Hearing sat for 2 days. I held an accompanied site visit on 16 September 2015. I conducted unaccompanied visits on the 14/15 September 2015.
6. A Statement of Common Ground was submitted which sets out the policy context along with matters of agreement and those in dispute.

### Main issues

7. The main issues in the appeal are:
  - the effect of the proposal on the character and appearance of the area; and
  - the effect of the proposal on highway safety; and

- whether the proposal amounts to sustainable development with particular regard to its location and the National Planning Policy Framework (the Framework).

### **Reasons**

8. The appeal site is located to the west of Nailsworth town centre. Located on the sloping southern side of the Miry Brook Valley (the Valley), with an area of approximately 1.4 hectares of semi-improved pasture with access off Pike Lane through an existing field gate. There is a mature oak tree located centrally on the northern boundary of the site and a group of mature trees on the southern boundary. The site is not locally or nationally designated and is located outside of the Cotswold Area of Outstanding Natural Beauty (AONB). It is common ground that Nailsworth provides a variety of facilities and services along with access to public transport with bus services to the wider area including Cheltenham and Gloucester.

### *Character and appearance*

9. The Cotswolds AONB character assessment describes Nailsworth as having steeply sided, concave narrow valleys with a strong sense of enclosure. The Stroud District Landscape Assessment supplementary planning guidance 2000 (SDLA) defines the landscape characteristics of the area as a secluded valley (SV). Within the SV character type Nailsworth is identified as one of the larger settlements at a strategic location. The SDLA states that the main pressures for change are from built development, although sets out that much can be done to integrate new development through sensitive planning and design. Further, the SDLA states that the main threat arises from visually intrusive development of unsympathetic design and materials.
10. The appeal site is located at the edge of the settlement of Nailsworth, between the existing built development on Pike Lane, Meadow Bank and Shortwood Road. The built form is characterised by ribbon residential development which encloses the undeveloped appeal site on 3 sides.
11. I have carefully considered the Council's detailed landscape statement and the representations of the Cotswolds Conservation Board with regard to the effect of the proposal on the setting of the AONB. Further, I confirmed by way of my site visits that the appeal site is visible from a number of vantage points in the AONB, the Ladder being one such example. These viewpoints provide opportunities for views of Nailsworth and the appeal site, due to their naturally elevated position at the rim of the valley. However, the views are largely contained by the natural topography of the SV. Further, based on the appellant's submitted indicative plans I consider that the proposed development would be integrated into the landscape, due to the density and housing types reflecting the prevailing built form, additionally there would be the potential to reinstate landscape features common to the SV character type. This would result in a development that is visually read as a coherent extension to Nailsworth from the AONB rather than an intrusive form of development.
12. With regard to views from within the appeal site, it is the steeply sided, concave narrow valley that would largely contain, but not totally restrict views out of the appeal site, to the surrounding AONB and the Wold Tops at the rim of the Valley. Additionally, many of the views out of the appeal site are interrupted by built development on the upper slopes of the Valley further

- restricting views to the AONB. Therefore, the proposed development would not materially harm views from the appeal site to the AONB.
13. It is the combination of these factors that leads me to conclude that the effect of the proposed development on the setting of the AONB would be neutral.
  14. During the accompanied site visit I observed the appeal site from a significant number of the Council's representative viewpoints within the Valley as identified in their detailed landscape statement, noting the 85m contour. This confirmed that the appeal site is visible from a number of vantage points including the views along and from elevated positions on both sides of the Valley.
  15. It is clear that the appeal site does have a local aesthetic value, and this has been evidenced by the representations both in writing and during the Hearing from local residents. However, the Valley has many component parts, in particular the distinctive riverine vegetation of Alders and Willows that follow the course of the brook down the Valley. The historic mill sites that lie alongside the watercourse and the residential development that has spread both up and along the Valley. Further, whilst the Council have described the Valley as rustic and pastoral, given the degree of built development on both sides of the Valley, the introduction of a sensitively planned and designed residential development would be consistent with the informal character of the Valley. As such the proposed residential development would be viewed as a natural organic extension of Nailsworth rather than an interruption of the continuity of the Valley with the tree lined brook providing the visual strong link between the town (Prices Mill surgery) and the wider countryside.
  16. I accept that the introduction of the proposed development on the appeal site would change the outlook for local residents particularly from elevated positions and/or upper floor windows. However, these views would not be out of context in the SV setting that already has significant built development particularly on the north side of the Valley. Further, due to the topography of the appeal site a sensitively planned and designed scheme with the reintroduction of landscaping consistent with the SV character type would be likely to reinforce the visual character of the steeply sided valley and therefore, on balance, mitigate the limited harm in relation to change of outlook. Having reached the above conclusions the proposed development, whilst resulting in a change to the character of the appeal site, would not have an adverse effect on the overall character and appearance of the area.
  17. The proposal would therefore be consistent with Policies CP14 and ES7 of the Stroud District Local Plan 2015. These policies seek amongst other things to ensure that development would only be permitted where the location, materials, scale and use are sympathetic and complement landscape character and that would not have an unacceptable adverse effect on the amenities of neighbouring occupants. These objectives are consistent with paragraphs 17 and 115 of the Framework.

#### *Highway safety*

18. The access to the appeal site would be directly off Pike Lane. The width of Pike Lane allows for two-way operation, apart from a constrained section east of the proposed site access, and where vehicles are parked. There is a further shorter constrained section of highway close to the junction of Horsley Road

and New Market Road. The topography of the valley means that Pike Lane rises steeply from the junction with Horsley Road, before levelling out by the field gate that is in the approximate position of the proposed access to the appeal site. There is an existing footpath that runs along the eastern boundary of the site. The footpath then links to Prices Mill, Horsley Road and the northern boundary of the site leading to Shortwood Road.

19. At the Hearing all parties accepted that the design of the proposed access, as agreed by Gloucestershire County Council (the Highway Authority) was acceptable. Further, that despite the gradients associated with the site, a sensitively planned and designed scheme could be achieved to allow vehicles to enter and leave the site safely including the provision of acceptable visibility splays.
20. The Council stated that the proposed development would have a severe impact on the existing highway network due to an increase in vehicular and pedestrian movements. The appellant and local residents both submitted traffic surveys. The appellant used an automatic counting device to complete their survey, whilst local residents manually counted movements. However, despite the different methods of collection, the vehicle movements recorded are largely consistent. The resident's survey shows a slightly, but not significantly higher level of movement, with the difference in the morning peak being an additional 8 vehicles and 7 vehicles in the evening peak.
21. The proposed development would be likely to generate an additional 10 traffic movements in the morning peak and 11 in the evening. This is based on the information from TRICS an industry standard traffic generation analysis tool. The Council's highway specialist confirmed at the hearing that these figures were based on evidence collected nationally and would be based on development of a similar character. Therefore based on the locally collected data, technical information and the comments of the Highway Authority I consider that the proposed development would not result in a material increase in traffic when compared to existing traffic volumes that would result in harm to highway safety.
22. A significant proportion of local concern related to traffic conflicts, particularly at the steepest part of Pike Lane. Further, local residents explained that conflicts related to when 2 or more vehicles met on a constrained section of the highway, leading to congestion and reversing manoeuvres. Local residents further stated that this led to delay and on occasion's minor damage to vehicles. It was confirmed by all parties that there had been no recorded accidents in the past 5 years on Pike Lane and Horsley Road. However based on the technical evidence before me I have determined that the proposed development would not lead to a material increase in traffic to the detriment of highway safety. Furthermore I do not consider that the proposed development would result in material harm to highway safety by way of congestion or reversing manoeuvres.
23. Local residents further raised concern in relation to pedestrian safety, stating that the existing unlit footpaths that link the area to the town centre are narrow, overgrown and steep, forcing pedestrians to use the part of Pike Lane that does not have a footpath. Based on my observations I accept that the existing pedestrian links are limited and ideally require maintenance/improvement. However, the proposed development would allow for an improvement of the footpath running along the eastern boundary of the

site linking to the town centre. Further, the gradient of the footpath is not materially steeper than the route via Pike Lane. Consequently, I consider that an improvement to the footpath and pedestrian safety could be achieved by way of condition.

24. I accept that during the winter months Pike Lane and the roads on the north facing side of the valley would be prone to icing and I have no reason to doubt that on occasions this had led to vehicles sliding in icy conditions, particularly on gradients. However, given that I have found that there would not be a material increase in traffic I do not consider that the proposed new development would result in material harm to highway safety during winter periods.
25. There was significant local concern raised in relation to the potential effect of construction traffic on the local road network. However, based on the information before me and the evidence provided by both the Council's and the appellant's highway consultants I consider that any potential harm from construction traffic could be mitigated by way of a condition relating to construction methodology to be agreed by the Local Planning Authority.
26. Having reached the conclusions above the cumulative effects of the proposed development would not result in severe harm to highway safety. Therefore the proposal complies with Policies CP13 and ES3 of the Stroud District Local Plan 2015. These policies amongst other things seek to restrict development that would be likely to be detrimental to highway safety or contribute or cause significant highway problems. These objectives are consistent with paragraph 32 of the Framework.

#### *Sustainable location*

27. The Local Planning Authority in their statement and at the Hearing agreed that the appeal site is in a sustainable location and confirmed that they did not wish to defend the reason for refusal on appeal. The Council confirmed that the site is in close proximity to Nailsworth town centre, which provides facilities and services along with access to public transport. This was further confirmed during the course of the Hearing by local residents. Whilst there was still an outstanding objection from Nailsworth Town Council, there was no substantive or technical evidence that was contrary to the view of the Local Planning Authority.
28. Therefore based on all the evidence before me and my observations I see no reason to disagree with the main parties that the appeal site is in a sustainable location. Consequently in terms of location the proposed development would be consistent with paragraphs 14, 17, 32 and 35 of the Framework.

#### *Other considerations*

29. Although the Council does not seek to rely on any up-to-date housing policy in its reasons for refusal, the issue of 5 year housing land supply and the need for affordable housing were discussed at the Hearing. However, the recently adopted Stroud District Local Plan 2015, now sets out the Council's Housing strategy until 2031. This strategy relies upon the provision of 750 dispersal/windfall sites in the district. Further, the Stroud District Local Plan 2015 identifies the acute lack of affordable housing in the district as a key issue. The provision of 17 additional dwellings, of which would include 30% affordable housing, would make a significant contribution to the supply of

housing, in particular to the identified need for affordable housing in the district.

30. The appellant has submitted a unilateral undertaking pursuant to Section 106 of the Act, which includes the provision of 30% affordable housing units; financial contributions of £200 per dwelling towards mitigation in relation to increased recreational use on Rodborough Common Special Area of Conservation (SAC).
31. 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 need for affordable homes in the District. The 30% affordable housing sought in the appeal scheme amounts to just over 5 units of the 17 proposed on the site, which was confirmed at the hearing as consistent with the requirements of the Local Plan. The appeal site is located within 3km of Rodborough Common SAC, and therefore there is a duty of care under the Habitats Directive to secure mitigation. 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.
32. I have been referred to a number of other appeal decisions in the district and these have been cited as setting a precedent either for or against the appeal proposal. However, I have limited information about their histories, but inevitably their contexts would differ to that of the scheme before me, and so they do not lead me to a different view in this case.
33. During the course of the Hearing a number of additional issues were raised by local residents. These included ground stability, flooding/underground springs, air quality and construction noise, although no technical or substantive evidence was presented on these matters. However, these are matters that could be reasonably mitigated and are largely set out in the Council's list of suggested conditions or controlled by other legislation. Further the condition relating to construction will allow the Council and the appellant to agree a construction methodology that will minimise overall disruption during the construction phase.
34. Heritage - Built form provides a physical and visual barrier between the boundary of the appeal site and boundary of Nailsworth Conservation Area. Further, local residents referred to the effect of the proposed development on the setting of both the conservation area and in particular the Grade II listed Christ Church on Newmarket Road. However, based on my observations, whilst there is inter-visibility between the church and the appeal site, given the distance involved and the intervening built form the proposed development would not fail to preserve the character or appearance, and consequently the significance, of the Nailsworth Conservation Area and/or Christ Church a Grade II listed building.

### **Conditions**

35. The conditions suggested by the Council have been considered in light of the advice contained within the National Planning Practice Guidance and the National Planning Policy Framework. In addition to the standard outline

implementation condition, it is necessary for the avoidance of doubt and in the interests of proper planning, to define the plans with which the scheme should accord.

36. To minimise the risk of flooding, it is necessary for details of surface water drainage to be agreed with the Local Planning Authority. To minimise the risk to biodiversity, it is necessary for details of a comprehensive ecological enhancement management plan to be agreed with the Local Planning Authority. Further it is necessary to control and agree details of methods of construction and traffic management in the interests of local residents. In the interests of highway safety it is necessary for the access to be provided prior to construction and that details of carriageways, turning heads, drainage, street lighting and parking are submitted at reserved matters stage. In the interests of pedestrian safety it is necessary for details of footpath improvements agreed prior to the commencement of development. It is necessary in the interests of amenity to ensure that there is adequate protection for the trees on site during construction and that a long term management plan is agreed for the communal areas that will form part of the development.

### **Conclusion**

37. I have found that the proposed development would have a neutral effect on the setting of the Cotswolds AONB and would not have an adverse effect on the character and appearance of the area. Further, the proposed development would be sustainably located and would not result in severe harm to highway safety. Having reached these conclusions I therefore find that the proposal is acceptable and should be permitted. Moreover, the provision of 17 additional dwellings, of which would include 30% affordable housing would boost the supply of housing consistent with the aims and objectives of the Framework.
38. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

*Jameson Bridgwater*

INSPECTOR

## **Schedule – Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

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.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2012-F-007, EX 001 Site Location Plan 1:1250 and EX 010 A Site Survey Plan.
- 3) The development hereby permitted should not commence until full details of a scheme for the disposal of surface water drainage from the site has been submitted to and approved in writing by the Local Planning Authority. These details shall include full calculations to show how the proposed method of surface water disposal does not exceed the current 'greenfield' run-off rate from the site. The details shall also include a management and maintenance plan to include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The surface water drainage works shall then be carried out in full accordance with the approved scheme before any of the dwellings are occupied.
- 4) No work shall commence on the site in connection with the development hereby permitted until a comprehensive ecological enhancement and mitigation plan (CEEMP) for the whole development has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include;
  - i) measures to protect retained features and prevent polluted or sediment-laden construction run-off into the Miry Brook;
  - ii) a strategy to minimise effects on amphibians and reptiles;
  - iii) an agreed management plan for the retained and created features, including compensation for the loss of bat, and badger foraging areas (locally sourced wildflower meadow and orchard), the erection of bird and bat boxes;
  - iv) an agreed lighting strategy, retaining dark corridors;



- v) details of the organisation or organisations responsible for carrying out and maintaining such measures.

The enhancement and mitigation measures shall then be carried out in accordance with the approved CEEMP and thereafter maintained in accordance with the agreed maintenance regime.

- 5) 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. The Statement shall provide for and specify:
  - i. the parking, type and size of vehicles of site operatives and visitors;
  - ii. the loading and unloading of plant and materials;
  - iii. the storage of plant and materials used in constructing the development;
  - iv. wheel washing facilities;
  - v. intended hours of construction operations and deliveries including the operation of any machinery and equipment;
  - vi. measures to control the emission of dust and dirt during construction.
- 6) No construction work on any of the dwellinghouses shall commence on site until full details of improvements to the pedestrian link to and from the site along PROW ZNA21 and/or ZNA17 have been submitted to and agreed in writing by the Local Planning Authority, the approved works shall then be completed in all respects, prior to the occupation of any of the dwellings hereby permitted.
- 7) No other works shall commence on the site until the proposed site access details have been provided in accordance with the approved plan 2012-F-007, the first 20m surfaced in a bound material and shall be maintained in that form until and unless adopted as highway maintainable at public expense.
- 8) No dwelling shall be occupied until the carriageway (s) (including surface water drainage/disposal, vehicular turning head (s) and street lighting) providing access from the nearest public Highway to that dwelling have been completed to at least binder course level and the footway (s) to surface course level, in accordance with the details to be approved under condition 1.
- 9) The details to be submitted for the approval of reserved matters shall include vehicular parking and manoeuvring facilities within the site. No dwelling shall be occupied until the parking and manoeuvring facilities serving that dwelling have been provided in accordance with the approved details and they shall be thereafter retained in their approved form for the parking and manoeuvring of vehicles of residents and their visitors.
- 10) Prior to the commencement of the development hereby permitted and before any equipment, machinery or materials are brought onto the site for the

purposes of the development, details of fencing to be erected for the protection of retained trees/hedges/shrubs shall be submitted to and approved in writing by the Local Planning Authority. Fencing for the protection of retained trees/hedges/shrubs shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored, burned or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

- 11) No part of the development shall be commenced until a long term landscape management plan and maintenance schedules for all communal areas has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied/used until the relevant part of the management plan has been carried out. The communal areas shall thereafter be maintained in accordance with the landscape management plan.

Richborough Estates

## **APPEARANCES**

### **FOR THE APPELLANT:**

Jamie Lewis Dip TP MRTPI	Hunter Page Planning
Tom Sheppard	Appellant – Newland Homes
Carl Tonks	CTC – Highways Consultant
Anna Treby CMLI	MHP Design Ltd – Landscape Consultant
Jeremy Drew	Newland Homes
Adam White MA MRTPI	Hunter Page Planning

### **FOR THE LOCAL PLANNING AUTHORITY:**

David Corker	Principal Planning Officer
Paul Jolliffe	NPA – Landscape Consultant
Mark Baker	MBC - Highways Consultant

### **INTERESTED PERSONS:**

Myles Robinson	Mayor of Nailsworth
Norman Kay	Nailsworth Town Council
Andrew Lord MA BA (Hons) MRTPI	Cotswold Conservation Board
Gary Scaife	Local resident
Jo Smurthwaite	Local resident
Trevor Jones	Local resident
John Page	Local resident
Stephen Robinson	Stroud District Councillor
Peter Downing	Local resident
Dorcas Binns	Gloucestershire County Councillor
Katie Jarvis	Local resident
Penny Metcalfe BA (Hons) MSc DipUP DipDBE MRTPI IHBC	- Local resident
Keith Mansell	Local resident
Chris Davies	Local resident
Sally Birch	Local resident
Gillian Ward	Local resident

Richard Easthope	Local resident
Melanie Rushton	Local resident
Penny Sherry	Local resident
Julian Hay	Local resident
Ben Weager	Local resident
Robert Cook	Local resident
Sylvia Johnston	Local resident
Mary Price	Local resident
Mark Perry	Local resident
Kate Kay	Parish Councillor – Horsley
Emma Sims	Stroud District Councillor
Claire Jayes	Local resident
Mike Jeffrey	Local resident
Alan Harrison	Local resident
Roger Lewis	Local resident
Jane Maitland	Local resident