



Appeal Decision

Site visit made on 8 November 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th April 2023

Appeal Ref: APP/G1630/W/21/3281074

Land north of Perrybrook, Shurdington Road, Brockworth, Gloucester GL3 4QY

- 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 Charterhouse Strategic Land Ltd against the decision of Tewkesbury Borough Council.
 - The application Ref 20/00608/FUL, dated 3 July 2020, was refused by notice dated 22 June 2021.
 - The development proposed is described as 'the erection of 47 dwellings and associated vehicular access, public open space, landscaping and other associated infrastructure.'
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Decision

1. The appeal is allowed and planning permission is granted for development described as 'the erection of 47 dwellings and associated vehicular access, public open space, landscaping and other associated infrastructure on land north of Perrybrook, Shurdington Road, Brockworth, Gloucester, GL3 4QY in accordance with the terms of the application, Ref 20/00608/FUL, dated 3 July 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The specifics of the scheme have changed in the time it was with the Council. I have therefore taken the description of development from the decision notice. The Council adopted the Tewkesbury Borough Plan 2011 to 2031 on 8 June 2022. The main parties have commented thereon. I have determined the appeal in regard to the development plan at the time. The Council have also confirmed it can demonstrate a five year housing land supply. The appellant does not dispute this.
3. There are two planning obligations before me, the Council has confirmed they are necessary and reasonable, responding to the nature, type and scale of the proposed development. There is nothing compelling before me to disagree. I have therefore taken them into account.

Main Issues

4. The main issues are;
 - Whether the proposed development is in an appropriate location, having regard to its connectivity with the wider area; and
 - Whether the proposed development makes adequate provision for facilities through developer contributions.

Reasons

Appropriate Location

5. Policy A3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (2017) (JCS) relates to the North Brockworth strategic allocation, which the appeal site forms part of. This allocation expects to deliver 1500 dwellings and employment land along with education, retail and community facilities. A number of planning permissions have been approved across the site, some in outline and others as reserved matters. Some development has commenced
6. The appeal site is located at the eastern extreme of the strategic allocation and is bound by the A417 to the north, Shurdington Road to the east, existing residential dwellings (Oak Tree Cottage and High Meadow) to the south and a residential site, known as Phase I, currently under construction to the west.
7. With regards to connectivity, JCS Policy A3 expects that high quality connections within and adjacent to the site are provided along with safe, easy and convenient pedestrian and cycle links. I have had regard to the submitted layout plans for Phase I which details that no provision for connecting the appeal site to Phase I development was put in place when it was considered. As such, the appeal site is limited in its opportunities for connection to the wider strategic allocation. Nevertheless, the submitted plans detail that a pedestrian and cycle way would be provided through the appeal site, along with a path through an orchard towards Mill Lane. A potential route into the neighbouring Phase I scheme is detailed on the plans; however, this has not been secured due to the neighbouring land being in separate ownership.
8. The Council's concerns relate to the absence of points of connection through its boundaries with the wider strategic allocation. No concerns have been raised with regards to scheme's access to Brockworth and during my site visit I noted that the appeal site was in close proximity to a number of services and facilities including, but not limited to, a school, sports centre and bus stops. Additionally, the appeal site benefits from good connectivity to the wider area, being located adjacent to the A417. The Council's submission does not detail any concerns with walking or cycling distances to these.
9. Having regard to the limitations relating to connectivity in light of the neighbouring development, the proposed development provides appropriate integration with the wider allocation and area. Additionally, it would provide safe and legible connections to the existing, walking, cycling and public transport networks. The location of the development and the proposed links would ensure that future residents would be able to easily move throughout the wider site and area.
10. The scheme would thus comply with Policies SD4, SA1 and A3 of the JCS and Policy RES5 of the Tewkesbury Borough Plan (2019) (TBP) which seek, amongst other things, to ensure that development prioritise movement and legible connections and integrate and complement its surrounding. The proposed development would also comply with paragraph 130 of the National Planning Policy Framework (the Framework) and the National Design Guide which seek development that will function well and add to the overall quality of an area and maintain a strong sense of place.

Developer Contributions

11. A bilateral agreement has been submitted which includes provisions relating to affordable housing and sports facilities. A Unilateral Undertaking (UU) relating to Gloucestershire County Council (GCC) has also been completed which includes details of a travel plan, monitoring fee and library contributions.
12. JCS policy SD12 seeks a minimum of 35 per cent of the units to be affordable housing. The Agreement provides for 17 such units which equates to approximately 36 per cent. In these circumstances I consider that this obligation would be fairly and reasonably related to the development proposed. In so doing it complies with the development plan requirements.
13. A sum of £49,217 has been agreed as an off-site contribution towards sports facilities. JCS Policy INF4 states that where new residential development will create, or add to, a need for community facilities, it will be met on-site or as a contribution to facilities or services off-site. The proposed development would provide for public open space on site however it cannot accommodate formal sports provision on site. Given the size of the proposed development, the number of units involved and the lack of space on-site for this type of amenity, this contribution would be reasonable and policy compliant.
14. The Highway Authority require a travel plan, bond and monitoring fee to mitigate car-based travel, totalling £18,959. JCS Policy INF1 refers to the requirement for such. This is linked to paragraph 113 of the Framework that states that developments that will generate significant amounts of movement should be required to provide a travel plan. This contribution appears to be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to it in scale.
15. GCC's case for seeking a financial contribution towards the provision of additional or improved library facilities at Brockworth Community Library to serve the proposed development appears to be well-founded. The response from the GCC Developer Contributions Investment Team details a requirement of 30 square metres of library space per 1,000 population which is costed at £196 per person. The inclusion of a financial contribution for this purpose within the UU would satisfy the need to make such a contribution towards the provision of the local library. It appears to be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to it in scale.

Other Matters

16. Subject to conditions and a S106 Agreement securing the provision of improved pedestrian access, pedestrian crossing and additional bus stops the proposed development would not have a harmful impact on pedestrian and highway safety. During my site visit I noted that the site was in close proximity to a roundabout and is only accessible from the south due to the adjoining road being a dual carriageway. Nevertheless, the submitted drawings, transport assessment and road safety audit and the comments made by the Highways Authority support the proposal. In the absence of any cogent evidence to the contrary, I consider that the proposal would not be harmful to pedestrian and highway safety.

17. Local Residents note that appointments are limited at the local surgeries. However, I have not been provided with any substantive evidence to demonstrate that local GP provision is in undersupply.
18. The site was included within a strategic allocation for development. Additionally, due to its location, bound on two sides roads and a further by residential development, the site would ultimately be viewed as part of a wider residential development. The A417 bounds the northern side of the appeal site and the wider strategic allocation. Whilst there would be a loss of agricultural land, the site is more spatially and visually linked to the residential development of Brockworth rather than the open land to the north of the A417.
19. The appeal site is noted as being green infrastructure within the approved masterplan. Nevertheless, the appeal submission provides plans and evidence that the wider strategic allocation, with the proposed development, would provide in excess of 27 hectares of green infrastructure. JCS Policy A3 requires that the strategic allocation provides a minimum of 27 hectares of green infrastructure. The proposed development would therefore ensure that sufficient green infrastructure remains.
20. Regarding the living conditions of future occupiers with regards to noise and air pollution, the proposal is supported by a number of technical documents, including mitigation. Additionally, I have had regard to consultation responses from Environmental Health who consider that the proposed mitigation, such as acoustic fencing and ventilation systems, would be sufficient to mitigate any impact on residents. In light of the submitted evidence, and in the absence of anything sufficiently compelling to the contrary, the proposal would not have a harmful effect on the living conditions of future occupiers.

Conditions

21. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). I consider that conditions regarding surface and foul water drainage, construction environmental management plan, local ecological management plan, biodiversity net gain, tree protection and homeowner information are necessary in order to ensure that the biodiversity and environment of the area is safeguarded during construction and lifetime of the development. Conditions regarding highway improvements, travel plan, electric car charging and the provision of cycle storage are necessary in order to ensure a safe access and to promote the use of alternative methods of travelling. Landscaping conditions are necessary in order to ensure the proposed landscaping is improved and completed and maintained. Implementation of noise mitigation and the provision of a construction management plan are necessary in order to safeguard the living conditions on existing and future residents during construction and the lifetime of the development. Conditions requiring further details on the pumping station and Local Area for Play (LAP) are required in order to safeguard the character and appearance of the area and ensure appropriate provision of play equipment. I have altered the wording of some conditions in order to ensure they comply with the PPG.
22. With regards to the Council's request for a condition requiring further details of the external materials and proposed levels, I note that a schedule of material is included on the submitted drawings and a plan is provided detailing finished floor levels. As such, I see no reason that these conditions should be included.

With regards to the Council's request that a condition be imposed requiring the garages to only be used as garaging space or for purposes incidental to the dwelling, I do not consider such a condition necessary as any other use outside that related to the dwelling would require the benefit of a separate planning permission. I see no reason that this condition should be included.

Conclusion

23. The appeal scheme would accord with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision otherwise. The appeal should therefore, subject to the conditions in the schedule below, be allowed.

Tamsin Law

INSPECTOR

Richborough Estates

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan – PL001; Site Survey – PL002; Site Survey – PL003; Existing and Proposed Block Plans – PL004 A; Proposed Site Layout Plan – PL005 G; Rear Amenity Space Plan – PL006 A; Rear Amenity Space Plan – PL007 B; Green Infrastructure Plan – PL008 B; Proposed Materials – PL009 B; Affordable Housing Distribution – PL010 B; Waste Storage and Collection Proposals – PL011 B; Proposed Street Scenes – PL012 A; Masterplan Context and Green Infrastructure Plan – PL013 C; Proposed Garages – 19.20.026 GT; Beckford and Chedworth House Types Plots 4 and 5 - 19.20.026 HT 4 & 5 Pre A; Beckford and Cantlow House Types Plots 6 – 8 - 19.20.026 HT 6 7 & 8 Pre A; Bibury and Cowley House Types Plots 28 and 29 - 19.20.026 HT 28 & 29; Cowley and Bibury House Types Plots 30 and 31 - 19.20.026 HT 30 & 31; Chester and Bibury House Types Plots 33 – 35 - 19.20.026 HT 33, 34 & 35; Beckford and Cantlow House Types Plots 36 – 38 - 19.20.026 HT 36, 37 & 38; Cowley House Type Plots 39 and 40 - 19.20.026 HT 39 & 40; Chedworth and Beckford House Types Plots 41 and 42 - 19.20.026 HT 41 & 42 Pre B; Beckford and Chedworth House Types Plots 43 – 45 - 19.20.026 HT 43, 44 & 45 Pre A; Ashton and Barrow Apartments Plots 16 – 19 - 19.20.026 HT An & Bw; Cranham House Type Plots 1 and 12 – 15 - 19.20.026 HT Cr 01; Cranham House Type Plots 20 – 23 - 19.20.026 HT Cr 02; Cranham House Type Plots 13, 14, 15, 21 and 22 - 19.20.026 HT Cr 03; Dereham House Type Plots 3 and 9 - 19.20.026 HT Dm 01; Dereham House Type Plots 11 and 27 - 19.20.026 HT Dm 02; Derwent House Type Plots 24, 25, 26, 46, 47, 48 and 49 - 19.20.026 HT Dt; Dursley House Type Plots 2, 10 and 32 - 19.20.026 HT Dy; Proposed Levels Plan; Hard Landscape Specification - 19-2290 V5; Detail Landscape Design Overview- 9 - 19-2290 V5; LAP Detail - 19-2290 V7; and Proposed Toucan Crossing Provision - SK07
3. Notwithstanding the information submitted, and prior to the first occupation of any dwelling hereby permitted a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:
 - i. a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread.
 - ii. a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - iii. a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
 - iv. a written specification outlining cultivation and other operations associated with plant and grass establishment.
 - v. a schedule of landscape maintenance for a minimum period of five years from first planting, which should include details of the

arrangements for its implementation, long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (excluding domestic gardens).

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the occupation of any dwelling hereby permitted. The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

4. Prior to the commencement of the development hereby permitted (including all preparatory work), temporary fencing for the protection of all retained trees/hedges on site and trees outside the site whose Root Protection Areas fall within the site shall be erected in accordance with BS 5837:2012. The protective fencing shall remain in place until the completion of the development. Nothing should be stored or placed (including soil), nor shall any ground levels altered, within the fenced area. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.
5. No development shall commence on site until a detailed Sustainable Drainage System (SuDS) strategy document has been submitted to and approved in writing by the Local Planning Authority. The SuDS strategy should be in accordance with the proposal set out in the approved submission (Flood Risk Assessment; 12 November 2020; BR-511-0006-04) and must include a detailed design and demonstrate the technical feasibility/viability of the drainage system through the use of SuDS to manage the flood risk to the site and elsewhere and the measures taken to manage the water quality for the life time of the development. It shall include appropriate erosion measures to mitigate the reduced discharge area and details of spill containment features within the development to protect the Highways England drainage asset from undesirable pollution circumstances. The approved scheme shall be implemented in accordance with the approved details prior to the first occupation of the development hereby permitted.
6. Prior to the first occupation of any dwelling hereby permitted, a SuDS management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime, shall be submitted to and approved in writing by the Local Planning Authority. The approved SuDS maintenance plan shall be implemented in full in accordance with the agreed terms and conditions prior to the first occupation of the development hereby permitted.
7. No development shall commence until a detailed drainage plan for the disposal of foul water flows for the site has been submitted to and approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be occupied until the foul water drainage works have been implemented in accordance with the approved details.

8. The following species must not be planted within 10 metres of the Highways England estate: Blackthorn (*Prunus spinosa*) Goat Willow (*Salix caprea*) Crack Willow (*Salix fragilis*) Dogwood (*Comus sanguinea*) Italian alder (*Alnus cordata*) Bird Cherry (*Prunus avium*) Quaking Aspen (*Populus tremulans*) The following species must not be planted within 25 metres of the Highways England estate: English Oak (*Quercus robur*) The following trees must not be planted in a position where at maturity they would be within falling distance of the carriageway, or any Highways England asset: Silver Birch (*Betula pendula*) Austrian Pine (*Pinus nigra*) Italian Alder (*Alnus cordata*) Bird Cherry (*Prunus avium*) Quaking Aspen (*Populus tremulans*).
9. Prior to the first occupation of any dwelling hereby permitted a Construction Ecological Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on the recommendations contained within the Updated Extended Phase 1 Habitat Survey and the Ecology Summary Report, prepared by Lockhart Garratt. The CEMP shall include an implementation timetable, a bat sensitive lighting plan to show types of lighting proposed and lux levels map. The works shall thereafter be carried out in accordance with the approved CEMP and timetable.
10. Prior to the first occupation of any dwelling hereby permitted a Landscape Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall be designed in accordance with the enhancement measures set out in the Construction Ecological Management Plan (CEMP) with sufficient native species planting, creation of natural habitats and natural habitat retention and enhancement/creation to allow for positive Biodiversity Net Gain. The LEMP shall be applicable for a minimum period of 10 years and include monitoring regime to ensure plants and habitats establish well and animal shelters remain in good state. The works shall thereafter be carried out in accordance with the approved LEMP.
11. Prior to the first occupation of any dwelling hereby permitted, a Homeowner Information Pack (HIP) setting out the location and sensitivities of the Cotswolds Beechwoods Special Area of Conservation (SAC) shall be submitted to and approved in writing by the Local Planning Authority. The HIP shall include reference to the sensitivities of the site, messages to help the new occupiers and their families enjoy informal recreation at the SAC and how to avoid negatively affecting it, alternative locations for recreational activities and off road cycling and recommendations to dog owners for times of the year dogs should be kept on the lead when using the SAC. Two copies of the HIP shall be provided to all future residents prior to the occupation of each dwelling.
12. Prior to the first occupation of any dwelling hereby permitted details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - i. A drawing showing sensitive areas and/or dark corridor safeguarding areas.
 - ii. Description, design or specification of external lighting to be installed.

- iii. A description of the luminosity of lights and their light colour including a lux contour map.
- iv. A drawing(s) showing the location and where appropriate the elevation of the light fixings.
- v. Methods to control lighting (e.g., timer operation, passive infrared sensor)

All external lighting shall be installed in accordance with the specifications and locations set out in the approved details. These shall be maintained thereafter in accordance with these details.

- 13.Noise mitigation measures shall be carried out in strict accordance with the details in the 'Technical Note: Noise Addendum – Mitigation', ref: 24234-04-TN-02, prepared by Mewies Engineering Consultants Ltd. The approved mitigation measures shall be completed prior to any dwellings to which they relate being first occupied.
- 14.No development shall commence until details of the Toucan crossing and access into the site and 2 No. bus shelters have been submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be first occupied until the approved works have been completed and are open to the public.
- 15.No development shall commence until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:
- i. Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - ii. Routes for construction traffic;
 - iii. Any temporary access to the site;
 - iv. Locations for loading/unloading and storage of plant, waste and construction materials;
 - v. Method of preventing mud and dust being carried onto the highway;
 - vi. Arrangements for turning vehicles;
 - vii. Arrangements to receive abnormal loads or unusually large vehicles; and
 - viii. Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
- 16.No dwelling hereby permitted shall be first occupied until the means of access for vehicles, pedestrians and cyclists has been constructed and completed in accordance with the approved plans.
- 17.No dwelling hereby permitted shall be first occupied until the loading, unloading, circulation and manoeuvring facilities for servicing vehicles have been completed in accordance with the approved plans. Thereafter, these areas shall be retained for the life of the development.
- 18.No dwelling hereby permitted shall be first occupied until the car parking areas and turning spaces shown on the approved plans have been completed

in accordance with the approved plans. Thereafter the areas shall be kept free of obstruction and available for the parking of vehicles associated with the development.

19. No dwelling hereby permitted shall be first occupied until the cycle storage facilities have been made available for use in accordance with the approved plans. The facilities shall be maintained for the life of the development.
20. No dwelling hereby permitted shall be first occupied until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets to the satisfaction of the Local Planning Authority.
21. No dwelling hereby permitted shall be first occupied until they have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 [and Manual for Gloucestershire Streets]. The electric vehicle charging points shall be retained for the life of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.
22. Prior to its construction details of the proposed foul water pumping station and any associated development such as access arrangements shall be submitted to and approved in writing by the Local Planning Authority. The building and any associated works shall be carried out in accordance with the approved details.
23. Notwithstanding the details submitted, and prior to commencement of works on the Local Area for Play (LAP), details of the play equipment and associated works shall be submitted to and approved in writing by the Local Planning Authority. The LAP shall be constructed in accordance with the approved details.
24. No development shall take place until a Biodiversity Net Gain Assessment using the Defra Biodiversity Metric (or an updated or replacement metric used as the industry standard) has been submitted to and approved in writing by the Local Planning Authority. The assessment shall include details to demonstrate the development would secure measurable net gains for biodiversity. Development shall be carried out in accordance with the approved assessment.