



Appeal Decision

Hearing held on 8 February 2018

Site visit carried out on the same day

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2018

Appeal Ref: APP/F1610/W/17/3180122

Land to the north of Copse View, Fosse Way, Northleach GL54 3JJ

- 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 and Mrs Uppington against the decision of Cotswold District Council.
 - The application No16/04340/OUT, dated 18 October 2016, was refused by a notice dated 18 January 2017.
 - The development proposed comprises the erection of up to nine residential units and associated ancillary development.
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Decision

1. For the reasons that follow the appeal is dismissed.

Application for Costs

2. At the Hearing an application for costs was made by the appellants against Cotswold District Council. That application is the subject of a separate Decision of even date.

Preliminary Matters

3. This is an outline application with all matters other than access reserved for future consideration. Although plans have been submitted which show a site layout for nine dwellings, together with associated elevations, it was confirmed at the Hearing that these were for illustrative purposes only.
4. One of the Council's reasons for refusal related to the absence of any mechanism to secure a financial contribution towards secondary education provision. However, the appeal was accompanied by a completed Unilateral Undertaking which makes the required provision. On that basis the Council did not pursue the related reason for refusal.
5. There was insufficient time on the day of the Hearing to deal with the costs application¹ and undertake the site visit. On conclusion of the site visit, and with the agreement of the parties, I left the Hearing open to allow time for the Council to provide its rebuttal. The rebuttal and subsequent comments were submitted in accordance with the agreed timetable and the Hearing was subsequently closed in writing on 21 February 2018.²
6. Councillor Mrs Hewer drew attention to the emerging Northleach with Eastington Neighbourhood Plan. However, this is only at Pre-submission stage

¹ Listed as Document 14 below

² Listed as Documents 15-18 below

and at the time of the Hearing had only just gone out for consultation. Accordingly, it does not currently form part of the development plan for the area. Given the early stage it is at, I am unable to afford the policies in the emerging Neighbourhood Plan any material weight in my determination of this appeal.

7. The Statement of Common Ground confirms that, for the purposes of this appeal, it is agreed that the Council can demonstrate a five year housing land supply, the Council's position at the Hearing being that it had a supply of some 7.54 years. On that basis, having regard to the provisions of paragraph 49 of the National Planning Policy Framework, there is no reason to consider relevant policies for the supply of housing as being necessarily out of date. However, the development plan is of some age now. An assessment will therefore be required as to whether relevant policies are consistent with the Framework.³

Main Issues

8. These relate to the effect of the development proposed on the character and appearance of the surrounding area, which lies within the Cotswolds Area of Outstanding Natural Beauty, and its effect on heritage assets.

Reasons for the Decision

9. The appeal site lies beyond the settlement boundary for Northleach as currently defined in the Cotswold District Local Plan 2001-2011 (adopted April 2006). Saved policy 19 allows for development outside the development boundaries where it is appropriate to a rural area, provided it relates well to existing development and meets the criteria of other policies. Certain forms of development are specifically resisted outside the development boundaries, including new-build open market housing such as this, other than where it is intended to meet the social and economic needs of those living in rural areas. It was no part of the appellants' case that the dwellings proposed are intended to meet such a need and there was no dispute that the development proposed would conflict with this policy. However, as noted above, that is not the end of the matter given the age of the Local Plan.
10. Inasmuch as it seeks to protect the countryside, the policy has some resonance with the Framework. However, as set out in the Statement of Common Ground, there is agreement that in seeking to resist development, there is conflict with the balanced approach advocated by the Framework, where all material considerations are to be weighed in an overall planning balance. As such, the policy can be considered as out of date, which reduces the weight that I give to the conflict with it.
11. The emerging Cotswold Local Plan 2011-2013 is currently at Examination stage. Although the Hearings have been held, the schedule of potential main modifications is currently the subject of consultation and the Inspector's Report has not yet been issued. It is clear though, that the appeal site lies beyond the settlement boundary for the town as defined in the emerging plan. I am mindful, in this regard, that the potential main modifications set out by the Local Plan Inspector include an additional policy, DS4, which resists new build open market housing outside development boundaries other than where it is in accordance with other policies that expressly deal with residential development

³ Framework paragraph 215

in such locations.⁴ The justificatory text for the policy confirms that it is specifically intended to preclude, in principle, the development of speculative new build open market housing, which for strategic reasons is not needed in the countryside. At the Hearing, the appellants agreed that the development proposed would conflict with this emerging policy.

12. Whilst the appellants maintained that the emerging plan should attract little weight at this stage, the Council argued, given the advanced stage the plan has now reached, that it should be afforded at least moderate weight. I am inclined more towards the view of the Council, particularly in relation to policy DS4, given that the Inspector has seen fit to add it as a potential main modification and in the light of the current five year housing land supply position.

Character and Appearance

13. One of the core principles of the Framework requires that planning should take account of the varying roles and character of different areas, recognising the intrinsic character and beauty of the countryside. Together and among other things, saved Local Plan policies 19 and 42 seek to ensure that development respects the character, appearance and local distinctiveness of the District, including existing settlement patterns. In addition, paragraph 115 of the Framework sets out that great weight is to be given to conserving the landscape and scenic beauty of Areas of Outstanding Natural Beauty.
14. The 0.8 hectare appeal site lies to the west of Northleach, southwest of the traffic light controlled crossroads junction where West End, the main road out of town in this direction meets the A429 Fosse Way. The site, which I understand was formerly associated with a residential property (Copse View) is a field largely comprising improved grassland sloping down from south to north to meet with a grass verge alongside the route of the old A40.
15. To the west, the appeal site is adjoined by a woodland copse beyond which, to the south and west are open fields. Land on the opposite side of the road, which descends to the infant River Leach and then rises up on the other side of the valley, comprises arable land and woodland. The grade II* listed Old Prison (now the Cotswold Museum of Rural Life) a substantial historic building located on the corner of the old A40 and Fosse Way within the northwestern quadrant of the traffic light junction, is offset to the northeast of the appeal site frontage.
16. Towards the top of the appeal site is an area of mixed tree planting, beyond which is Copse View, a detached bungalow property and associated outbuildings which are set within an extensive curtilage. The site is adjoined along the eastern boundary by a line of around five residential properties between the site and Fosse Way, two of which were allowed on appeal in 1998 following demolition of a former café at the traffic light junction.⁵ I also understand that there is an extant permission for the erection of an additional dwelling within the curtilage of one of those properties. The appeal site and the adjacent dwellings are separated from the main built edge of Northleach by a belt of pasture/arable land that wraps around the western edge of the town, separating it from Fosse Way.

⁴ Listed as Documents 3a and 3b below

⁵ APP/F1610/A/98/296044/P8 Allowed 1 September 1998

17. The appeal site lies within the High Wold Dip-Slope Valley character area, as described in the Cotswold Landscape Character Assessment 2004. As set out in the appellants' Landscape and Visual Impact Assessment (LVIA) the setting of the site accords well with the key characteristics of this character type, including a well-defined concave valley form, intermittent areas of woodland, and a predominance of improved pastoral farmland together with pockets of arable land. The Cotswolds AONB Landscape Strategy and Guidelines (June 2016) confirm that the soft pastoral landscape of this character area is sensitive to development that would compromise its rural character.
18. Contrary to the view of the appellants,⁶ I consider that the site itself is also representative of the character area: it is located on the side of the valley and comprises improved grassland, with dry stone walls defining the boundaries in part. For the reasons set out below, I also consider that the site has considerably more affinity with the surrounding countryside than with the adjacent dwellings on Fosse Way.
19. The LVIA suggests that the development proposed would form an extension to the existing town. The appellants draw attention in this regard to the previous appeal decision referred to. In allowing that appeal, the Inspector commented that the small cluster of buildings around the crossroads was *both visually and functionally part of the compact linear settlement of Northleach because, on the approach from the town centre, avenue trees draw the eye to the traffic lights which tend to close the vista and when entering down the hill from the west, the museum buildings and the former café opposite serve as a gateway into the built up area*. On that basis, he went on to conclude that, notwithstanding the longer open frontage of the field on the southern side of West End between the built up edge of the town and Fosse Way, the former café site could *not realistically be treated as part of the open countryside to the west of the town*.
20. Whether or not I agree with that conclusion, the site the subject of the current appeal is open and undeveloped, lying behind the linear run of dwellings located adjacent to the traffic light junction, including the dwellings on the site the subject of that earlier appeal. The site is described as being bounded by housing on two sides. However, whilst the short line of dwellings along Fosse Way abuts the eastern site boundary, the southern boundary is adjoined only by a single bungalow property on higher ground, Copse View, and its extensive curtilage. The site the subject of the current appeal, which is located beyond the point where, in the opinion of the previous Inspector the traffic lights *close the vista* from the town, clearly has a quite different physical and visual context from the brownfield site the subject of that earlier decision.
21. Although the proposal would retain and strengthen some of the features of landscape, such as tree planting, retention and repair of dry stone walling and could include provision of an area of open space notated on the illustrative plans as a paddock, the erection of up to nine dwellings on this currently open field would result in a transformational change, which to my mind would result in a major significance of effect on the appeal site. I fully accept that this will often be the case with development of sites such as this. That does not mean, however, that such impact should be discounted from the planning balance.
22. I recognise that the site is not prominent in the wider landscape as such, due

⁶ ACLA Limited - Observations in respect of landscape effects of the development proposed 27 June 2017

largely to existing vegetation and topography. However, two long distance public footpaths, Monarch's Way and Diamond Way, descend from the small hamlet of Hampnett, heading down the far side of the valley towards the appeal site. They converge at the northwestern corner of the field opposite the appeal site, with the footpath passing diagonally across the field, exiting onto the old A40 close to the traffic light junction. The rising land of the appeal site is not only readily apparent from the old A40 as it passes the site, but it is also highly apparent from those footpaths. It is also seen from within the courtyard at the rear of the Old Prison albeit to a lesser degree. Whilst the effects of the development proposed are likely to be relatively local in their extent there will, nevertheless, be a landscape impact. Whilst the LVIA suggests that the impact on landscape character would be slight adverse, I agree with the Council that the LVIA downplays the impact. In my view, given the high sensitivity of users of the footpaths, the significance of effect would be greater, at moderate adverse.

23. In terms of visual impact, the site visit took in nearly all the viewpoints identified in the LVIA. I fully recognise that in most of those views, the existing dwellings can be appreciated to varying degrees. However, they are not dominant or obtrusive features in those views. Rather, they are visually recessive set in large plots with established vegetation, with the appeal site appearing as part of the open countryside behind them. The appellants refer to poor visual amenity associated with current views across the appeal site. However, whilst the stone walling along the site frontage is in poor repair and the frontage vegetation is unmanaged, they are not, in my view, perceived as intrusive or necessarily detracting features in the landscape. The same goes for the rear elevations of the existing houses, which again are neither especially intrusive nor a significant detractor. Whilst the environmental improvements for Northleach suggested in the 2014 Study do refer to the appeal site, the suggestion is for woodland planting adjacent to the housing fronting Fosse Way, as opposed to further residential development.
24. I recognise that the development proposed would not erode the historical gap that currently exists between the main part of Northleach and the 'outlier' dwellings adjacent to the appeal site. Nevertheless, the appeal site sits apart from the main built up limits of the village. In this location, the residential development proposed would clearly be divorced from the main built up limits of the town and would not relate well to the existing settlement pattern. Housing on the site would extend the incremental linear cluster of development here, bringing built development into much greater prominence than is currently the case, intruding into the open countryside with a significant negative impact on the character and appearance of the area. In the light of what I saw during the site visit, I consider that the significance of effect would be heading towards moderate to major adverse in terms of visual impact.
25. The visual connection of the site to the surrounding countryside and the AONB means that it has value in terms of its contribution to the overall landscape and scenic beauty of the area, which would be eroded as a result of the development. There would be material harm in this regard, to the character and appearance of the area and the natural beauty of the landscape of the designated AONB. This harm could not be mitigated through the layout and design of the dwellings nor the landscaping/ planting envisaged, including the proposed repairs to lengths of the dry stone walls to be retained. There would

be conflict therefore, with the relevant development plan policies and the Framework.

Heritage Assets

26. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the setting of listed buildings. Whilst no statutory protection is afforded to the setting of other heritage assets, paragraphs 128 and 129 of the Framework require an assessment of the significance of heritage assets that might be affected by a development proposal, including any contribution to significance made by their setting. The setting of a heritage asset embraces all of the surroundings from which it can be experienced. In essence, if the development proposed could be seen from, or in conjunction with any heritage asset, then there would be an impact on the setting of that asset.
27. The grade II* listed Old Prison complex referred to above (formerly the Northleach House of Correction) is a fine example of an early model prison, conceived and built by the High Sheriff of Gloucester in the 1790s to relieve prisoners of the insanitary "bridewells" in which, until then, prisoners were incarcerated. The Old Prison is seen from the appeal site, and there are views of the appeal site, which lies on rising land in relation to the listed building, from the old exercise yard to the rear of the Old Prison. Given that intervisibility, the appeal site clearly lies within its setting.
28. As noted in the list description, the former prison grounds retain a legible layout with a rear exercise ground, in an isolated valley bottom chosen for its suitability for a house of correction. It is clear to me, therefore, that the special interest of the Old Prison derives not only from its rarity, architecture and history, but also its location and wider setting.
29. Development around two of the other quadrants of the cross roads junction here means that the historic isolated setting of the Old Prison has already been eroded to some extent, particularly when approaching from the town. However, its open undeveloped valley bottom setting is still readily appreciated on the approach from the west, both along the old A40 and along the public footpath through the adjacent field. On those approaches, and notwithstanding a large agricultural building to the south, the Old Prison is seen as sitting in the open countryside, in apparent rural isolation. The open undeveloped appeal site forms an integral part of that setting. It is only as one gets closer to the junction that the other buildings adjacent to the traffic lights are readily seen. The continued ability to perceive the Old Prison on these approaches is an aspect of its setting which contributes to and assists in an understanding of its special interest. Development of the appeal site would further erode the Prison's relatively isolated setting as appreciated on this approach, with consequent harm to its special interest. With reference to paragraph 134 of the Framework, I consider that harm to be towards the mid to higher end of the 'less than substantial' range. Site layout and landscaping could reduce the harm but not to any material extent.
30. Northleach is a linear medieval settlement that developed along the line of the infant River Leach. The Conservation Area encompasses the medieval town centre and extends out along West End towards the appeal site. Although there is no Conservation Area Appraisal for Northleach, I consider that its heritage significance derives largely from its history and its rich built heritage.

31. The dwellings along the eastern boundary of the appeal site, alongside Fosse Way, mean that there is no intervisibility between the site and the Conservation Area. Whilst the appeal site lies alongside the route of an historic approach to the town, I am not persuaded that that means it plays an integral part in terms of the heritage significance as such of the Conservation Area. Accordingly, in the absence of any substantiated evidence to the contrary, and having regard to Historic England's published advice on the setting of heritage assets⁷ I am of the view that there would be no harm to the heritage significance of the Conservation Area as a consequence of the development proposed.
32. Although not referred to in the reason for refusal, mention was made at the Hearing by interested parties of the potential to impact on the special interest of the listed Wool Church of St Peter and St Paul. The church is a grade 1 listed building that dates from the C12th and C14th, rebuilt in the C15th with later alterations and works of restoration. It lies to the south of the unusual triangular medieval market place in the centre of the town and is raised up from the valley floor. As a consequence, the church and its impressive stone tower command views from all around and beyond the boundaries of the town.
33. The special interest of the church, it seems to me, derives not only from its history and association with the hugely important wool trade of the time, as well as its architecture and appearance, but also its communal value as a place of worship and as a focal point for the local community over the years. As such, the ability to perceive the church as a landmark and focal point of the historic town from the wider area is an aspect of its setting which contributes to its heritage significance.
34. I saw that the appeal site is encompassed in some views of the church, particularly the tower, in longer range views from the west. In those views however, the appeal site is offset to one side and comprises a small part of a much wider landscape. I am not persuaded, in this regard, that the site plays any integral role in terms of the heritage significance of the church. Whilst the development proposed may be glimpsed in those longer range views, I find no harm to the special interest of the listed church.
35. All in all, I find no harm in terms of the heritage significance of the Conservation Area or the listed church. I have, however, found that there would be harm to the special interest of the Old Prison. There would be conflict, in this regard, with the conserve and enhance thrust of Section 12 of the Framework.

Other Matters

36. Local residents were concerned about the ability of pedestrians to cross Fosse Way at the traffic lights. The limited pavement space was pointed out to me during the site visit and I understand that the junction, including the footway, regularly floods. I also note that the SHELAA comments that the Fosse Way would act as a barrier to pedestrian movement between the site and the town centre, with improvements likely to be necessary to enable safe crossing. Whilst I share those concerns, I note that neither the local planning authority nor the Highway Authority raise any objection on this basis.

⁷ The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) published in December 2017

37. In terms of benefits, since the Council's identified housing land supply currently satisfies the Framework paragraph 47 test of boosting significantly the supply of deliverable sites, the proposal would not deliver any additional benefit in this respect. Whilst the Council acknowledged that some sites within the open countryside would be required to meet the identified need, that does not provide support for development on this particular site. However, the development would support construction jobs and there would be social and economic benefits in terms of sustaining local services and facilities. Although the weight to be afforded to these benefits is tempered by the scale of development, they nevertheless carry modest weight in favour of the proposal.
38. Reference is made to the bespoke approach for the development, founded on traditional design principles. However, one of the core planning principles set out in the Framework is that high quality design should always be sought. On that basis, this consideration amounts to an absence of harm as opposed to a benefit *per se*.
39. Reference was made to the New Homes Bonus as a benefit. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that regard must be had to a local finance consideration as far as it is material. However, New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. I am mindful, in this regard, that the Planning Practice Guidance makes it clear that it would not be appropriate to make a decision based on the potential for a development to raise money for a local authority. Accordingly, whilst the Bonus is a material planning consideration, it is not one to which positive weight can be attached.

Overall Planning Balance and Conclusion

40. Whilst I have found no harm in terms of any impact on the heritage significance of the Conservation Area, I have found that there would be less than substantial harm to the special interest of the grade II*listed Old Prison, which harm would be at the mid to upper end of that range. Mitigation measures, including the possible provision of an area of paddock, with some of the proposed dwellings located at the top of sloping appeal site and tree planting, would not offer much compensation for the loss of the currently open undeveloped site which is an integral part of the rural setting and special interest of the listed building.
41. It is accepted and well-established that any harm to the significance of a heritage asset should be given considerable importance and weight. Having regard to the provisions of paragraph 134 of the Framework, I am required to weigh that harm against the public benefits of the proposal. In the context of the Council's ability to demonstrate a five year housing land supply at the present time, I am of the view that the harm I have identified is not outweighed by the totality of the benefits set out above.
42. Applications for planning permission are to be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is of course one such consideration. Paragraph 14 of the Framework recites the presumption in favour of sustainable development and sets out what it means for decision-taking. As set out earlier in this Decision, saved policy 19 of the Local Plan cannot be considered as up to date given its conflict with the Framework. That engages the so-called tilted balance set out at Framework paragraph 14 unless, among other things, specific policies in the

Framework indicate that development should be restricted. Having regard to the provisions of footnote 9 of the Framework, paragraph 134 constitutes a specific policy that, in this instance, indicates that development should be restricted. In such circumstances, the presumption in favour of sustainable development does not apply and it is necessary to balance benefits and harms in an ordinary, unweighted planning balance.

43. The appeal site lies outwith the settlement boundary for Northleach as defined in the development plan. There would be conflict in this regard with saved policy 19 although, as set out in paragraph 10 above, the weight afforded to that conflict is reduced. Northleach is identified in the emerging Local Plan as one of 17 Principal Settlements selected on the basis of their social and economic sustainability, taking account of accessibility to local services and facilities. They are considered to be the most sustainable locations to deliver the highest levels of growth. The Council agrees that the appeal site occupies a sustainable location in terms of accessibility, being located within walking distance of the town centre and its associated services and facilities. As such, future occupiers would not be overly reliant on the private car. Be that as it may, there is no strategic need at the present time for speculative new build open market housing in the countryside, in a location where there would be material harm to the character and appearance of the area and to the natural beauty of the landscape of the designated AONB, as well as less than substantial harm to the special interest of the Old Prison.
44. On a straightforward balance, when all matters are taken into account, I conclude that the combined benefits do not outweigh the harm which I have identified. As such, the proposal does not represent sustainable development. There are no material considerations which warrant a decision other than in accordance with the development plan and the appeal does not succeed.
45. I mentioned at the outset that a unilateral undertaking had been submitted to secure the required education contribution. However, since the appeal is unsuccessful, there is no need for me to examine the provisions secured.

Jennifer A Vyse
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs N Pugh BSC, MSc, MRTPI	Plan-A Planning and Development Limited
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FOR THE LOCAL PLANNING AUTHORITY:

Miss D Smith	Team Leader Development Management with the Council
Miss K Smith	Landscape Officer with the Council
Mr J Ayton	Conservation Consultant (Historic Environment) for the Council

INTERESTED PERSONS:

Mr N Dummett	CPRE
Councillor Mrs V Hewer	Northleach with EastingtonTown Council
Mr H Jenkins	Local resident
Mr C Martin	Local resident
Mrs J Beverton	Local resident

DOCUMENTS HANDED UP DURING THE HEARING

- 1 Plan No 0471-002A Access Design and Swept Path Analysis
- 2 Update note on the emerging plan handed up by the Council
- 3a Inspector's Main Modifications Note January 2018
- 3b Proposed Main Modifications (extract - policy DS4)
- 4 Policy 38 of the Cotswold District Local Plan 2001-1022
- 5 Officer's Report for Application 14/05583/FUL Foss Lodge
- 6 Appeal Decision Former Jubilee Café (APP/F16210/A/98/296044)
- 7 Role and Function of Settlements Study (Local Plan: Evidence Base July 2012)
- 8 Local Plan Inset Map No 8: Northleach
- 9 Northleach with Eastington Neighbourhood Plan 2016-2031 (Pre-Submission Consultation version) January 2018 (extracts)
- 10 List description for Church of St Peter and St Paul, Northleach
- 11 Strategic Housing and Economic Land Availability Assessment - January 2016 (Consolidation Report) (extract)
- 12 Addendum to 'Study of land surrounding settlements in Cotswold District' Additional sites 2015 (White Consultants)
- 13 CIL Compliance Statement and attachments
- 14 Appellant's application for an award of costs
- 15 Council's costs rebuttal
- 16 Appellant's further comments.
- 17 Council's further comments (email dated 15 February 2018)
- 18 Letters closing the Hearing in writing