
Appeal Decision

Site visit made on 18 August 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2020

Appeal Ref: APP/F1610/W/19/3241438

Land west of Hidcote Road, Ebrington, Chipping Campden, Gloucestershire GL55 6NA

- 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 the Righton Family against the decision of Cotswold District Council.
 - The application Ref 19/00543/OUT, dated 7 February 2019, was refused by notice dated 22 May 2019.
 - The development proposed is the erection of 6 no. dwellings with access off Hidcote Road and area of public open space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the site address from that given on the appeal form and decision notice as it was missing from the planning application form.
3. The application is made in outline with access to be considered in detail. Therefore, appearance, layout, scale and landscaping are reserved for separate consideration. As such, the proposed site plan and landscape masterplan are illustrative. Whilst I have taken into account that there may be alternative ways of developing the site, I have primarily considered the illustrative plans on the basis of what the likely impacts of the proposal would be. Nevertheless, in relation to some matters the appellants refer to the illustrative material. I have specified in my decision those areas where I have given the illustrative plans particular consideration.

Main Issues

4. The main issues are (i) whether the location of the development provides a suitable location for housing having regard to local and national planning policies; (ii) the effect of the proposal on the character and appearance of the area including the impact on the Cotswolds Area of Outstanding Natural Beauty, and (iii) the provision of affordable housing.

Reasons

Location

5. There is no dispute between the parties that Ebrington comprises a non-principal settlement¹ for the purposes of the Cotswold District Local Plan 2011-2031, August 2018 (LP). Subject to criteria, policy DS3 of the LP permits small scale residential development in non-principal settlements. However, outside of such settlements policy DS4 prevents open market housing save for specific exceptions. These policies form part of the overall strategy in the LP that seeks to direct growth towards identified sustainable locations, and to protect the countryside for its intrinsic value. This is broadly consistent with the approach to rural housing in paragraphs 78 and 79 of the National Planning Policy Framework (the Framework).
6. Essentially, the parties disagree as to whether the appeal site falls inside or outside of Ebrington and consequently, whether it is policy DS3 or DS4 of the LP which is most applicable. Although the LP identifies the boundaries of principal settlements on the proposals map, this is not the case for other settlements including Ebrington. Therefore, whether the appeal site is inside or outside of Ebrington is a matter of judgement that requires an assessment of the position on the ground.
7. The explanatory text in the LP states that most of the districts settlements have a rural character that often merge into the surrounding landscape, which is a particular characteristic of the Cotswolds². Ebrington has a broadly linear form which follows the alignment of the principal roads through it. The pattern of most development does not achieve a significant depth away from those main routes. It is generally surrounded by undulating farmland. The main body of the village lies to the south-east of the appeal site but there is a noticeable lengthy spur of residential ribbon development fronting onto Hidcote Road on the opposite side of the road to the appeal site.
8. The site comprises a roughly triangular piece of agricultural land between Hidcote Road and development along Campden Road. In contrast to the ribbon development on the opposite side of this part of Hidcote Road, built form is generally absent and the village hall denotes the commencement of the settlement. Together with the open agricultural appearance of the land and hedgerows, there is a palpable difference in character either side of Hidcote Road on the approach into Ebrington.
9. Moreover, notwithstanding the hedgerow along the western edge of the appeal site, there is a notable gap³ allowing access into the adjacent field at a point close to Hidcote Road. Notwithstanding some differences in levels, this physical link and similarity in appearance means that the site more closely resembles surrounding open farmland rather than the built form of the adjacent settlement.
10. The houses at The Old Orchard, adjoining the appeal site to the south, have a plot depth and relationship with Campden Road consistent with the pattern of built form within the village. By comparison, the appeal site is significantly larger with some parts a considerable distance from Hidcote Road. This is reinforced by the Nolli Plan⁴, which illustrates the relationship of built and unbuilt space. As such, neither the presence of dwellings at The Old Orchard,

¹ Case Officer Delegated Report, p19

² Paragraph 6.3.2

³ Topographical Survey drawing number S1621-1

⁴ Nolli Plan drawing number 18.018-300

nor its historical use as an orchard would lead me to find that the appeal site, although proximate, sits within the village. Accordingly, the appeal site is adjacent to, but outside of, a non-principal settlement. Consequently, policy DS4 of the LP is applicable in these circumstances.

11. My attention is drawn to the public right of way through the site. Whilst this may connect different parts of the village, the evidence does not show that this is its sole function as it also links to other footpaths and roads, including a long distance footpath⁵. It forms part of a network of routes, some of which pass through the village. Therefore, I do not consider its position is determinative as to the extent of the settlement of Ebrington.
12. The appellants refer to the appeal site as an indent of land bordered by residential development. However, for the reasons outlined my observations were that the site is on the periphery, but outside of Ebrington and therefore, the proposal would introduce dwellings that would encroach into the countryside.
13. The evidence submitted does not demonstrate that the proposal falls within any of the express exceptions set out in policy DS4 of the LP. It follows that the proposal for 6 open market houses at the appeal site would conflict with the housing strategy in the LP. Therefore, I find that the appeal site would not be a suitable location to introduce housing and would be contrary to policy DS4 of the LP which seeks to prevent open market housing outside of the principal and non-principal settlements in the district.

Character and appearance

14. The appeal site is located in the Cotswolds Area of Outstanding Natural Beauty (AONB) and is identified as within sub-category 1F Meon and Ebrington hills landscape character area of the Escarpment Outliers within the Cotswolds AONB Landscape Strategy and Guidelines, June 2016. The special and sensitive character of the AONB at this point is derived in part from the pattern of surrounding fields, hedgerows, topography and their relationship to the settlement of Ebrington which allows for some long distance views. Paragraph 172 of the Framework stipulates that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's.
15. The appeal site predominantly comprises gently undulating farmland with planting along some boundaries. This results in an attractive open rural character. For reasons already outlined, the characteristics of the appeal site are more attuned to the wider agricultural landscape rather than constituting part of the settlement. Consequently, the site contributes positively to the rural character and appearance of the area and the setting of Ebrington. Furthermore, longer distance views to the west are possible from the public footpath that crosses the site and it is common ground between the parties that the area has high landscape sensitivity⁶.
16. Although layout, scale and appearance are reserved, and there may be other ways of developing the site than is shown in the illustrative material, the introduction of 6 dwellings would nevertheless represent a significant amount of new built form into an area where it is presently absent. The presence of the buildings, associated domestic planting and paraphernalia, lighting, access road

⁵ Diamond Way

⁶ Landscape and Visual Impact Assessment, Brodie Planning Associates, July 2019 (LVIA), p25

and parking would undoubtedly change and diminish the open agricultural character of the land.

17. Moreover, the illustrative proposed site plan⁷ shows the dwellings dispersed across the site along a broadly north/south axis. Such an arrangement deep into the site would adversely contrast with the limited depth of linear development fronting Hidcote Road. When this is combined with the proposed area of public open space between the dwellings and the village hall, the development would appear adrift from the distinctive established settlement pattern. Consequently, it would not be sympathetic to local character, including the surrounding built environment and landscape setting as referred to in paragraph 127c) of the Framework.
18. Furthermore, the access arrangements⁸, by introducing a T junction, would necessitate a gap in the field boundary hedgerow which would further erode the rural character of the land.
19. In addition, based on the illustrative layout, the development would significantly mar the westward views from the public right of way. This is reinforced in the Landscape and Visual Impact Assessment (LVIA) which identified a major/moderate adverse effect on viewpoint 6 where the footpath enters the site to the south. A similar major/moderate adverse effect is recognised on views⁹ from Hidcote Road, a principal route into the village and part of the Diamond Way, a long distance walking route. This would hamper the ability of users of the footpaths to fully appreciate the relationship of Ebrington to the wider landscape.
20. I have had regard to the mitigation measures recommended in the LVIA including limiting the height of buildings and siting them away from boundaries, the use of sympathetic materials and additional planting. Notwithstanding the partial screening from existing hedgerows and the potential for additional planting set out in the Landscape Masterplan¹⁰ provided, I am not assured that this would fully address the harm identified, particularly the views from the public right of way across the site. Moreover, additional planting would take a considerable time to become established. In any event, glimpses of the development would be likely to remain from the access point and from a number of nearby residences.
21. It follows that when taken in combination, the factors identified would have a harmful impact upon the rural area and special qualities of the AONB. Even though the proposal may not amount to major development for the purposes of paragraph 172 of the Framework, it would fail to conserve and enhance its landscape and scenic beauty. Furthermore, the proposal would conflict with paragraph 170 of the Framework which stipulates that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.
22. Accordingly, I find that the proposal would be harmful to the character and appearance of the area and special qualities of the AONB contrary to policies EN1, EN2, EN4 and EN5 of the LP. Taken in combination these policies seek to,

⁷ Drawing number 18018-200

⁸ Drawing number SK01

⁹ Viewpoint 3, LVIA

¹⁰ Drawing BPA1045-10

amongst other matters, protect the character and appearance of the natural environment and the AONB in particular.

Affordable housing

23. Policy H2 of the LP requires residential developments in rural areas, as defined under s157 of the Housing Act 1985 that provide 6-10 dwellings to make a financial contribution towards the provision of off-site affordable housing. The explanatory text indicates that such a sum should accord with the Affordable Housing Supplementary Document and the Council have indicated that this equates to £285,600. There is no dispute between the parties that the proposal is required to make such a financial contribution and I have no basis to find otherwise.
24. On the evidence before me, it appears that the need for the contribution arises from the development and satisfies the 3 tests in Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended) (the Regulations) in that it is necessary to make the development acceptable in planning terms, is directly related to the proposal and is fairly and reasonably related in scale and kind to the development.
25. The appellant has signalled their willingness¹¹ to enter into such an obligation. A draft unilateral undertaking (UU) is provided that includes a £285,600 affordable housing contribution which, if completed, the Council find would address their concerns¹². However, it is not signed or dated and does not include an attached plan. Therefore, no planning obligation is before me. I have not pursued this matter further with the parties as given that I have other substantive concerns, it would not alter the outcome of my decision. Accordingly, it follows that the development would fail to make appropriate provision for affordable housing and would be contrary to policy H2 of the LP.

Other matters

26. The appellants refer to the provision of public open space as part of the development which they consider would enhance community facilities and would be more accessible and with increased surveillance than existing facilities for the village. Nevertheless, the evidence does not show that the provision of public open space would be necessary to mitigate the impacts of the proposal. Neither is it shown that it would be fairly and reasonably related in scale and kind to the development.
27. Consequently, a planning obligation to provide public open space would not meet the statutory tests in the Regulations. Furthermore, such an obligation would not comply with paragraph 56 of the Framework which states that planning obligations must only be sought when all of the tests are met. Accordingly, even if the draft UU had been completed, in relation to this matter it would not have been lawful to take it into account as a reason for granting planning permission.
28. In support of the proposal, reference is made to enhancements to bio-diversity. However, given the outline nature of the application I am not assured that any such measures would go further than would be required in any event by local

¹¹ Paragraph 1.6, Appellants' Statement of Case

¹² Email dated 20 December 2019 from Martin Perks, Senior Planning Officer

and national planning policies. Accordingly, this is a neutral factor rather than a benefit of the proposal.

29. Reference is made to the potential to improve the public right of way¹³ across the site as part of the proposal. However, the evidence does not suggest that the path is in a condition that would significantly deter users of the footpath and it appears reasonably well used. Accordingly, this attracts little weight.
30. The appellants highlight the public engagement that they attempted with the Parish Council prior to the submission of the application, support for which is given in paragraph 40 of the Framework. Nevertheless, this does not address or outweigh the identified harm that would result as a consequence of the proposal.
31. I am statutorily required to have special regard to the desirability of preserving listed buildings or their setting and therefore, have considered whether the proposal is likely to affect the Grade II listed 56, 58 and 60 Hidcote Road and Top Farm. These are the closest listed buildings to the site and their significance is primarily derived from their aesthetic appearance. However, the combination of the distance and intervening road and/or other built form between the proposal and these heritage assets is such that their significance is unlikely to be harmed. I have also considered the effect on St James Church, Chipping Campden a Grade I listed church to the west which is sometimes visible from the public right of way crossing the site. It will be seen from the above that I have found harm to this general view, however given the considerable distance involved, this does not amount to harm to the surroundings in which the church is experienced. Therefore, its significance would not be harmed.

Planning balance and conclusion

32. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹⁴.
33. The proposal would provide benefits in terms of the provision of additional housing and would result in associated social and economic benefits to the area. However, the Council is currently delivering sufficient housing in line with the LP¹⁵ and I have not seen evidence to suggest otherwise. When coupled with the relatively modest scale of the development, this tempers the extent of such benefits. Overall, I attribute limited weight to these benefits.
34. The benefits do not outweigh the significant weight given to the conflicts with the development plan policies outlined and the great weight given to conserving and enhancing the landscape and scenic beauty of the AONB. Accordingly, they do not justify my determining the development other than in accordance with the development plan and Framework. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor Inspector

¹³ Paragraph 2.9, Appellants' Statement of Case

¹⁴ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

¹⁵ Appendix 6 Council's Appeal Statement, Housing Land Supply Report, May 2019