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## Appeal Decision

Hearing held on 16 August 2022

Site visits made on 15 and 16 August 2022

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 October 2022**

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**Appeal Ref: APP/F1610/W/22/3296904**

**Duke's Field, Down Ampney, Gloucestershire, GL7 5PQ**

- 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 Cotswold Homes Limited against the decision of Cotswold District Council.
  - The application Ref 21/00949/FUL, dated 25 February 2021, was refused by notice dated 17 January 2022.
  - The development proposed is the erection of 10 dwellings with associated access drives and drainage.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Although not forming a reason for refusal, it has come to light during the appeal process that the proposed development would be within the Zone of Influence (ZoI) of North Meadow and Clattinger Farm Special Area of Conservation (SAC). The appellant was made aware of this and as a result provided a shadow Habitats Regulation Assessment (sHRA), which the Council and Natural England (NE) have been given the opportunity to comment on.
3. An accompanied site visit was undertaken on the day of the hearing. In addition to this the day before the hearing I carried out an unaccompanied site visit to give myself an understanding of the character and appearance of the area which was to be discussed at the hearing. After the accompanied site visit I also undertook an unaccompanied site visit of North Meadow SAC as requested by the appellant at the hearing.

### Main Issues

4. The main issues in the appeal are the effect of the proposed development on:
  - the character and appearance of the area; and
  - the integrity of the SAC.

### Reasons

#### *Character and appearance*

5. The appeal site is a vacant plot of land on the corner of Oaks Road and Duke's Field. It is located on the edge of the settlement with open fields and a wooded

area on the opposite sides of the two roads, and houses to the north and west of the site.

6. Policy S4 of the *Cotswold District Local Plan 2011 – 2031 (adopted August 2018)* (LP) allocates the site for residential development for 10 dwellings. However, within the introduction to the LP it is stated that the numbers quoted in relation to housing allocations are indicative estimates and that the final number of dwellings may vary from the estimates, depending on the outcome of the planning application process.
7. The reason for refusal refers to the scale, form and layout of the scheme. At the hearing the Council confirmed that they considered that the scale and form of the dwellings themselves would be appropriate but that their concerns were with the scale, form and layout of the overall development and the impact this would have on the character and appearance of the area. Nothing I have seen or read leads me to conclude differently with regard to the scale, design and form of the dwellings themselves. As such, in determining the appeal my focus has been on the scale and layout of the overall development.
8. The majority of houses in the village front onto highways, nonetheless there are a number of examples of both older and newer dwellings that are set back from the road behind other houses or buildings. Distances houses are set back from the road also varies. To the north of the appeal site lies a cul-de-sac of houses. The houses immediately to the west comprise a row of 4 linked semi-detached dwellings and a detached property that are accessed from a private drive, a courtyard of 4 houses with 2 houses fronting the road and 2 behind and a detached dwelling whose gable faces the road.
9. The layout of the proposed development reflects that found in the village and the housing to the west. The majority of the houses would front onto either Oak Road or Duke's Field, with the house on the corner (plot 10) being designed with a dual aspect to avoid a blank gable elevation facing the road. In addition, the courtyard arrangement of 4 houses accessed from Duke's Field would be similar to that found further along this road.
10. The distances the properties would be set back from the road would vary. The roadside boundary would utilise the existing hedge which would be similar to the hedge boundaries found on other houses along Duke's Field.
11. In the light of these factors, the layout of the proposed scheme would not appear out of character with either development in the immediate vicinity, or the wider village.
12. The area of the site varies in various documents but it, and the density of the proposed development, was agreed by the main parties in the Statement of Common Ground. Whilst I note the comments of the Parish Council regarding the area of the site, in the absence of any substantive evidence to the contrary, I have taken the figure in the Statement of Common Ground as correct.
13. Varying figures have been provided for the density of the surrounding housing areas and for development in the village as a whole. What areas should and should not be included in such calculations is disputed between the various parties. Given this, when considering the appropriateness or otherwise of the density of the scheme, I have utilised the plans before me and what I observed at my site visits.

14. Housing within the village consists largely of detached and semi-detached houses and bungalows. The density of development varies within the village. The Council has suggested it is most densely developed in the centre and along Charlham Way, and as it extends outwards the density reduces. Whilst I would agree this is the case along Church Road, I observed that the areas with the highest densities were Broad Leaze and Linden Lea which are located on the edge of the village not the centre. Moreover, the playground to the front of the primary school and the large open field opposite this, give the area of the village near the village hall and shop, quite an open spacious feel. Whilst I appreciate such areas may not be included in density calculations, visually they create a less dense and more open appearance to this central part of the village.
15. I also noted that housing within the village often fills much of the width of the plot on which it is situated, so whilst the size of front and/or rear gardens may mean the overall density of development is low, gaps between dwellings in many places is often limited.
16. It is not disputed that the density of the proposed development would be higher than that of The Pheasantry to the north and of Nos 5-14 Duke's Field to the west. However, the extent of this difference is not of the order that it would be clearly discernible to those passing by and the gaps between the dwellings would not appear markedly different to those in the vicinity or the village more generally. Moreover, the density of the development would remain significantly lower than is typical of urban or even suburban areas.
17. I note the views of the Parish Council that the Duke's Field development also consists of Nos 1-4 which are separated from Nos 5-14 by an area of open land much of which they indicated belongs to adjacent dwellings although it is not enclosed in their gardens. Be that as it may, the distance between Nos 1-4 and the rest of the development, means that visually they appear as distinct and separate groups of houses even if originally they all formed part of the same housing development. Whilst the open area of land between the two groups of houses contributes to the character and appearance of the area it does not reduce the perceived density of Nos 5-14.
18. 4 units of accommodation would be provided on the north-east corner of the site which would make this the most densely developed part of the site. However, this row of dwellings has been designed so they resemble a pair of semi-detached houses, one of which has a single storey element to the side. The fact that one of the 2 storey units would actually contain 2 flats, and that the single storey element would be a separate bungalow would not be particularly noticeable to passers-by, especially given the proposed boundary hedge to the front. As a result, this area, whilst providing 4 units of accommodation, would not visually appear significantly more densely developed than the rest of the site or the surrounding area.
19. Whilst a gradual transition from the settlement to the countryside is found along Church Road, I observed that such a transition was not found on either the entrance to the village from Cirencester or from Poulton. Although Oak Road and Duke's Field are not through roads, they are popular walking routes and provide access to those visiting the airfield memorial. Thus, I appreciate the desire for the development to provide an appropriate transition between the settlement and the open countryside beyond.

20. As highlighted above, although the density of the development would in fact be slightly higher than that found on the housing immediately adjacent to the site, I am satisfied that this would not be perceptible to passers-by. The retention of the existing hedge and trees along the road frontage between the accesses as well as the proposed planting of a number of new trees around the boundaries of the site, would provide a soft edge to the development. It would also reduce the visual impact of the housing. Thus, I am satisfied that the development would be sympathetic to the increasing rural character of the area.
21. Therefore, overall, I consider that the proposed development would not harm the character and appearance of the area. Accordingly, there would be no conflict with Policies EN1 or EN2 of the LP which require new developments to complement the character and distinctive appearance of the locality and accord with the Cotswold Design Code.

### *The SAC*

22. SACs are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations). The Regulations require the decision maker to consider whether any proposal may have a significant effect on such a protected area either alone, or in combination with other plans or projects, and if this is the case to carry out an Appropriate Assessment to determine whether there would be an adverse effect on the integrity of the site. If the integrity of the site would be affected then consent for the plan or project can only be granted if there are no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest and compensatory measures will be provided.
23. The SAC is an example of lowland hay meadows and consists of 2 separate elements – North Meadow and Clattinger Farm - which are separated by about 7km. The appeal site is around 2.3km from the North Meadow element, which is a National Nature Reserve managed by NE. It represents an excellent example of the traditional pattern of management of lowland hay meadows which were once common in the area, and it contains a very high proportion of the UK population of Snake's Head Fritillary. The SSSIs underpinning the SAC are both recorded as being in a favourable condition.
24. The conservation objectives of the SAC relate to maintaining or restoring the extent, distribution, structure and function of the qualifying natural habitats and the supporting processes on which they rely, to ensure the site's integrity is maintained. Supplementary advice on conserving and restoring site features was published by NE in August 2018. This highlights that the prolonged periods of flooding experienced in recent years has threatened the continuation of traditional meadow management.
25. NE have stated that following discussions with the site's manager and their experience of other instances where recreational pressures on SACs has been investigated, it has been concluded that recreational pressure is now impacting on the North Meadow part of the SAC and its interest features. It is indicated that growing visitor numbers are particularly evident when the Fritillaries are in flower during April and May and has caused an increase in trampling and path widening. It is stated that this leads to vegetation community change and has a direct effect on features for which the site was designated. NE consider that

the increase in recreation is primarily driven by increases in the local population rather than by a greater propensity to visit the site.

26. It is not disputed that the appeal proposal would not give rise to any direct disturbance that would have the potential to cause any likely significant effects. However, NE consider that the increase in population from the proposed development, in combination with other developments, has the potential to cause likely significant effects as a result of increases in recreational pressure. They conclude that until mitigation measures have been put in place adverse effects on the integrity of the SAC cannot currently be ruled out.
27. This is disputed by the appellant. The sHRA concludes that the proposal would not give rise to any discernible increase in visitors and so would not lead to any discernible degradation to the grassland habitat. The effects are therefore said to be nugatory and, as a result, it is argued that in-combination effects do not need to be considered.
28. Whilst I accept that there are no dedicated car parks at North Meadow and that there are footpaths in the countryside that surrounds Down Ampney, nonetheless I consider that there is still the likelihood that future occupiers may visit the site especially when the Fritillaries are in bloom.
29. Whilst on its own the increase in the number of visitors to the site arising from the development itself is likely to be small, I am required to consider the effect of the proposal in combination with other projects as well. I note the appellant's comments regarding this. However, whilst small schemes on their own may generate limited increases in the population and so small numbers of additional visitors, cumulatively the numbers would be more significant and would add to the trampling and path widening that has been occurring in recent years and which according to NE is having a direct effect on features for which the site was designated.
30. I note the appellant's argument that despite the increased trampling over the last 10 years the SSSI underlying the SAC is in a favourable condition. However, the latest assessment date for the condition of the SSSI was 2010 and so pre-dates the period in which this increase in trampling has been said to occur.
31. As such, I consider that the development, in-combination with other developments, has the potential to result in likely significant effects as a result of increases in recreational pressures due to an increase in population in the ZoI and so an appropriate assessment is necessary.
32. I understand that within the ZoI lie parts of Cotswold District Council, Swindon Borough Council and Wiltshire Council. I do not have the details of how many other housing developments are currently consented or under consideration within these 3 Councils or what, if any mitigation, any of the schemes have proposed. As a result, I cannot determine the potential impact these schemes may have on the SAC in combination with that before me. However, I agree with NE that, without appropriate mitigation, adverse impacts on the integrity of the site cannot be ruled out. Whilst the potential effects of the proposed scheme may be small alone, the erection of 10 dwellings would give rise to an increase in population in the area, and I cannot be certain that together with other schemes in the area, the effects in combination would not be significant.

I do not agree that the potential effects of the scheme are such that in-combination effects should not be assessed.

33. The Unilateral Undertaking submitted by the appellant includes a habitats contribution of £5000 towards measures to protect the integrity of the site. This is based on the figure given for measures to help manage recreational pressures set out in the Site Improvement Plan (2014).
34. NE and partners, including the relevant Councils, are currently producing a mitigation strategy for recreational impacts on the North Meadow part of the SAC. In advance of the production of this, I cannot be certain that this proposed payment would be fairly and reasonably related in scale and kind to the development. Nor can I be satisfied that the proposed payment would be effective and achieve appropriate mitigation works. As such this contribution does not meet the relevant tests in paragraph 57 of the *National Planning Policy Framework* (the Framework) and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). I therefore give it no weight.
35. Consequently, I cannot conclude that the proposed development, in combination with other projects, would not have an adverse effect on the integrity of the SAC. Therefore, the proposal would be contrary to Policies EN8 and EN9 of the LP which seek to conserve and enhance biodiversity and geodiversity and safeguard internationally designated sites from development that could cause a significant effect which would adversely affect their integrity.

## **Other Matters**

### *Affordable Housing*

36. In line with LP Policy H2, the proposed development would provide 4 affordable dwellings. These would be a mixture of affordable rent and shared ownership and would provide a mix of housing types. The Council have confirmed that both the housing and tenure mix are appropriate to meet the identified local need.
37. Evidence provided by the appellant, shows that no affordable housing has been provided in the village in recent years. Nonetheless, 22 affordable dwellings are proposed at the Broadway Farm development in the village, which the developer has indicated to the Council should be starting on site within the next 12 months. The Council have suggested that this would meet the identified local demand for affordable housing.
38. However, the appellant's evidence, which was not disputed by the Council, highlights the demand and need for affordable housing in the district generally. In the light of this, even if the Broadway Farm development does deliver 22 affordable housing units over the next few years, I still give significant weight to the provision of the 4 units on this site.

### *Highway safety*

39. The Parish Council and local residents have raised concerns regarding the level of parking provided and the number and safety of the accesses to the development. The development would have 4 access points - 2 of which would serve single dwellings, and 2 of which would each serve four dwellings. In places the width of Duke's Field and Oak Road is restricted so 2 vehicles cannot

pass and visibility at the corner of the two roads is also limited. However, the roads are not through roads, and I observed them to be lightly trafficked, although local councillors highlighted that they are well utilised by pedestrians. Nevertheless, I was provided with no indication that at present there is a poor accident record in the area.

40. The Highway Authority have raised no concerns regarding the number of accesses or the visibility at them. In addition, it is indicated that the number of parking spaces to be provided would exceed the requirement. In the light of this, and observations I made at my site visit, I consider the parking and accesses would not be detrimental to highways safety. Moreover, the development would provide a footpath along Oak Road, and would provide a financial contribution to enable the extension of the 30mph speed limit along this road which would provide improvements to highway and pedestrian safety.

#### *Drainage and Flooding*

41. The proposal is accompanied by a Drainage Strategy that addresses the disposal of both surface and foul water from the development. This has been assessed by the Lead Local Flood Authority (LLFA) and Thames Water, neither of whom raise any objection to it. Given the comments from these technical advisors the Council concluded that the proposal would not cause an increase in surface water runoff or associated flood risk in the locality. In addition, it is confirmed that the foul water sewage network infrastructure has the capacity to cope with the development.
42. Whilst I note the concerns raised by third parties regarding drainage and flooding issues, in the absence of persuasive evidence to the contrary, I see no reason to disagree with the conclusion of the Council and its technical advisors. As a result, I consider that the development would be provided with adequate surface and foul water drainage and would not have an adverse impact on drainage and flooding in the area.

#### *Sustainable Design and Construction*

43. The houses would all be provided with solar panels, water butts, secure cycle storage and EV charging points. Although the latter is now a requirement of the Building Regulations, the provision of the other features would address climate change and provide future occupiers with renewable energy solutions. I give this benefit modest weight.

#### **Unilateral Undertaking**

44. A signed and completed Unilateral Undertaking (UU) has been submitted by the appellant. In accordance with Policy H2 of the LP this would secure the provision of 40% affordable housing on the site and would control the type of affordable housing units to be provided and the occupancy of the units.
45. The UU would also provide a financial contribution to enable a Traffic Regulation Order to be made and implemented to extend the 30mph speed limit along Oak Road. The Council's Statement of Compliance sets out how this contribution would meet the relevant tests in paragraph 57 of the Framework and Regulation 122 of the CIL Regulations 2010 (as amended), and the County Council have provided details of how the figure has been calculated. In the light of this I am satisfied that it is fairly and reasonably related in scale to the

development. Thus, I consider this part of the obligation meets the statutory tests.

### **Planning Balance and Conclusion**

46. The proposed development would provide 10 new houses, 4 of which would be affordable, in a way that would not harm the character and appearance of the area. It would also provide highway and pedestrian safety measures that would benefit existing as well as future users of this road. In addition, the development would incorporate many sustainable design features. However, I cannot conclude that the proposed development, in combination with other projects, would not have an adverse effect on the integrity of the SAC.
47. Whilst I have had regard to all the benefits of the proposal, I consider that taken together these do not outweigh the harm I have identified it would cause. Consequently, I conclude that the appeal should be dismissed.

*Alison Partington*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

|                                                    |                                                              |
|----------------------------------------------------|--------------------------------------------------------------|
| Stephenie Hawkins BSocSc (Hons)<br>MPhil MSc MRTPI | Planning Associate Director Barton<br>Willmore (now Stantec) |
| Thea Osmund-Smith                                  | Counsel                                                      |
| Luke Hillson BSc Hons Post Dip UD<br>MRTPI         | Design Director Barton Willmore (now<br>Stantec)             |
| Annie Gingell BSc (Hons) MSc MRTPI                 | Principal Planner Tetlow King                                |
| Conor Layton BA (Hons) MSc MRTPI                   | Senior Planner Tetlow King                                   |
| Tim Goodwin BSc (Hons) MSc MIEEnvSc<br>MCIEEM      | Director of Ecology Solutions                                |
| James Durant BA(Hons) MA MRTPI                     | Strategic Planning Manager, Cotswold<br>Homes Ltd            |
| Liam Rinn                                          | Land Director Cotswolds Homes Ltd                            |

### FOR THE LOCAL PLANNING AUTHORITY:

|                 |                           |
|-----------------|---------------------------|
| Harrison Bowley | Cotswold District Council |
| Amy Hill        | Cotswold District Council |

### INTERESTED PARTIES:

|                  |                            |
|------------------|----------------------------|
| Cllr Lisa Spivey | Cotswold District Council  |
| Cllr Gareth Cope | Down Ampney Parish Council |

## DOCUMENTS SUBMITTED AT THE HEARING

1. Complete copy of Officer's Report for the planning application associated with the appeal (21/00949/FUL) submitted by the Council