



Appeal Decision

Site visit made on 4 July 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 October 2022

Appeal Ref: APP/F1610/W/22/3292635

Land South of Charlham Way, Down Ampney, GL7 5RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by The Co-operative Group against Cotswold District Council.
 - The application Ref 21/04185/OUT, is dated 2 November 2021.
 - The development proposed is described as "outline application for up to 8 no. dwellings including access and associated works with all other matters reserved".
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Decision

1. The appeal is dismissed and planning permissions for an outline application for up to 8 no. dwellings including access and associated works with all other matters reserved is refused.

Preliminary Matters

2. The appeal follows the Council's failure to determine the application within the prescribed period. However, the Council has indicated in its grounds of appeal, that had it been in a position to determine the application, it would have refused planning permission.

Main Issues

3. I consider the main issues to be;
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on the North Meadow and Clattinger Farm Special Area of Conservation (SAC).

Reasons

Character and Appearance

4. The appeal site is an area of undeveloped land located in the centre of Down Ampney, during my site visit it was being used for the keeping of sheep. The area is predominantly residential characterised by detached and semi-detached dwellings set back from the road behind low stone walls. This set back combined with green landscaping and scattered open spaces gives the area a spacious and verdant feel. The open spaces provide a relief from built development and contribute positively to the rural character of the village. The appeal site adjoins an area of open land at Duke's Field which affords views into the open countryside from within Down Ampney. The undeveloped land

and views into the countryside contributes positively to the rural character and setting of Down Ampney.

5. The proposed development would result in the loss of the undeveloped and open character of the site, which contributes positively to the rural character of Down Ampney. The introduction of housing within the appeal site would reduce and partially enclose the glimpsed views of the landscape beyond which is currently possible across the site and through the access to dwellings at Duke's Field when walking and driving along Charlham Way. This would diminish and erode the function that the site performs as a gap between existing built development and the visual and spatial connection with the landscape beyond.
6. Whilst I accept that the development of the site could still enable a gap to be maintained, I consider that the development would erode the importance of this undeveloped land which contributes positively to the open nature and rural character of the area. This would lead to a built form and suburbanisation that would be at odds with the open quality of the area.
7. The introduction of development in this location would result in harm to the character and appearance of the area. This is a matter to which I attach significant weight.
8. I have had regard to the appellants comments that the land is private, and they do not consider that it an important space. However, I have found that the appeal site contributes positively to the character and appearance of the area and its loss would be harmful.
9. As such, the proposed development would conflict with Policies EN2 and INF7 of the Cotswold District Local Plan 2011-2031 (2018) (LP) which seek, amongst other things, to ensure that development respects the character and distinctive appearance of the locality and protects and enhances existing green infrastructure. The proposal also conflicts with paragraph 130 of the National Planning Policy Framework (the Framework) which seeks good design sympathetic to local character and development that responds positively to the surrounding context.

Effect on the SAC

10. The North meadow and Clattinger Farm SAC is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Whilst the appeal site is not within the SAC, it is located within its 8km Zone of Influence. Given its proximity both the Council and Natural England consider that the proposed development would be likely to have significant effects on the features of interest of the SAC, due to increased recreational use arising in combination with other development. Natural England provided a full response on the application and the Council have produced an Appropriate Assessment (AA).
11. The appellant does not agree that the proposed development would likely have significant effects on the SAC and have produced a shadow AA. The shadow AA concludes that due to the distance between the proposed development and the SAC, that future residents would be unlikely to travel there for recreational purposes. They also assert that the proposed development and its impact should be considered in isolation to other developments.

12. It is noted that this SAC was designated due to its rich diversity of meadow plants, which includes 95% of the UK's surviving population of Snake's Head Fritillary. The evidence indicates that the primary causes of site degradation include walking, and in particular dog walking, with these uses causing the trampling of hay, high levels of dog excrement in the hay and dog toys damaging hay cutting machinery.
13. In this case, the proposed development is located within the 8km Zone of Influence of the SAC. Whilst there may be limited opportunity to park near to the SAC this would not in itself dissuade future residents from using the SAC site recreationally, thus increasing the numbers of visitors to the site. As such, I am satisfied that the proposed development would be likely to lead to recreational pressure on the SAC, and in particular the North Meadows section. I consider that the effects of the proposed development, is such that it is likely to have significant effects on the meadow, particularly from walking.
14. There is no current mitigation strategy for the SAC and whilst I am aware that the Council is in the process of developing such a strategy, this has not been completed. The evidence indicates that there is a likelihood of recreational disturbance to the SAC through additional activity associated with the proposed development, which has the potential to affect the integrity of the SAC. The Habitats Regulations require me to consider whether there are any alternative solutions. However, no mitigation has been put forward by the Council or the appellant. No other solutions have been put to me.
15. As such, in this case I cannot conclude that the proposal would not have an adverse effect on the integrity of the SAC as no appropriate mitigation has been proposed that would mitigate the impacts of increased recreational pressure.
16. Consequently, having regard to the Habitat Regulations, permission must not be granted. The proposed development, in isolation and in conjunction with other similar schemes, would result in harm to the integrity of the SAC, contrary to Policies EN1, EN8 and EN9 of the LP. The proposed development would also be contrary to paragraphs 174, 180, 181 and 182 of the Framework which together seek to ensure that development does not result in the loss or deterioration of irreplaceable habitats.

Conclusion

17. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR