



Appeal Decision

Site visit made on 2 November 2022

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/C1625/W/21/3288653

The Old Office, Camp Farm, The Camp, near Stroud GL6 7HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Rory Baxter against the decision of Stroud District Council.
 - The application Ref S.21/0834/FUL, dated 30 March 2021, was refused by notice dated 9 June 2021.
 - The development proposed is the replacement of an existing dwelling with 2 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed dwellings would be behind outbuildings that were originally used for agricultural purposes but have now been converted. The site is currently accessed by an existing drive that broadly runs parallel to the road, Calf Way, and joins it some distance to the south of the hamlet. That drive, from the junction with Calf Way to a point a little over half way along its length, is included in the red line of the appeal site, and that junction is the only point where the appeal site touches the adopted highway.
3. The 2013 planning permission to convert the existing barns to offices (the 2013 permission) also included the provision of a new access point. That was subject to a condition that stated

Prior to the occupation of the development hereby permitted, the vehicular access and drive shall be laid out and constructed in accordance with the submitted Proposed Site Plan received on 28/03/2013 and shall be maintained thereafter.

However, for whatever reason, the access and drive were not laid out in accordance with that plan. Rather, the junction (which is the one now in place) was formed some 20m further south, with a consequent lengthening of the drive.

4. The appellant contended that, despite the condition, the current location of the junction had the agreement of Gloucestershire County Highways and Historic England, and in any event is now lawful due to the passage of time. As such, its merits should not form part of this appeal.
5. The Council though considered the existing access and drive to be unauthorised, as what is now in place is not authorised under the 2013

permission or any subsequent one. As such, its merits should be considered under this scheme.

6. The proposal needs to be shown to connect with an adopted highway, and the drive's existing junction with Calf Way is the only point where this could occur within the site's red line. Therefore, I have to consider the merits of the access and drive as part of the proposal. If their lawfulness was undisputed then such considerations would take into account the fact that they could remain, but if they were unauthorised any assessment would have to acknowledge that their retention was not certain. Whether or not the access and drive were included in the description would not change this position, as the description does not define the only aspects to be considered as part of a case.
7. It is not for me to determine the lawfulness or otherwise of development as part of this appeal. However, in this instance, I have to reach a view as to whether the scheme has a suitable access. Mindful that the access and drive were formed in this location some 9 years ago without compliance with a condition, I consider there is sufficient doubt for me to assess their merits as part of the case. The appellant considered the matter could have been resolved by an application under section 73 of the 1990 Act to 'amend' the 2013 permission. Maybe that is so, but, as far as I am aware, no such application has been forthcoming to date.
8. Therefore, if I were to allow the appeal I would either be granting planning permission for the existing access and drive or, alternatively, if I found the access and drive to be unacceptable, be imposing conditions to allow 2 dwellings on the site with no means of vehicular access, but a requirement for the matter to be somehow resolved later. In such a scenario, the appellant said he would accept a 'Grampian' condition, to require an alternative access to be regularised prior to implementing the planning permission that would have been granted by this appeal. In suggesting this he presumably took comfort from acceptance of the alternative access and drive route under the 2013 permission. Such an approach though would not be suitable as, in my opinion, it would require the development being fundamentally different to the one before me, and would require me approving 2 dwellings without certainty over access. Moreover, I have not been told why the access was placed in a different location to that required by the 2013 permission, and there could have been some practical reason why the approved access and drive could not be formed there.
9. Accordingly, I conclude that despite using the description on the application form, I am nonetheless considering the merits of the access and drive so as to be sure the site can gain suitable connection to the highway network.

Main Issues

10. The main issues are
 - a) whether the development would conserve and enhance the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty (AONB) and its effect on the character and appearance of the area;
 - b) whether this is an appropriate place for new housing having regard to housing strategy and the sustainability of the location;
 - c) whether it would harm the significance of The Camp Long Barrow and

- d) if development plan conflict or harm would result from the above, whether material considerations exist to indicate a decision should be made otherwise than in accordance with the development plan, and whether public benefits exist that would outweigh the harm to the significance of the designated heritage asset.

Reasons

The AONB and the character and appearance of the area

11. The proposal seeks to replace a single storey house (the existing dwelling) with 2, part single storey/part 2-storey dwellings. They would be on the edge of a hamlet called The Camp, outside of any defined settlement limit. In the *Stroud District Local Plan*, under Core Policy CP3 the site is therefore to be treated as in the open countryside. Local Plan Policy HC5 then says replacement houses outside of any defined settlements will only be permitted where 4 particular criteria have been met.
12. Although not expressly stated, it is clear from Local Plan Policy HC5 that it envisages a one-for-one replacement of dwellings, and so for this reason alone it does not support this scheme. Putting that aside, 3 of the criteria in this policy are either not breached or not applicable. Criterion 2 though requires that
the scale, form and footprint of the replacement dwelling is smaller than, or of a similar size to the existing dwelling (including any extensions), and the design does not detract from the character or appearance of its surroundings
13. In my opinion neither of the proposed dwellings would be of a similar size to the existing dwelling as it now stands on site, but rather each would be appreciably larger. As a result, even if only one new dwelling was proposed instead of 2, there would be conflict with that criterion. Moreover, as 2 dwellings are proposed the development would not fall under any of the exceptions for housing outside of identified settlements found in Local Plan Core Policy CP15.
14. The appeal site is in the AONB, where great weight should be given to conserving and enhancing landscape and scenic beauty, and this is reflected in Local Plan Policy ES7. The surroundings have a rural character and appearance, comprising fields and copses interspersed with clusters of buildings in small settlements or farmsteads. The complex at Camp Farm now accords with this character, being relatively nucleated and, with the exception of the existing dwelling, generally reflecting the historic rural nature of the surroundings. However, the existing dwelling is relatively small and a single-storey in height, and it sits close to the other buildings in the complex. As such, although clearly different to the stone-built former farm buildings, it is not unduly discordant or striking.
15. Despite the 2 new houses being appreciably larger than the existing dwelling, when looking from the north or east there would be little effect on the character and appearance of the area as they would each be concealed by existing buildings. From the south any adverse impact on the countryside would also be limited, as the relatively low side elevation of Plot 2 would be replacing the principal south-facing elevation of the existing dwelling, while Plot 1 would be hidden behind.

16. From the west on Miserden Footpath 7 the appellant contended that the more desirable views are westwards, away from the site, as is shown by the orientation of a nearby bench. However, if returning to The Camp along this footpath, it rises up the hill for an appreciable distance towards the bench. The users of the path would therefore have clear views ahead of them of the cluster of buildings at Camp Farm and the appeal site. The Camp Farm buildings and the appeal site are also visible from Miserden Footpath 11, which runs southwards from Miserden Footpath 7. I consider those who would be viewing the site from these paths would tend to be using them for recreation and enjoyment of the countryside, and so would be highly sensitive to change in the character and appearance of the surroundings.
17. From this direction, the 2-storey elevations would be seen with their associated glazing, activity and illumination, while their combined length would be far greater than that of the current single-storey side gable of the existing dwelling. The new houses would be expanding away to some degree from the cluster. Although in absolute terms, they would be no higher than either the existing dwelling or the former farm buildings to the east, as they would be set down the slope their west-facing elevations would be significantly taller than the side elevation of the existing dwelling, and the effect of this would be exacerbated by these elevations being further west. Furthermore, with their main outdoor recreational space on that side, a certain amount of domestic paraphernalia would also be no doubt visible.
18. I acknowledge that the design of the proposed houses is less utilitarian and more considered than the existing dwelling. I recognise too that these elevations would be screened to some degree when the trees were in leaf. However, I nonetheless consider the scheme would be far more striking and intrusive than what is now present, as a result of an appreciably greater height, scale, and spread of residential built form and activity when seen from the footpaths to the west. This would give a more suburban character to what is now a cluster of buildings that reflects the rural nature of the surroundings. Consequently, the 2 houses would fail to preserve the landscape and scenic beauty of the AONB, detracting harmfully from the character and appearance of this area of countryside.
19. In coming to this view I have noted the rubble and parked vehicles on the site now, but these are not as intrusive as the proposed dwellings and do not lead me to a different view. I recognise too that the appeal site all falls within the curtilage of the existing dwelling. However, any domestic paraphernalia associated with that would be spread over a wider area and could well be further eastwards, within the cluster. Moreover, it is reasonable to assume that 2 dwellings would generate more such paraphernalia than one.
20. In 2016 an appeal was allowed for a Certificate of Lawful Use or Development, which confirm the erection of a 19.5m extension to the existing dwelling was 'permitted development' (the CLUD extension). According to the decision the development had been implemented at that time. In paragraph 27 of that decision it was said the extension would be on the north-facing elevation, and this was confirmed in the discussion about its relationships to properties, and also by the plan. Therefore, this would extend towards and onto the site of what is now proposed to be Plot 1. Whilst it could be argued the CLUD extension is not part of the existing dwelling, I nonetheless have no reason to doubt the appellant's intention to build it if this appeal is dismissed. Moreover,

in relation to Local Plan Policy HC5 I note the supporting text takes into account possible 'permitted development' extensions when assessing the concept of '*similar size*'.

21. From what is before me, the design detail of the CLUD extension would be more basic and not of the quality of the proposed houses. However, the footprint of the existing dwelling plus the CLUD extension (the resultant building) would be roughly 75% that of the combined size of the new houses and their car ports, while the difference between floor areas would be greater still. The resultant building would also be set back from the western boundary of the site and, although rising to the same height as the proposal in absolute terms, it would be only a single storey tall. As a result, despite having a lengthy western elevation and despite its design limitations, I consider the resultant building would not be as dominant or intrusive within the landscape as the new dwellings, with their 2-storey nature, their siting further west, and their position on the hillside accentuating their height.
22. The appellant has also stated that a large detached outbuilding could be built in the grounds, and a further extension could be added to the dwelling, both under 'permitted development' rights. I have no confidence though that these are anything more than a theoretical possibility. Indeed, I note that when discussing the 'real prospect' of a fall-back position being implemented in the *Planning Statement and Design and Access Statement*, it focussed on the CLUD extension and not these other 2 'permitted development' works.
23. In any event, I am also aware that the proposed dwellings would each enjoy 'permitted development' rights of their own. Given the relevant Order does not prevent the use of these rights in locations such as this, I have no basis to consider it reasonable to impose a condition removing 'permitted development' rights just to restrict the possible impact of the proposal in this regard.
24. Therefore, while I have taken these fallback scenarios into account, they do not lead me to different findings.
25. Accordingly, the proposal would fail to conserve the landscape and scenic beauty of the AONB and would detract unacceptably from the rural character and appearance of the area. As a result, it would not accord with Local Plan Policies HC5 and ES7, or Local Plan Policy CP14(5), which requires development to be respectful of its surroundings.

Sustainability of the location

26. Local Plan Policies CP2 and CP3 seek to ensure development respects a settlement hierarchy, so as to reduce the need to travel and promote sustainable communities. This is supported by Local Plan Policy CP14, which requires development to be near to essential services and good transport links to services by means other than the car.
27. There are very few services in The Camp. The nearest shop is about 2.25km away at a petrol station, while it is some 3km to the nearest primary school. There is an occasional bus service through the hamlet but, to my mind, it would not be sufficiently regular to replace, or appreciably supplement, the use of the car. The Camp is within a network of public footpaths, but while these may be attractive for the purposes of recreation, I consider their surfacing, their poor illumination and the distances involved mean they would be unlikely

to be used for commuting, accessing shops and similar. In the same way, while there may be many recreational cyclists in the lanes around The Camp, the necessary journey lengths mean that relying on the bicycle to access services is unlikely.

28. I welcome the cycle storage on site, but this, in my opinion, is not going to overcome the sustainability issues around the location. Similarly, each house is shown as having a study. That room though could be used for purposes other than for full-time employment, and, even if it was, there would still be the various day-to-day trips to and from the site to schools, shops, services and so on. Therefore this factor too would not overcome my concerns about the sustainability of the location.
29. Again, the appellant has said that if the resultant building was used as a dwelling, national and local policy would support its subdivision to 2 units, and then a further application to replace it with the 2 dwellings could be submitted. Local Plan Policy HC6 does not necessarily offer support for this though. It states that, for the sub-division to be acceptable, regard will be given to a number of criteria, one of which is *'the sustainability of the new development based around the site location and its relationship to the Plan's settlement hierarchy, including accessibility to shops, services and facilities'*. This in effect raises the concern about the sustainability of the location that the Council has articulated in this case.
30. Paragraph 80 of the *National Planning Policy Framework* (the Framework) accepts the formation of isolated homes in the countryside if they comprise the subdivision of existing residential buildings. Given this, whether or not this site is isolated, the Framework appears to lend support to the sub-division of the resultant building with regard to the location's sustainability. An assessment to subdivide the resultant building would therefore have to consider any inconsistency there may be between national and local policy.
31. On this matter, as the appellant has highlighted, the Courts have held that there must be a greater than theoretical possibility of the fall back occurring. However, when discussing it in the Grounds of Appeal, the appellant stated that having enlarged the dwelling under the CLUD extension, *'theoretically'*, he could then make use of Local Plan Policy HC6, which allows for the subdivision of a dwelling. He goes on to say *'again theoretically, if further justification is required, [he] could then apply for 2 replacement dwellings and therefore the final result could be what [he is] applying for now'*. As these actions are only described as *'theoretical'* I am not satisfied that there is a greater than theoretical possibility of 2 dwellings being formed once the existing dwelling has been enlarged.
32. Accordingly, the development would result in additional housing in an unsustainable location that would increase reliance on private motorised transport in conflict with Local Plan Policies CP2, CP3 and CP14.

Heritage Impact

33. Roughly 200m to the south of the proposed houses is The Camp Long Barrow (the Barrow), and, as a Scheduled Monument, it is among the assets of the highest significance. This is clearly an ancient feature. Despite having a small animal shelter nearby and despite being crossed by some boundary treatments, it stands in a relatively remote location that allows it to be

experienced without undue apparent intervention from the modern world, and so enhances its significance as an asset.

34. I understand the drive encroaches into the extent of the Barrow. With its relatively formalised surfacing, its proximity to this feature means it is a modern intrusion that erodes the Barrow's remoteness and tranquillity, and so detracts from its understanding and appreciation. As a result, it causes harm, albeit less than substantial, to its significance as a designated heritage asset.
35. The drive authorised under the 2013 permission ran towards the Barrow, but it was to join the highway slightly further to the north of the current junction, and so its impact on the heritage asset would not have been as great. The appellant also said a representative of Historic England was happy with the access being formed in its current position, but that does not offer a basis for me to reach a different judgement. Whilst the appellant considered the location of the access to be unchallenged, that is not reflected in the submissions before me, given the Council's decision.
36. Various Grade II listed buildings are in and around the hamlet, which generally take the form of historic properties of a residential or agricultural nature that reflect the evolution of this old, rural settlement. However, they are currently seen within and among the variety of buildings that make up The Camp, and are screened from the development by the existing outbuildings at Camp Farm. Therefore, the scheme would not affect their settings and so would not cause harm to their significance.
37. Accordingly I find that the development would cause harm, albeit less than substantial, to the significance of the designated heritage asset of The Camp Long Barrow Scheduled Monument.

Other considerations

38. The Framework says that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation, with any harm to its significance requiring clear and convincing justification. It adds that if less than substantial harm is identified to a designated heritage asset, it should be weighed against the scheme's public benefits (the heritage balance).
39. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* (the 2004 Act) says development should be in accordance with the development plan unless material considerations indicate otherwise (the planning balance).
40. In considering these 2 balances, while I note the Government's desire to boost the supply of housing, it has not been shown that the weight to be given to the delivery of this additional property would justify the development. Moreover, there would no doubt be some economic benefit to businesses in the area from the presence of an extra household, and the additional residents would support any local services, but such benefits would be expected to a greater or lesser extent when new dwellings are built, and cannot justify the scheme in the face of the harm identified.
41. I have been told of local support for the scheme, but that does not necessarily outweigh harm to its planning merits. While the dwellings are to be environmentally-friendly and energy efficient, to my mind such a benefit again

does not outweigh the harm to the wider area and the heritage asset that I have identified.

42. I have discussed above the various fallback options outlined by the appellant, and for the reasons stated found they do not address the harm. Indeed, even if there is a greater than theoretical possibility that the existing dwelling with the CLUD extension could be subdivided, I have found that the resultant building would not have as harmful an effect on the character and appearance of the area and the AONB as the proposal. In such a scenario, and if it transpires the current alignment of the drive is in fact lawful or cannot otherwise be enforced against, to my mind the harm from the effect on the character and appearance of the area and the AONB would still not be outweighed by other considerations.
43. Therefore, in relation to the heritage balance, I have nothing to show that this is the only point where a suitable and safe access can be obtained, and it has not been demonstrated that the public benefit of an additional dwelling would outweigh the less than substantial harm to the designated heritage asset. I am aware of no other public benefits that could outweigh the stated harm.
44. Accordingly, in the absence of any clear and convincing justification for the works and any public benefits to outweigh the less than substantial harm to the significance of the Barrow, the proposal would conflict with the Framework. It would also conflict with Policy ES10 in the Local Plan, which seeks to conserve the heritage significance of designated assets.
45. Turning to the planning balance, I have identified development plan conflict in relation to the impact on the character and appearance of the area and the AONB, in relation to the location of the dwellings and in regard to the impact on the Barrow. However, in the light of section 38(6) of the 2004 Act, I am aware of no material considerations, even if those listed above are taken together, that indicate the decision should be otherwise than in accordance with the development plan.

Conclusion

46. Accordingly, I conclude the appeal should be dismissed.

JP Sargent

INSPECTOR