



# Appeal Decision

Site visit made on 6 December 2022

**by Helen Davies MSc MRTPI**

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

**Decision date: 12<sup>th</sup> December 2022.**

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**Appeal Ref: APP/B1605/W/22/3301770**

**Cromwell Court, Greenway Lane, Cheltenham GL52 6PW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
- The appeal is made by Mr Stuart Hall of Churcham Homes Ltd against the decision of Cheltenham Borough Council.
- The application Ref 21/02333/PIP, dated 20 October 2021, was refused by notice dated 14 April 2022.
- The development proposed is planning in principle for the erection of up to 2 dwellings.

## Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of 1 and a maximum of 2 dwellings at Cromwell Court, Greenway Lane, Cheltenham GL52 6PW, in accordance with the terms of the application, Ref 21/02333/PIP, dated 20 October 2021.

## Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages. The first stage (permission in principle) establishes whether a site is suitable in principle. The second stage (technical details consent) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle are limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. An applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application. In this instance, permission in principle has been sought for two dwellings on the appeal site. I have determined the appeal accordingly.
4. The appeal site is part of a wider site that previously contained a single dwelling with a large garden, which has permission for 8 self-build dwellings. At the time of my site visit this wider development had commenced. Under permission for phased implementation of the wider site, the area to which this appeal relates has permission for 1 large dwelling.

## **Main Issue**

5. This main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

## **Reasons**

### *Location*

6. The site lies on the edge of Cheltenham, bordered by Greenway Lane on one side with the wider site enclosing it on all other sides. The site is on the edge of, but within the Cotswolds Area of Outstanding Natural Beauty (AONB), which will be considered in a subsequent section of this report.
7. Locational policy for housing development is set out under Policies SP2 and SP10 of the Gloucester, Cheltenham and Tewksbury Joint Core Strategy 2011-2031 (adopted December 2017) (JCS). This allows for the principle of new residential development on previously developed land within the Principle Urban Area (PUA) of Cheltenham, or other land where certain exception criteria are met. The site is outside of the PUA and I have no evidence to suggest that any of the exceptions apply.
8. Despite being outside of the PUA, the appeal site adjoins the wider site, which itself adjoins the PUA and the residential properties along and accessed from Harp Hill. In that sense, the site is not in an isolated location, but on the edge of Cheltenham's built form. The proposal would primarily be viewed in the context of the wider site, which is being developed for dwellings, and the existing dwellings directly to the north and to the west. In addition, as the site was previously a garden outside of a built-up area, the site is considered to be previously developed land, the use of which, where appropriate, is encouraged in local and national planning policy.
9. I conclude that due to its location outside of the PUA the principle of new residential development at the site is contrary to Policies SP2 and SP10 of the JCS. However, as set out above, due to the context, proximity to other dwellings, being previously developed land, and the existing permission, I ascribe limited weight to any harm arising from this policy conflict.

### *Proposed land use*

10. The site already has permission for a dwelling to be built on it. Therefore, the principle of the proposed land use has already been accepted.

### *Amount*

11. The proposal would result in up to 2 dwellings at the site. As set out under preliminary matters, the appeal site has permission for 1 large dwelling, as part of a phased implementation across the wider site. The series of recent applications to amend and discharge details relating to the wider site and commencement of site works, indicates an intention to develop the appeal site. Consequently, there is a greater than theoretical possibility that existing permission would be implemented, so the existing permission constitutes a realistic fallback position. Hence, the impact of the appeal proposal in comparison with the fallback position needs to be considered and is a material consideration to which I ascribe substantial weight.

12. The site is on the edge of, but within the AONB. Policy SD7 of the JCS, in line with Framework Paragraph 176, requires development in the setting of the AONB to conserve, and where appropriate, enhance its landscape and scenic beauty. Policy SD7 also requires consistency with the Cotswold AONB Management Plan, which, amongst other things, at Policies CE1 and CE3, requires proposals to have regard to and reinforce local distinctiveness, landscape character and the scenic quality of the location and to conserve views and visual amenity.
13. Policies L1 and D1 of the Cheltenham Plan (adopted July 2020) (CP) and Policy SD4 of the JCS provide more general protection for the setting and landscape. Amongst other things they require development to respect the character of the site and surroundings, enhance local distinctiveness, and not harm the setting of Cheltenham, including views in and out of areas of importance.
14. The dwellings along the southern side of nearby Harp Hill are set back but there is strong street frontage. These dwellings, and the consented dwellings within the wider site, are predominantly detached and set within generous sized plots. This gives the area a spacious, open and edge of settlement character. This character begins to change on the opposite side of Greenway Lane from the site, where the countryside and the important characteristics of the AONB become prevalent, with dwellings and other buildings increasingly sparse moving further east. Greenway Lane forms a clear boundary meaning the site would be viewed primarily in the context of the adjoining residential development, rather than the context of the countryside or the wider AONB.
15. Details with regard to the design, size and location of the dwellings and the specific layout of the site would be for consideration under a technical details application. This appeal concerns only the principle of 2 dwellings at the site. The size of the site is sufficient to allow for 2 dwellings with suitable amenity space while ensuring that the separation distance between them and other dwellings, and the setback from Greenway Lane, is in keeping with the spacious and open character of the surroundings. 2 dwellings would be in proximity to the boundary with Greenway Lane, rather than 1. Despite this, the scale and massing of 2 smaller dwellings as viewed from the road, would not be any more harmful than the large dwelling which already has permission.
16. Longer range views may also be available, most notably from public rights of way and higher ground. However, I consider it unlikely that the appeal scheme would significantly or appreciably reduce the quality of the views. This is due to the distances involved, the screening from trees, the relatively small scale of the proposed development and its proximity to, and relationship with, existing and consented built form. An additional dwelling would result in a small number of additional vehicle journeys, but in the context of the wider site this would not be detrimental to the area.
17. Therefore, the proposed increase in the amount of dwellings from 1 to 2, would not result in any more harm to the character and appearance of the site and its surroundings, or the scenic beauty of the AONB, than the existing permission, subject to a development of suitable scale, layout and design coming forward at the technical details stage.

18. I conclude that 2 dwellings at the site would not conflict with Policies SD4 and SD7 of the JCS, Policies L1 and D1 of the CP, Policies CE1 and CE3 of the Cotswold AONB Management Plan, and Paragraph 176 of the Framework. Together, amongst other matters, these policies seek to ensure that development responds positively to and respect the character of the site's surroundings and landscape character, including conserving the landscape and scenic beauty of the Cotswolds AONB.

### *Planning balance*

19. The Council acknowledge they are unable to demonstrate a five-year supply of housing land. At 2.9 years the shortfall is substantial. Consequently, in accordance with the provisions of paragraph 11d and footnote 8 of the Framework, the policies which are most important for determining the application are considered to be out of date. Therefore, permission should be granted, unless policies in the Framework that protect areas of particular importance, such as AONBs, provide a clear reason for refusal, or, any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.
20. As set out above, there would be no significant harm to the AONB so the designated status of the site does not provide a clear reason for refusal. I have found that the proposal fails to accord with Policies SD2 and SD10 of the JCS, which weighs against the development, but only limited harm would result from this conflict. In addition, in accordance with Paragraph 11d, these Policies are deemed out of date, so the limited harm can be ascribed only minimal weight.
21. In terms of benefits, the proposal would provide additional housing in an area with an ongoing and substantial under supply. There would also be temporary economic benefits during the construction phase, together with long term social and economic benefits through increased support for local shops and services in the area. However, as only one additional dwelling would be created, over and above the existing permission, these benefits are limited.
22. Taking all of the above factors into account, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits. Consequently, the Paragraph 11d presumption in favour of sustainable development applies and advises that planning permission should be granted.
23. Planning law requires that determination must be in accordance with the development plan unless material considerations indicate otherwise. In this case, the presumption in favour of sustainable development is a material consideration of sufficient weight to indicate that permission in principle should be granted notwithstanding the conflict with the development plan.

### **Other Matters**

24. Comments have been made by third parties regarding the effect of the proposal on trees and ecology. However, these are not matters which would fall within the scope of consideration for the first stage of the Permission in Principle route. These issues would need to be addressed as part of the technical details stage and there is no guarantee that just because Permission in Principle has been granted, that approval of technical details will follow. Approval of both stages is needed for planning permission to be secured.

25. Concerns have been raised that granting permission for this proposal would lead to pressure for other plots within the wider site to be subdivided. Any such future changes would require permission and would be determined on their own individual merits and impact. In addition, I note that construction has already commenced on several plots, limiting the possibility for future subdivision.

**Conclusion**

26. For the above reasons, having considered the development plan as a whole, and all other relevant material considerations, the appeal should be allowed. As stated in the Planning Practice Guidance, it is not possible for conditions to be attached to a grant of permission in principle.

*Helen Davies*

INSPECTOR