



Appeal Decision

Site visit made on 3 February 2022

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2023

Appeal Ref: APP/F1610/W/22/3302961

Land at Sandy Lane Court, Upper Rissington, Cheltenham, Gloucestershire, GL54 2NF

- 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 Sailspire Partnership Ltd against the decision of Cotswold District Council.
 - The application Ref 21/03807/FUL, dated 4 October 2021, was refused by notice dated 11 May 2022.
 - The development proposed is 'Erection of four open market dwellings'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of four dwellings and associated works at Land at Sandy Lane Court, Upper Rissington, Cheltenham, Gloucestershire GL54 2NF in accordance with the terms of the application, Ref 21/03807/FUL, dated 4 October 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above is taken directly from the original application form. During the course of the application the Council changed the description to state 'Erection of four dwellings and associated works'. Whilst this change was not agreed at the time, the appellant has confirmed acceptance of the revised description of development. As such, it is on this basis that the appeal has been determined.
3. The site address in the banner heading above has been taken from the appeal form as this provides a more precise description of the site's location.

Main Issues

4. The main issues are the effect of the proposed development on: a) the character and appearance of the area, including the Cotswolds Area of Outstanding Natural Beauty (AONB); and b) the living conditions of neighbouring and future residents in respect of privacy and access to open space.

Reasons

Character and Appearance

5. The appeal site relates predominantly to two areas of open greenspace that are separated by hedgerows and a footpath. The site forms part of Sandy Lane Court, a post-war housing development located in the village of Upper

Rissington. Although the appeal site is bordered by further greenspace and a parking area, dwellings within Sandy Court Lane are located relatively close by and are orientated in a manner such that the appeal site currently acts as a focal point for many of the neighbouring properties.

6. Immediately to the south of the appeal site is an access road. Beyond the access road lies a housing development that is currently under construction, having recently been granted planning permission (ref: 20/04548/FUL) for 26 dwellings and associated public open space. Whilst the neighbouring development remains under construction, the external appearance of many of the dwellings was apparent during my site visit, including those nearest to the appeal site.
7. Buildings within Upper Rissington are of a variety of styles and appearances. This is due to the village containing development from various eras. Notably, it contains historic development that was largely built in association with nearby RAF Little Rissington airfield/base, alongside more recent 21st century residential developments. As such, the built form in the village is rather diverse with no overall prevailing character. The village, and appeal site, though are located within the Cotswolds Area of Outstanding Natural Beauty.
8. I understand that Sandy Court Lane was originally constructed as barracks for RAF personnel, before being converted into civilian dwellings in the 1980s. It therefore has a rather individual and distinctive character. Despite this, residential development has occurred, and remains on-going, within the near vicinity. This includes the development taking place directly to the south of the appeal site.
9. The proposed dwellings would be of a scale that would suitably reflect neighbouring properties on Sandy Court Lane as well as the emerging development to the south. They would also be set at sufficient distance from neighbouring properties such that they would not appear as a cramped form of development.
10. Proposed units 3 and 4 would be sited slightly forward of a neighbouring bungalow to the east. However, there is no strong building line in this location, this is in part due to the presence of an existing outbuilding and fencing that serve the neighbouring bungalow. The frontage of the proposed dwellings would also appropriately address the access road and development to the south of the site, whilst views along the access road to the countryside beyond would be maintained.
11. The external materials and detailing would not follow the approach of the dwellings within Sandy Court Lane. However, as indicated, Upper Rissington contains an array of properties of varying appearances. Furthermore, the proposed development would incorporate materials and a design approach that would mimic a traditional Cotswold vernacular, as is advocated within the Cotswold Design Code¹. The appearance of the proposed dwellings would also relate well to the adjacent emerging development to the south, which the proposal would also be viewed alongside. As such, the design of the proposed dwellings would not appear incongruous in this setting.

¹ As established under Policy EN2 of the Cotswold District Local Plan 2011 – 2031 (adopted 2018).

12. The proposed development would result in the loss of open space that positively contributes to the character and appearance of the area, through the provision of greenery and visual relief from the surrounding built form. Nonetheless, approximately half of the existing area of open space would be retained, including the areas of greenspace closest to neighbouring dwellings. As such, the remaining open space would continue to provide a pleasant aspect as well as spatial and visual relief to the surrounding built form.
13. In respect of the AONB, the proposal would not result in encroachment into the countryside and would not be prominent within the wider landscape setting. Instead, where public views of the proposal would be available, it would be seen amidst existing residential development, of a similar scale and character. Given the context of the appeal site, the introduction of four further residential dwellings in this location would not harm the natural beauty of the AONB.
14. Overall, I am satisfied that the proposal would not harm the character or appearance of the area. It would also preserve the landscape and natural beauty of the Cotswolds AONB. Accordingly, the proposal complies with the objectives of Policy EN2 of the Cotswold District Local Plan 2011 – 2031 (adopted 2018). The policy seeks for development to be of a suitable quality of design that respects local character and distinctiveness. I also find no conflict with the aims of the Framework in respect of promoting well-designed development or conserving the landscape and scenic beauty of the AONB.

Living Conditions

Privacy

15. Windows serving the rear elevations of the proposed dwellings would be orientated towards the gardens of existing neighbouring properties. However, there would be a separation distance in excess of 20m. Furthermore, given the largely terraced nature of properties within Sandy Court Lane, the gardens of existing dwelling's already appeared to be significantly overlooked by one another. As such, it is not considered that the proposal would result in any harmful loss of privacy to the existing garden spaces.
16. The proposed dwelling's gardens would also be overlooked by existing neighbouring properties, but such an arrangement is not unusual. Indeed, as highlighted above, properties in the surrounding area already experience some mutual overlooking of gardens. I am therefore satisfied that the gardens to serve the proposed dwellings would provide private amenity space of a suitable quality.
17. Within the side elevation of proposed unit 1 there would be three windows. These would each be orientated towards windows serving an existing dwelling to the west. They would also be located at a distance that could lead to a loss of privacy to residents of that neighbouring property. The appellant has, however, indicated a willingness to accept a condition requiring the use of obscure glazing in the proposed side elevation windows. Subject to the use of such a condition on the grant of any permission, I am satisfied that the privacy of neighbouring residents would be preserved.

Open Space

18. The greenspace proposed to be developed is clearly highly valued by local residents, as demonstrated in representations received by third parties.

However, whilst local residents may currently utilise the greenspace and even have played a part in its maintenance, from the information before me, it remains private land as opposed to public open space. Furthermore, it does not appear to have any specific designations for protection.

19. I am somewhat sceptical that the land in question would be fenced off should the appeal not succeed, given the land has previously remained open and accessible for in the region of 30 years. Despite this, given that the greenspace is in private ownership I remain mindful that local residents could be prevented from accessing it.
20. The proposal would not involve development across the entirety of the open space, with a significant proportion proposed to be retained. Although this would be in a somewhat irregular 'L-shaped' parcel, an informal greenspace would remain and would continue to provide some visual relief for existing dwellings on Sandy Lane Court.
21. Both existing neighbouring properties and the proposed dwellings would also have access to their own private garden space, allowing access to areas of outdoor recreation. I have also been made aware that a further sizeable area of public open space is to be provided nearby, as part of the development of the adjacent housing scheme that is under construction. Residents of Sandy Lane Court therefore have emerging access to an appropriate area of public open space with what appears to be safe and convenient access. Accordingly, I do not consider the partial loss of the open space at the appeal site would cause material harm to the living conditions or well-being of neighbouring residents.
22. The Council has not raised concerns with regards to the proposal's impacts on wider living conditions (e.g. loss of light, overbearing impacts, noise etc.). From the evidence before me, I have found no reason to conclude differently.
23. Overall, I am satisfied that the proposed development would not cause harm to the living conditions of existing or future neighbouring occupiers. As such, I find the proposal to be in accordance with Local Plan Policy EN2, through compliance with the relevant provisions of the Cotswold Design Code. Likewise, the proposal would not conflict with the Framework in respect of its aims to protect living conditions.

Other Matters

24. I have also considered the various other concerns previously raised by neighbouring parties, including the level of development that has already taken place within the village, capacity of existing services, as well as potential impacts relating to parking and highway safety, drainage, and ecology. However, I have noted that the Council has not sought to refuse planning permission based on these matters. It is also my judgement that these matters, whilst important to those submitting the representations, are not determinative in this case.
25. Restrictions on the title of any part of the appeal land are separate legal matters that relevant parties would need to address and therefore have not influenced this appeal decision. Similarly, the fact that the developer may not own all of the site is not a reason to warrant dismissal of the appeal.

Conditions

26. The Council has suggested conditions in the event the appeal is allowed, which the appellant has commented upon. I have considered the suggested conditions and amended and reordered them as necessary in the interests of precision and clarity, as well as to comply with advice in the Framework and Planning Practice Guidance (PPG).
27. A condition is needed to secure compliance with the approved plans and documents, for the avoidance of doubt and in the interests of proper planning. It is necessary to attach a pre-commencement condition requiring the approval of a surface water drainage scheme to ensure that the development does not increase flood risk on or off-site.
28. Conditions requiring the approval of sample materials are necessary in the interest of the appearance of the development. Similarly, conditions relating to the specific appearance of windows and doors, as well as requiring the approval of further detailing of external features, including dormers, chimneys and eaves are also necessary in the interests of the character and appearance of the proposed development.
29. Landscaping conditions are reasonable and necessary in the interests of the visual amenity of the site and the surrounding area. While a condition requiring the provision of ecological mitigation measures, including the installation of bird and bat boxes is required in the interests of biodiversity.
30. A condition requiring the installation of an electric vehicle charging point is reasonable and necessary on sustainability grounds, having regard to development plan policies.
31. Finally, a condition requiring the use of obscure glazing in all windows on the western side elevation of unit 1 is needed to protect the living conditions of the neighbouring residents.

Conclusion

32. For the reasons given above and considering all other matters raised, the appeal is allowed.

Lewis Condé

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following drawing numbers: 3000 001 B, 3000-003 E, 3000-004 B, 3000-005 A, 3000-006, 3000-007.
- 3) Prior to the commencement of development, a full surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme and results of soakage tests carried out at the site to demonstrate the infiltration rate. Three tests should be carried out for each soakage pit as per BRE 365 with the lowest infiltration rate (expressed in m/s) used for design. The details shall include a management plan setting out the maintenance of the drainage asset. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved and shall be maintained in accordance with the Management Plan thereafter. Development shall not take place until an exceedance flow routing plan for flows above the 1 in 100 year + 40% CC event has been submitted to and approved in writing by the Local Planning Authority
- 4) Prior to the construction of any external wall of the development hereby approved, a sample panel of walling of at least one metre square in size showing the proposed stone colour, coursing, bonding, treatment of corners, method of pointing and mix and colour of mortar shall be erected on the site and subsequently approved in writing by the Local Planning Authority and the walls shall be constructed only in the same way as the approved panel. The panel shall be retained on site until the completion of the development.
- 5) Prior to their use in the development hereby approved, samples of the proposed roofing materials shall be approved in writing by the Local Planning Authority and only the approved materials shall be used.
- 6) All door and window frames shall be recessed a minimum of 75mm into the external walls of the building and shall be permanently retained as such thereafter.
- 7) No windows, external doors, dormers, chimneys, eaves or verges shall be installed/inserted/constructed in the development hereby approved, until their design and details have been submitted to and approved in writing by the Local Planning Authority.

The design and details shall be accompanied by drawings to a minimum scale of 1:10 with cross section profiles, elevations and sections. The development shall only be carried out in accordance with the approved details and retained as such at all times.
- 8) Within one month of their installation, windows and external doors shall be finished in their entirety in a colour that has first been approved in writing by the Local Planning Authority.

- 9) Prior to the first occupation of each dwelling hereby permitted, the respective dwelling shall be fitted with an electric vehicle charging point. The charging point shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. The electric vehicle charging point shall be retained for the lifetime of the development unless it needs to be replaced, in which case the replacement charging point shall be of the same specification or a higher specification in terms of charging performance.
- 10) Prior to the first occupation of the development hereby permitted, a bat box, 2 bird boxes and hedgehog gaps in fencing shall be installed on the development hereby permitted in accordance with details to be first agreed in writing by the Local Planning Authority. The bat and bird boxes shall be retained in accordance with the approved details thereafter.
- 11) Prior to the first occupation of the development hereby approved, a comprehensive landscape scheme shall be approved in writing by the Local Planning Authority. It must show details of all planting areas, tree and plant species, numbers and planting sizes. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development.
- 12) The entire landscaping scheme shall be completed by the end of the first full planting season (1st October to the 31st March the following year) following the first occupation of the dwelling hereby permitted.
- 13) Any trees or plants shown on the approved landscaping scheme to be planted or retained which die, are removed, are damaged or become diseased, or grassed areas which become eroded or damaged, within 5 years of the completion of the approved landscaping scheme, shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species as those lost, unless the Local Planning Authority approves alternatives in writing.
- 14) Prior to the first occupation of Unit 1, the windows in the western elevation shall be fitted with obscure glazing and they shall permanently be retained as such thereafter.

End of Conditions