



Appeal Decision

Site visits made on 25 July and 7 August 2023

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2023

Appeal Ref: APP/C1625/W/23/3318161

Land to the Rear of Queens Court, Brimscombe, Gloucestershire GL5 2TN

- 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 Ruislip Manor Property Ltd against the decision of Stroud District Council.
 - The application Ref S.21/1240/FUL, dated 12 May 2021, was refused by notice dated 18 November 2022.
 - The development proposed is erection of 4 dwellings.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Ruislip Manor Property Ltd against Stroud District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the site address from the appeal form, which better reflects its location than that used in the application form. At my first site visit in July 2023, I had insufficient time to see the site from some of the wider viewpoints identified, because of construction work locally. As such, I visited the surroundings unaccompanied for a second time a few weeks later. I am satisfied that no party would be prejudiced as a result.
4. In its Decision Notice, the District Council referred to Policy HC1(5) of the Stroud Local Plan (SLP), adopted November 2015. However, it has since confirmed that this reference was erroneous and should have referred instead to SLP Policy HC1(4). The appellant has commented on this and so, by my dealing with the appeal on this basis, no party would be prejudiced.
5. Unilateral Undertakings (UU) pursuant to section 106 of the Town and Country Planning Act 1990 have been submitted by the appellant. They seek to make financial contributions to mitigate the effects of the proposal on the Rodborough Common and Cotswolds Beechwood Special Areas of Conservation (SACs). However, two of the UUs before me are undated and so I have some concerns about their effectiveness. I will consider these further below.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the area, including from the loss of the space provided by the site and on the nearby Cotswolds Area of Outstanding Natural Beauty (AONB).

Reasons

7. The site consists of steeply sloping land between Queen's Court, a low-rise but prominent block of flats, and established dwellings on The Bourne. The land was formerly owned by the District Council as part of its previous ownership of Queens Court but is now in private ownership. The site has a public right of way running through it, with another within the adjacent Charlea Community Gardens (CCG), an area of communal open space. The appeal site is overgrown in places with trees, hedgerows and foliage. There is a protected walnut tree¹ centrally within the site.
8. The proposal seeks to erect four two-storey dwellings of contemporary design. They would be accessed from a new driveway that would run parallel to Queens Court, leading from The Bourne. The dwellings would have a broadly linear arrangement. An area of public open space would be formed within the site and around the protected tree. The existing public right of way would be re-routed on a new alignment through this space.
9. The emerging Brimscombe and Thrupp Neighbourhood Development Plan (NDP) seeks to identify the site as Local Green Space in accordance with Paragraph 202 of the National Planning Policy Framework (the Framework). However, the NDP is still at an early stage and so carries little weight. An attempt to designate the site as an Asset of Community Value was unsuccessful. Being in private ownership, public access to the site, other than the public footpath, could be prevented at any time. The site is not specifically designated in the SLP as open space and I have little reason to believe that there is a shortage of recreational space locally.
10. Nevertheless, the supporting text to SLP Policy ES13 makes clear that open space takes many forms, including undeveloped parcels of land, substantial private gardens and semi-natural areas. As such, it can include privately owned land. Therefore, the Policy seeks to prevent the loss of such space, regardless of any formal designation, where this would harm the character of a settlement or the visual quality of the locality.
11. The appellant's Landscape and Visual Impact Assessment (LVIA) is not disputed by the District Council. The LVIA identifies that the site is located within landscape character types of the Cotswolds (at a national level), and locally within the Secluded Valleys type. These reflect the semi-rural character of the valley. The site provides an area of open green space which forms part of the gradual fragmentation or feathering of the development pattern at the edge of the settlement. It connects visually and physically to the adjacent CCG and so to the surrounding countryside beyond, including that within the AONB.
12. Therefore, I share the view of the LVIA that the landscape sensitivity of the site is medium to medium-high to these character types, because of its contribution to the well vegetated valley. As such, the site makes a positive contribution to the distinctive character of the setting of the AONB hereabouts and to the character of the area generally.
13. The density of the proposal is relatively low and provides for green space around the development, including landscaping. Even so, it would introduce appreciable built development onto the site in the form of four two-storey

¹ Tree Preservation Order number 0573

dwelling, together with the access road, driveways, gardens and domestic paraphernalia associated with the dwellings. The proposal would therefore have the effect of consolidating the urban built form and harmfully diminishing the distinctive gradual fragmentation of the development pattern at the edge of the settlement.

14. In terms of visual impacts, the LVIA finds that the proposal would be visible from the south, both from the canal corridor (viewpoints 13 and 14) and higher up the valley side (viewpoints 10 and 11) as well as from Knapps Lane. From these views within the AONB, the LVIA states that the visual effects of the proposal would be medium-high, but with a negligible or low magnitude impact. On this basis, the LVIA finds that the proposal would have a slight adverse significance, even after the establishment of mitigation planting.
15. Moreover, from the representations before me, and my own observations, the site would be more visible from other public viewpoints further eastwards along Knapp Lane, also within the AONB. From these viewpoints, the proposal would have a greater impact, especially in winter months when surrounding foliage is reduced. I therefore consider that the visual effects of the proposal would have a medium magnitude and so a moderate to substantial adverse effect. As such, the proposal would have a more significant effect on the landscape than suggested by the LVIA.
16. Outside the AONB, the LVIA finds that the proposal would, at least initially, have moderate adverse effects when viewed from The Bourne and by residents west of the site. I agree and I also share its findings of slightly adverse effects from London Road; when seen by residents of properties to the north; and by users of CCG. These adverse effects therefore add to my concerns about the visual impact of the proposal on its surroundings.
17. The site is also visible from other locations, including public footpaths above the site to the north, for example LVIA viewpoints 7 and 8, also within the AONB. In these views, the effects of the proposal would not be significant, partially because of the green roofs of the proposal. Nevertheless, for the reasons given above, the proposal would have adverse visual and landscape effects both when viewed to and from the AONB and more generally.
18. The appellant refers to the absence of objection from the Council's Landscape or AONB officers. However, I have little to suggest that they made substantive comments about the proposal. Consequently, I find that it would harm the character and appearance of the area, including from the loss of the space provided by the site and on the nearby AONB.
19. As such, the proposal would be contrary to SLP policies HC1(4), ES13, ES7 and CP14(9), which require the proposal to protect and not damage open space which contributes to the distinctive form and character of the settlement. The policies also require the proposal to conserve landscape character, particularly where it affects the setting of the AONB. These policies are consistent with the Framework, including its requirement that development within the setting of the AONB should avoid adverse impacts on it. The proposal would therefore also conflict with the Framework. For these reasons, I give significant weight to this harm.

Other Matters

20. The proposal would result in additional traffic using The Bourne, which is narrow in places, as well as its junction with London Road. However, the additional movements generated would be relatively small, and improvements are proposed to the junction, including a new footpath and crossing place on London Road. I share the view of the County Council as Highway Authority that the proposal would not unduly risk highway safety and I give limited positive weight to the highway benefits of the proposal. Residents have also raised concerns about the loss of car parking at Queens Court, but this does not form part of the proposal before me.
21. Construction of the proposal would make a positive economic contribution to the area, as would its occupants both socially and economically. It would make efficient use of land that could be delivered quickly. The proposal would be reasonably well located for services and facilities, in an area where the SLP seeks to provide new housing and so it may reduce pressure for development elsewhere.
22. However, these benefits would be modest because of the relatively small size of the proposal, for four units of accommodation. I therefore give these benefits only limited weight. The proposal would result in the creation of a new area of public open space within the site. However, I have few details of a mechanism to secure its provision or maintenance, or its availability to the public, in perpetuity. I therefore give this only limited positive weight.
23. The appellant has undertaken ecological surveys of the site. These found that a low population of slow-worms and common lizards are present. In addition, it found that the site provides suitable habitat for other species, in particular nesting birds and badgers, and for foraging and commuting by bats. In response, suitable compensation to offset the loss of reptile habitat is proposed. The proposal also includes other mitigation and ecological enhancements, to which I give limited positive weight.
24. Residents consider that the appellant's ecological assessments are misleading, having been undertaken immediately after mowing, and that the site has a greater level of biodiversity than found by the appellant's surveys. However, although the site is overgrown, I have little substantive evidence to support these concerns.
25. The site is close to the Industrial Heritage Conservation Area (CA). The main parties do not dispute that the proposal would have no adverse effect on the character or appearance of the CA. I see no reason to disagree, but this does not alter my conclusions on the main issue. I have noted comments made about the District Council's handling of the case, including that as landowner it had sold the site as having development potential. I understand that a previous planning application was refused only on design grounds. However, I have considered the proposal before me solely on its planning merits.

Planning Balance and Conclusion

26. For the reasons given, I have found conflict with the Development Plan as a whole. Although I have given positive weight to the benefits of the proposal, separately and cumulatively they do not overcome the harm that I have identified.

27. Had I found the balance of considerations to be in favour of the proposal, I would as competent authority have carried out an Appropriate Assessment in respect of its potential effects on the SACs. However, as I have found against the appellant on other substantive grounds, and notwithstanding my concerns regarding the UUs, this matter need not be considered any further.
28. Accordingly, the material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR