



# Appeal Decision

Site visit made on 5 March 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 16 May 2024**

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**Appeal Ref: APP/C1625/W/23/3325249**

**Land Adjacent to Dozule Close, Leonard Stanley, Gloucestershire GL10 3NL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Peter Gray of Intergen Homes Limited against the decision of Stroud District Council.
  - The application Ref is S.21/2860/OUT
  - The development proposed is 13 houses of which 9 are custom build houses and 4 affordable together with associated access, parking and amenity spaces with all matters reserved except access.
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## Decision

1. The appeal is allowed and planning permission is granted for 13 houses of which 9 are custom build houses and 4 affordable together with associated access, parking and amenity spaces with all matters reserved except access at Land Adjacent to Dozule Close, Leonard Stanley, Gloucestershire GL10 3NL in accordance with the terms of the application, Ref S.21/2860/OUT, dated 30 November 2021, subject to the conditions in the attached Schedule to this decision.

## Preliminary Matters

2. The application has been made in outline, with access to be considered now but with appearance, landscaping, layout and scale reserved for future consideration. During the application, the proposal was amended, being reduced from 15 to 13 houses. I have therefore taken the description of the proposal from the appeal form, which reflects this change. I am satisfied that no party would be prejudiced by this. A site plan has been submitted showing a possible layout for the proposal, which I have treated as illustrative.
3. A legal agreement pursuant to S106 of the Town and Country Planning Act (S106 agreement), dated 12 February 2024, has been submitted during the appeal. This makes provision for affordable housing and for financial contributions towards the Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site, and the Cotswold Beechwoods SAC. The Council is a signatory to the agreement. As the agreement has been executed, I shall consider it in reaching my decision.

## Main Issues

4. The main issues are:
  - whether the proposal accords with the settlement strategy of the Development Plan, and

- the effect of the proposal on biodiversity.

## **Reasons**

### *Settlement Strategy*

5. Core Policy CP15 of the Stroud District Local Plan (SDLP), adopted November 2015, relates to sites outside of the identified development limits, such as the appeal site. To protect the separate identity of settlements and the quality of the countryside, the policy makes clear that development will not be permitted other than in circumstances that do not apply to the proposal, such as rural exception sites or enabling development.
6. Consequently, the proposal would not accord with the settlement strategy of the Development Plan. As such, it would conflict with SDLP Policy CP15, to which I give full weight. I will consider the proposal against the current National Planning Policy Framework (the Framework) below.

### *Biodiversity*

7. The site is within the catchment zone of the Severn Estuary SAC, SPA and Ramsar Site. It hosts internationally important populations of several species of waterbirds and its qualifying features are Bewick's swan, Common shelduck, Gadwall, Dunlin, Common redshank and Greater white-fronted goose. Without mitigation, the recreational activity from the additional population generated by the proposal (such as trampling, dog walking, etc) would cause additional disturbance to the birds. The conservation objectives include maintaining or restoring the extent, distribution, structure and function of qualifying natural habitats and species.
8. The site is also within the catchment zone of the Cotswold Beechwoods SAC, with similar conservation objectives. Its qualifying features are semi-natural dry grasslands and scrubland facies and its Beech forests. Recreational activity from the additional population resulting from the proposal, for example erosion from mountain biking and contamination from dog fouling, would have an adverse effect on its grasslands and forests.
9. The SACs, SPA and Ramsar Site are protected pursuant to the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations). For the reasons given above, alone and in combination with other development, a likely significant effect to the SACs, SPA and Ramsar Site resulting from the proposal cannot be ruled out. Consequently, in accordance with the Habitats Regulations and as competent authority in the context of this appeal, I must undertake an Appropriate Assessment (AA).
10. In respect of the Severn Estuary SAC, SPA and Ramsar Site, mitigation has been developed in the form of Suitable Alternative Natural Greenspace (SANGs) for visitors, access and parking management and education. This would be funded through proportionate developer contributions. For the Cotswold Beechwoods SAC, mitigation includes strategic access management and monitoring and SANGs, also to be funded by financial contributions. Both seek to meet the conservation objectives by reducing recreational pressure.
11. In this case, a S106 agreement secures adequate financial contribution towards these mitigation measures. The Council and Natural England have confirmed that the contributions and mitigation would be sufficient. In undertaking the

AA, the information before me indicates that the mitigation would reduce the impact of the proposal on the integrity of the SACs, SPA and Ramsar Site to a de minimis level. As such, it would accord with the Habitats Regulations.

12. The Preliminary Ecology Appraisal found no evidence of bats, otters, watervoles or hedgehogs but recommended that further surveys of reptiles should be undertaken. Extended reptile surveys found one slow worm but no amphibians. As such, reasonable avoidance measures have been proposed. The proposal also makes provision for Biodiversity Net Gain (BNG). The Council's Biodiversity team has confirmed that, subject to conditions, it is satisfied with the ecological effects of the proposal and that BNG can be achieved on-site. I see no reason to disagree. I conclude that the proposal would have an acceptable effect on biodiversity.

### **Other Considerations**

13. The Stroud District Local Plan Review (SDLPR) is currently emerging as the replacement Development Plan. Under emerging Local Sites Allocation Policy PS42 (emerging Policy PS42), the SDLPR proposes allocation of the site for up to 15 houses and a revision of the village settlement boundary to include the site. The proposal would accord with emerging Policy PS42 including by providing indicative areas of public open space. Access would be taken from the end of the current cul-de-sac and its intended linear layout would reflect the adjoining pattern of development.
14. Framework Paragraph 48 advises that weight may be given to policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with the Framework. Following consultation at Regulation 19 stage, the SDLPR is now at Examination stage. Hearings have commenced but have been paused until December 2024, due to matters relating to the strategic highway network. The Examining Inspectors have not yet made any interim findings on the emerging policies relevant to the proposal.
15. However, the hearing sessions in respect of site allocations, including emerging Policy PS42, have been held. Main modifications requested by the Examining Inspectors have been published. Only minor changes are proposed to emerging policies CP2 and CP3 in relation to the settlement boundaries and strategy, and no changes are proposed for emerging Policy PS42. The Council has confirmed that there are no unresolved objections to these emerging policies through the examination process, and that no concerns about the emerging policies have been raised by the Examining Inspectors.
16. The Council now says that 'some' weight can be given to these emerging policies. There remains a degree of uncertainty regarding the SDLPR in its current form. However, I have no substantive reason to believe that emerging Policy PS42 will not progress to adoption. Having regard to Paragraph 48 of the Framework, I therefore give significant positive weight to the compliance of the proposal with SDLPR Local Sites Allocation Policy PS42 and with the intended revision to the settlement boundary.
17. There is no dispute that the Council can demonstrate an adequate supply of housing land. That said, this is not a cap or limit, and the proposal would provide a boost to the supply of housing. Furthermore, the proposal is for custom-build and affordable houses, albeit in the latter case to a policy-

compliant level. As such, the proposal would help to meet the need for these types of dwellings.

18. The SDLP currently designates Leonard Stanley as a Tier 3a settlement, which have a level of facilities and services that provide the best opportunities for self-containment, outside of larger centres. The site is located close to Leonard Stanley primary school, and there are other facilities nearby, such as the village hall, as well as shops in Kings Stanley. The proposal would therefore have reasonably good access to a range of services and facilities.
19. The proposal would result in built development encroaching onto the site, which is currently absent of development. However, the site is somewhat self-contained and contributes little to the character and appearance of the area, with few adverse landscape effects. The sense of separation between Leonard Stanley and Kings Stanley hereabouts is somewhat limited because of the close proximity of other development nearby. Nevertheless, as proposed, a gap would remain between the two villages. Consequently, the proposal would not harm the character and appearance of the area.

### **Other Matters**

20. The proposal would generate additional traffic movements using local roads. However, the area is suburban and there is no substantive evidence to suggest that these movements would result in undue risk or inconvenience to other road users, including to those accessing the school. I therefore see little reason to believe that the proposal would harm highway safety. I note that the Highway Authority did not object to the proposal, subject to conditions.
21. The site is not identified as being within a high-risk zone for surface water, but adjoining rear gardens can become waterlogged. Soakaways are not suitable, and the proposed drainage strategy includes connection to a Severn Trent surface water sewer located in Dozule Close and the use of a pump. Foul water would be transferred to the nearest existing foul chamber within the existing turning head. The Local Lead Flood Authority has raised no objection to the proposed arrangement, subject to a condition, and neither has the Council. As such, I do not doubt that adequate drainage would be achieved.
22. Matters such as scale and layout are reserved for future consideration. Given the width of the site, I see no reason why a proposal could not be brought forward that would achieve adequate light, outlook and privacy to the occupiers of adjoining dwellings. It would therefore ensure their reasonable living conditions. Planning conditions can also make sure that noise and disturbance during construction is appropriately managed.

### **Planning Balance**

23. The Framework requires the planning system to be genuinely plan-led such that where a proposal conflicts with an up-to-date Development Plan, permission should not normally be granted. However, the Framework also states that decisions may depart from a plan if material considerations in a particular case indicate that the plan should not be followed.
24. In this case, for the reasons set out above, the relevant policies of the emerging SDLPR which allocate this site for housing carry significant weight in the determination of the appeal. In addition, the proposal would provide a

modest benefit in terms of the provision of self-build and affordable housing which would add to housing supply and choice in the locality.

25. The site has reasonable accessibility to local services and facilities and with an appropriately designed and laid out scheme there would be no harm to the character and appearance of the area. As such, these benefits carry additional significant weight. On that basis, the benefits of the scheme would clearly outweigh the harm that the proposal would cause because of its conflict with the SDLP. Accordingly, the specific circumstances of this case indicate that planning permission should be granted.

### **Conditions**

26. The Council has provided a list of conditions, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance. Conditions requiring submission of the reserved matters and adherence to the approved plans are necessary for certainty.
27. A condition is required to secure a Construction Management Plan, to provide details of how construction can take place without harming highway safety or the living conditions of nearby occupiers. This should include works at the early stages of development, such as ground works and vegetation clearance, and so a pre-commencement condition is required. A condition is also required ensuring that construction work only takes place at suitable times.
28. To protect and enhance biodiversity, the submission of and compliance with management plans for biodiversity net gain and landscaping, and construction and the environment are also necessary. Pre-commencement conditions are required because they may affect how such works take place. For the same reason, conditions are also required to ensure that all works are completed in accordance with the Preliminary Ecological Appraisal and the Precautionary Working Method Statement for Reptiles and Amphibians, and that external lighting is designed to avoid disturbance to bats.
29. To ensure that the custom build houses are delivered as such, details of their design, marketing and disposal are required by condition. To ensure adequate living conditions for nearby properties and highway safety, conditions are required securing details of the management of surface water (including SuDS) and foul drainage. Details of car parking and cycle storage are required to provide sufficient spaces and to promote sustainable transport. In the interests of highway safety, the first 10 meters of the access road shall be completed to at least binder course level before the development is occupied. For the same reason it is also necessary to restrict the means of vehicular access to Dozule Close only.
30. To ensure adequate provision of open space, a condition is required securing its future management and maintenance. A condition requiring that landscaping is carried out and completed, and vegetation replaced within the next five years if necessary, is required for the character and appearance of the area. However, details of the external materials, boundary treatments, refuse and recycling provision and ground and floor levels can be provided at reserved matters stage. As such, conditions requiring these details would not be necessary.

## **Conclusion**

31. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. I have given full weight to the Development Plan. However, I have found that material considerations, including the weight I have given to the emerging SDLPR, indicate that planning permission should be granted. Accordingly, the appeal should be allowed.

*O Marigold*

INSPECTOR

## **Schedule of Conditions**

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority no later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: K939-01(-) Location Plan and the drainage strategy received 17.02.2023.
- 5) No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CMP shall be adhered to throughout the demolition and construction period.
- 6) No works including demolition, ground works and vegetation clearance shall take place until a Biodiversity Net Gain/Landscape Management Plan (BLMP) addressing how the site will be ecologically enhanced and maintained, has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be based on the Amended Biodiversity Net Gain metric calculation (November 2022) and supporting plans including Proposed Illustrative Site Plan K939-03 (F) and the Preliminary Ecological Appraisal by Cotswold Environmental (June 2021). The BLMP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
- 7) No works shall take place including demolition, ground works and vegetation clearance until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 8) No dwelling hereby approved shall be constructed until a Custom Build delivery strategy has been submitted to and approved in writing by the Local Planning Authority. The delivery strategy shall include a design framework/design code and details of the marketing and disposal timetable. Any application for approval of reserved matters for the custom build plots shall be in accordance with the approved custom build delivery strategy.
- 9) No dwelling hereby approved shall be occupied until a SuDS management and maintenance plan has been submitted to and approved in writing by the Local Planning Authority. It shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The approved SuDS maintenance plan shall be implemented in full in accordance with the agreed terms and conditions.
- 10) None of the dwellings hereby permitted shall be occupied until details of the method of disposal of surface water within the site have been submitted to and approved in writing by the Local Planning Authority, and the drainage arrangements have been completed in accordance with the approved details. The arrangements shall be retained and maintained in accordance with the approved details thereafter.
- 11) No dwelling hereby permitted shall be occupied until provision is made for the parking of a minimum of two vehicles per dwelling. The provision must be on a properly made-up surface and of a standard size. The provision shall be retained free from obstruction thereafter.
- 12) No dwelling hereby permitted shall be occupied until secure and covered cycle storage facilities for a minimum of two bicycles per dwelling have been provided within each plot and those facilities shall be retained for the duration of the development.
- 13) The development hereby permitted shall not be occupied until the first 10 metres of the proposed access road, including the junction with the existing public road and any associated visibility splays, have been completed to at least binder course level.
- 14) The development hereby approved shall not be occupied until details of the arrangements for future management and maintenance of the proposed open space within the development have been submitted to and approved in writing by the Local Planning Authority. The open space shall thereafter be retained in accordance with the details as approved until such time as either a dedication agreement has been entered into or a private management company has been established.
- 15) Means of vehicular access to the development hereby permitted shall be from Dozule Close only.
- 16) No construction site machinery or plant shall be operated, no construction process shall be carried out and no construction-related deliveries taken except between the hours of 08:00hrs and 18:00hrs on Mondays to Fridays, between 08:00hrs and 13:00hrs on Saturdays and not at any time on Sundays, Bank or Public Holidays.
- 17) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out and completed in the first planting and seeding seasons following last occupation of that phase. Any trees, plants

or areas of turfing which within a period of five years from the completion of that phase of the development become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- 18) All works shall be carried out in full accordance with the recommendations contained in the Preliminary Ecological Appraisal by Cotswold Environmental (June 2021) and the Precautionary Working Method Statement for Reptiles and Amphibians by Cotswold Environmental (October 2021).
- 19) No external lighting shall be installed until a lighting design strategy for biodiversity has been submitted to and approved in writing by the Local Planning Authority. The strategy shall identify the areas and features on site that are particularly sensitive for foraging and commuting bats and show how and where external lighting will be installed so that areas to be lit will not disturb or prevent the bat species using their commuter route. All external lighting shall be installed only in accordance with the specifications and locations set out in the strategy.

**End of Conditions**