



## Appeal Decision

Site visit made on 19 November 2024

**by N Robinson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 January 2025

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**Appeal Ref: APP/C1625/W/24/3346466**

**Briarfield House, Stroud Road, Painswick, Gloucestershire GL6 6RS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Auld against the decision of Stroud District Council.
  - The application Ref is S.23/2308/FUL.
  - The development proposed is erection of 1no. self build dwelling, ancillary operations and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of 1no. self build dwelling, ancillary operations and associated works at Briarfield House, Stroud Road, Painswick, Gloucestershire GL6 6RS in accordance with the terms of the application, Ref S.23/2308/FUL subject to the conditions in the attached schedule.

### Preliminary Matters

2. On 12 December 2024, the National Planning Policy Framework (the Framework) was updated. An opportunity was provided to the main parties to make further written comment over these changes. This decision is based on the current Framework and has taken account of the representations made on this.
3. The Council has confirmed that its Emerging Local Plan (ELP) has reached an advanced stage. The Framework sets out that weight may be given to policies in emerging plans according to its stage of preparation and subject to the extent of unresolved objections and degree of consistency with the Framework. The main parties agree that the policies in the ELP could be subject to change after examination and thus are afforded limited weight. Given this, my determination of this appeal is made against the current development plan policies.
4. A Unilateral Undertaking (UU) dated 29<sup>th</sup> May 2024 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted with the appeal in relation to a contribution towards the mitigation of likely significant effects on the Cotswold Beechwoods Special Area of Conservation (SAC). The Council has been given the opportunity to comment on this UU. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to this in my decision.
5. Additional information was submitted with the appeal: an update walkover survey to the preliminary ecological assessment (dated January 2024) and addendum to preliminary ecological assessment- precautionary ecological

method statement. This does not represent an amendment to the scheme. The Council has had the opportunity to comment on this. On this basis, I do not consider that any party would be unfairly prejudiced. I therefore have had consideration to these documents in determining this appeal.

### **Main Issues**

6. The main issues are:

- whether the site is a suitable location for the proposed development having regard to the development plan;
- the effect of the proposal on biodiversity; and
- the effect of the proposal on the integrity of the Cotswold Beechwoods SAC.

### **Reasons**

#### *Location*

7. The appeal site comprises part of the garden to Briarfield House. The site is located outside of the settlement of Painswick, and thus lies within the open countryside. The appeal proposal is for the erection of one dwelling.
8. Policy CP15 of the Stroud District Local Plan (2015) (LP) sets out that, to protect the separate identity of settlements and the quality of the countryside, development will only be permitted in the countryside where it complies with specific principles. The appeal proposal does not comply with any of the principles which are listed.
9. Whilst located in the open countryside, the site is situated close to the settlement boundary and Briarfield House is bordered by residential development. There is a footpath to the site frontage which continues along Stroud Road through the village. The site frontage appears indistinguishable from other parts of Painswick and the site has the outward appearance of being within the village. Given this, the site relates well to Painswick and the dwelling would not appear disconnected from the settlement. The proposal would not result in an isolated new home and, as it would be sited on part of the garden to an existing dwelling, it would not extend the limits of the settlement.
10. Future occupiers of the development would have convenient access to services and facilities in Painswick. Routes to the services and facilities in Painswick would involve safe and convenient footways and the distances involved do not preclude some of these journeys being undertaken on foot or by cycle. The site is located close to a bus stop with frequent services to nearby settlements including Stroud and Cheltenham. Given this, future occupants would not necessarily be reliant on private motor vehicles which are the least sustainable form of transport.
11. The main parties disagree on the 5-year housing land supply position. Even if it were the case that the Council can demonstrate a 5-year housing land supply and that housing delivery in the district during the plan period will be exceeded, the Government's broader objective is to significantly boost the supply of homes. These figures are not a ceiling or limit to the number of dwellings that can be permitted in the district and the proposal would provide a boost to the supply of housing.

12. Although the proposal would conflict with LP Policy CP15, no harm would arise from this conflict, and I have been presented with no compelling reason to find that the proposal would not meet local housing need for the type of self-build dwelling proposed. As the proposal would appear as part of the existing settlement it would accord with the wider aims of this policy which seeks to direct new development to the most sustainable locations, and it would not undermine the overall distribution of development set out in LP Policies CP2 and CP3. I find no conflict with LP Policy CP14 which seeks to ensure that development is located so that it is near to essential services with good transport links to services by means other than motor car. I also find no conflict with LP policies HC3 and HC4 which relate to self-build housing provision at strategic sites and exception sites to meet local affordable housing need, and thus are not applicable to the proposal.

### *Biodiversity*

13. The appeal site comprises a well-maintained domestic garden associated with Briarfield House. The Council suggest that the proposal was supported by insufficient information to enable an assessment of the potential impacts on biodiversity, in particular as the Preliminary Ecological Assessment (PEA) submitted with the planning application was in excess of 12 months old. In response to this the appellant has submitted an update to the PEA (carried out in January 2024) and a precautionary ecological method statement.
14. The update to the PEA found no evidence of bats within the outbuilding and concludes that the proposal would not result in any significant ecological effects. Recommendations are set out including precautions to avoid minor adverse impacts on trees, bat flight lines, nesting birds, amphibians and reptiles. The precautionary ecological method statement sets out a number of precautionary measures during the demolition of the outbuilding and throughout the proposed development.
15. In light of the above, I have not been presented with a compelling case which sets out why the proposal would result in harmful impacts to biodiversity. Consequently, I find no conflict with LP Policy ES6 which seeks to ensure that development demonstrates that the mitigation hierarchy has been followed sequentially with the aim of providing an overall improvement in local biodiversity and/or geodiversity.

### *Impact on the SAC*

16. The appeal site is located within 15.4km of the Cotswold Beechwoods SAC which is a European site protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations<sup>1</sup>). The SAC is designated due to it comprising an internationally important area of beech forests, dry grasslands and scrublands. The woodlands are recognised as amongst the most diverse and species-rich of their type, whilst the grasslands exemplify calcareous pastures for which the area is renowned. Increased recreational activity associated with new housing developments is placing pressure on the SAC. The Habitats Regulations require the competent authority to ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of European designated sites such as the Cotswold Beechwoods SAC.

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<sup>1</sup> The Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations)

17. There is a reasonable likelihood that the SAC would be accessed for recreational purposes by future occupiers of the development. Although small in itself, this may lead to the harmful disturbance of the habitat and is likely to have a significant adverse effect on the integrity of the SAC, when considered in combination with other residential development in the area. In such circumstances, the Regulations place a duty on the competent authority to undertake an appropriate assessment (AA) of the implications of the scheme. That responsibility falls to me in the context of this appeal.
18. As part of the AA regard can be had as to whether these adverse effects can be mitigated. A UU has been submitted which proposes a financial contribution of £673 towards Strategic Access Management and Monitoring and Suitable Natural Alternative Greenspace infrastructure projects to ensure that such pressure is avoided or limited to such a degree that it would preserve the integrity of the SAC. Natural England has been consulted as part of the AA and has confirmed that the measures are sufficient to avoid an adverse impact on the integrity of the SAC.
19. The evidence indicates that this planning obligation fairly and reasonably relates in scale and kind to the development proposed. The signed and dated UU references this proposal and is supported by details of each persons' title to the land and evidence of title. I am therefore satisfied that the obligation is directly related to the development proposed, is complete and provides certainty that the mitigation required in this case can be secured. On this basis, the UU satisfies the test for planning obligations, as set out in Regulation 122 of the CIL Regulations 2010 (as amended).
20. In light of the above, I am satisfied that the contribution secured by the UU would adequately overcome any adverse effects on the integrity of the SAC. I therefore find there would be no adverse effect from the proposed development on the integrity of the SAC. Thus, the proposal would not conflict with LP Policy ES6 which states that development must not result in significant adverse effects on internationally important nature conservation sites, either alone or in combination with other projects and plans and that the Council will expect development proposals to demonstrate and contribute to appropriate mitigation and management measures to maintain the ecological integrity of the relevant European site(s). The proposal would also accord with relevant provisions of the Habitats Regulations.

### **Conditions**

22. I have had regard to the conditions suggested by the Council in their statement of case, on which the appellant has had the opportunity to comment. Where necessary I have made revisions to some of the conditions put to me to ensure that they meet the tests in the Framework and Planning Practice Guidance (PPG), without altering their fundamental aims.
23. Planning permission is granted subject to the standard three year time limit condition for implementation. In addition, it is necessary to specify the approved plans in the interest of certainty. A condition requiring that the development be carried out in accordance with the preliminary ecological assessment (January 2024) and the addendum to preliminary ecological assessment- precautionary ecological method statement is necessary to

provide opportunities for the creation of suitable habitat features.

24. In the interest of the character and appearance of the street scene, a condition is necessary to control the external materials of the development. A condition relating to the construction of the access and parking areas is necessary in the interests of highway and pedestrian safety. I have imposed the suggested condition relating to cycle parking in order to support more sustainable living.

### **Conclusion**

25. For the above reasons, whilst conflict arises with the development plan, I have identified that, as the site relates well to Painswick, that conflict brings no harm. The appeal proposal would provide housing, meeting the Framework's objective to significantly boost the supply of homes. Given the limited development plan conflict, I am satisfied that there are material considerations which indicate that a decision be taken other than in strict accordance with the development plan. I therefore conclude that the appeal should be allowed.

*N Robinson*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1.) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2.) The development hereby permitted shall be carried out in accordance with the following approved drawings: 21.26.03.01, 21.26.03.10, 21.26.03.11, 21.26.03.12, 21.26.03.13, 21.26.03.14, 21.26.03.15, 21.26.03.16, 230244-RAP-XX-XX-DR-TP-3200, 230244-RAP-XX-XX-DR-TP-3201.
- 3.) The development shall be carried out in accordance with the recommendations set down in the preliminary ecological assessment (January 2024) and the addendum to preliminary ecological assessment-precautionary ecological method statement submitted with the appeal.
- 4.) No development hereby permitted shall take place above foundation level until full details of all external facing materials have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the details thus approved, which shall thereafter be retained.
- 5.) The dwelling hereby permitted shall not be occupied until the access and vehicular parking has been provided to both properties in accordance with the approved site plan ref 21.26.03.10. The approved access and parking shall be permanently available and free of obstruction thereafter.
- 6.) The development hereby permitted shall not be occupied until cycle storage facilities have been made available for storage of two bicycles, and those facilities shall be maintained as such thereafter.

END OF CONDITIONS