



Appeal Statement

Part Parcel 2363, Butts Lane, Woodmancote, Gloucestershire

Planning Inspectorate reference: 3138954

Local Planning Authority reference: 15/00764/FUL

Introduction

This statement has been prepared by CPRE to follow up its letter of objection to the proposed development dated 30 July 2015, submitted at the planning application stage.

The statement has taken account of:

- The NPPF
- NPPG
- The Tewkesbury Borough Local Plan
- The draft Joint Core Strategy (JCS)
- The documents which accompanied the planning application
- The Committee report of 27 October 2015
- The reasons for refusal
- The appellant's Statement of Case
- Other responses to consultation, and
- Recent appeal decisions in Tewkesbury Borough.

CPRE notes that an earlier proposal for 41 dwellings (TBC reference 14/00318/OUT) was refused but not taken to appeal.

The Site

A representative of CPRE visited the site on 27 January 2016. Our observations arising from that visit are mostly set out below under the heading Landscape and Visual Impact.

However, in relation to the site itself, the appellant's Planning Statement (PS) makes two contradictory statements at paragraph 1.3, by saying first that the proposal is "not an intensive urban layout" but then that it represents the efficient use of land. The PS later

states the gross density to be equivalent to about 17 dwellings per hectare, which in our opinion does not represent the efficient use of land, notwithstanding the removal from planning guidance some years ago of a recommended minimum density.

The site visit also leads us to conclude that the degree of enclosure by existing development suggested in paragraph 1.3 is exaggerated.

Woodmancote in Context

Woodmancote is located about 5 km NNE of the centre of Cheltenham, and is defined in the draft JCS (Table SP2c) as one of twelve service villages in Tewkesbury Borough. It is effectively contiguous with the larger settlement of Bishop's Cleeve, separated from it only by the track of the Gloucestershire Warwickshire Railway. Bishop's Cleeve is defined in the JCS as a rural service centre, and provides a significantly greater level of services than any of the service villages.

The Development Plan

The development plan consists solely of the Tewkesbury Local Plan adopted in 2006.

The emerging development plan consists of the Joint Core Strategy being prepared by Gloucester City, Tewkesbury Borough and Cheltenham Borough Councils. The Tewkesbury Local Plan which will flow from it is still at an early stage and has yet to take account of public consultation.

Localism

The Foreword to the NPPF finishes by referring to the aim of *"allowing people and communities back into planning"*. Neighbourhood Plans are the main formal vehicle for achieving this; but they are not necessarily appropriate in all circumstances, because of the character of an area or a lack of resources to carry out the onerous task of preparing such a plan.

The proposed development is in our opinion inimical to the spirit of localism, and contrary to the content of the NPPF Foreword. Turning to the first two principles of paragraph 17, the first states that planning should *"be genuinely plan led, empowering local people to shape their surroundings..."* and the second that it should *"not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives"*. The proposed development is contrary to both principles.

The Reasons for Refusal

CPRE has examined the reasons for refusal, and considers that numbers 5 to 8 inclusive could be overcome by means of appropriate agreements if the appeal were to be allowed. Reasons 1 to 4 inclusive are however matters of principle, and this statement focuses primarily on the first of them.

First of all, however, CPRE has also examined the reasons for refusal attached to the earlier application (TBC reference 14/00318/OUT). These are broadly similar in their scope. Indeed, it is difficult to see how the present proposal, involving a change of layout and a reduction in the number of dwellings by only three, would not attract very similar reasons for refusal, notwithstanding the claims made in the appellant's PS, for example at paragraphs 3.4 and 8.3.

Statement of Common Ground

CPRE is advised by the Council that the Statement of Common Ground (SoCG) is still in draft and will not be in the public domain until after the deadline for this statement. We note from the appellant's Statement of Case however that agreement may be reached which would enable the fourth reason for refusal to be overcome. Although it is disappointing that the SoCG is not available, the issue raised in the fourth reason for refusal, drainage and hydrology, is not central to CPRE's case.

Recent Appeal Decisions

CPRE has been actively involved in many recent appeals in Tewkesbury Borough, whether decided by written representations, informal hearing or public inquiry. We acknowledge of course that appeals, like planning applications, are decided on the merits of the individual case. However, we believe that some lessons can be drawn from these recent cases.

Appeals were allowed at Twynning (58 dwellings; PINS reference 3001706) and at Alderton (47 dwellings; 24 dwellings; PINS references 2209001 and 3001584). The site at Twynning was not the subject of any landscape designation; the two sites at Alderton were located in the Special Landscape Area forming the foreground to the AONB and Alderton Hill, one of three outliers of Jurassic limestone in the area.

Two appeals were dismissed at Alderton (59 dwellings, 53 dwellings; PINS references 2222147 and 3003278). Again, both sites were located in the Special Landscape Area. Landscape was held not to be a major issue in the latter; but was considered important in the former, where the extension of the village into the open countryside (and the impact on the setting of the medieval parish church) were found to weigh against the proposed development.

A proposal for 35 dwellings at Gotherington was dismissed in September 2015 (PINS reference 3002522). Here, the site was located in the Special Landscape Area again forming the foreground to the AONB, this time at Oxenton Hill, the second of three outliers of Jurassic limestone in the area.

The two strands CPRE draws from these cases are as follows:

- Five year land supply has (inevitably) been an issue at all of them; but has by no means been an overriding factor.

- Landscape has been a determining issue in some cases even where the site was not located in the AONB.

The Main Issues

Having set the context for the appeal, CPRE considers the main issues to be:

- The extent to which the proposed development complies with national guidance
- The extent to which the proposed development complies with local policy
- The degree of landscape and visual impact
- The implications of the housing land supply position in the Borough
- The distribution of housing among the Service Villages
- Whether or not the proposed development constitutes sustainable development

These are dealt with in turn below.

Compliance with National Guidance

This section identifies and addresses what CPRE considers to be the applicable parts of the NPPF and NPPG, with the exception of paragraphs 47 and 49 of the former, dealt with under housing land supply, and paragraph 14, addressed under the planning balance.

The proposed development is inconsistent with paragraphs 109, 115 and 116 of the NPPF. It is not consistent with the first bullet point of paragraph 109, which requires the planning system to protect and enhance valued landscapes.

It is also inconsistent with paragraph 115, which begins by stating that *“great weight should be given to conserving landscape and scenic beauty ... in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty”* [CPRE emphasis].

Paragraph 116 begins: *“planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated that they are in the public interest”*. “Major” is not defined; but we have also noted the advice in the PPG that “major” is defined by the decision maker.

A proposal for 38 dwellings in an Area of Outstanding Natural Beauty in our opinion constitutes major development, so paragraph 116 applies with full force. We agree with the Borough Council in this respect. This turns attention to the other two elements of the first part of paragraph 116: “exceptional circumstances” and “public interest”.

No exceptional circumstances have been demonstrated; indeed it is difficult to see how they could be demonstrated at all, given the location of the proposed development in an AONB, and where ample more appropriate alternatives for the location of 38 dwellings clearly exist. For the same reasons, we consider that the public interest cannot be shown either.

In respect of the first bullet point of paragraph 116, there is clearly a need for new housing in Tewkesbury Borough bearing in mind the absence of a five year supply of land for housing and persistent under-delivery in the last few years. However, the scale of the proposed development is such that permitting it would not make a significant beneficial impact; any adverse impact of refusal would not be significant in terms of the local economy either. The development is far from being nationally significant. The same economic benefits would derive from the construction of 38 dwellings in a more appropriate location in the Borough. Even if any detriment could be identified, it is outweighed in our opinion by the adverse effects of the landscape of the AONB. This reduces the weight to be attached to most of the claimed benefits of the proposed development, summarised in paragraph 8.7 of the appellant's PS.

In respect of the second bullet point of paragraph 116, although large parts of Tewkesbury Borough lie in the AONB, even more extensive parts of it do not. The scope for development outside the AONB is quite sufficient to make major development, indeed all but essential development, in the AONB unnecessary. No evidence has been offered to suggest that development in the AONB would be less costly than elsewhere.

In respect of the third bullet point of paragraph 116, we can identify no adverse effects on recreational opportunities; no public right of way crosses the site, for example. However, the much more important issue is that development would have a detrimental effect on the environment and the landscape.

Even if it were considered in the end that the proposed development is not major development, the last sentence of the extract of the PPG quoted at paragraph 5.33 of the appellant's PS is vitally important: *"The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable"* [CPRE emphasis].

Thus in our opinion the proposed development does not comply with relevant parts of national policy.

Compliance with Local Policy

CPRE acknowledges (and regrets) the fact that there is still no up to date policy framework for the Borough at strategic or local level which provides appropriate guidance on the amount and distribution of housing.

However, some policies (as opposed to proposals) do in our opinion continue to carry weight, partly because they have their origin in parts of national policy which were reaffirmed or carried forward in the NPPF. These relate in particular to the AONB, national guidance on which has been discussed above. We conclude therefore that the proposed development does not comply with adopted Local Plan Policy LND1, which in our opinion continues to carry significant weight in accordance with paragraph 215 of the NPPF.

Landscape and Visual Impact

This section addresses the likely landscape and visual impact of the proposed development, as opposed to the principle of development in an AONB.

The site of the proposed development is located on the edge of the Cotswold AONB, and forms part of the apron which leads from the foot of the hills at the eastern edge of the Severn Vale to the top of the escarpment. The scarp slope rises from about 80 metres AOD, steadily and then sharply, towards the highest point, in this case on Nottingham Hill at about 280 metres AOD. The easternmost parts of the village occupy land up to about 95 metres AOD, but these are well established developments, possibly constructed before the AONB was defined. The fact that they are located slightly higher up the slope does not in any way lend support to the proposed development.

The site visit confirmed what is apparent from the Ordnance Survey 1:25,000 sheet for the area – that Butts Lane marks a significant break of slope between the broadly flat terrain to the west and the rising ground to the east. It therefore constitutes a sensible, natural and defensible boundary for the AONB.

Walking public rights of way in the vicinity leads CPRE to conclude that there would be little adverse effect in longer distance views of the site from points on the scarp slope. However in local views, from Butts Lane and Bushcombe Lane, the proposed development would appear prominent, and as the Committee report notes at paragraph 6.9, would have “a marked urbanising effect locally”.

CPRE is not persuaded that the proposed mitigation measures would diminish significantly the visual impact of the proposed development. Any such mitigation in any event does not address the issue in principle of (what we regard as) major development in an AONB.

Housing Land Supply

CPRE acknowledges that the Borough Council cannot demonstrate a five year supply of land for housing and therefore that paragraph 49 of the NPPF applies. This is a specific aspect of the absence of up to date policy acknowledged above.

The Distribution of Housing among the Service Villages

CPRE attaches considerable importance to the strategic context for this issue.

Paragraph 3.2.20 of the submission draft JCS provides a figure of 2,631 dwellings to be accommodated in the rural areas in the Plan period, noting that about 70% of these are already committed, and that the rural service centres will accommodate more new housing than the service villages. The number of dwellings for which sites have still to be found has been further reduced as a result of a number of proposals having been granted planning permission on appeal in some of these villages, including one of the two sites in Alderton (24 dwellings) and the one site in Twyning (58 dwellings) referred to above.

This part of the JCS provides no guidance on the numbers to be assigned to each village, nor any principles for distribution.

The Committee report refers at paragraph 5.9 to the Approach to Rural Sites Background Paper and in it an indicative figure of 169 dwellings for Woodmancote, reduced to 162 by the small number of existing commitments. The report however quite rightly qualifies this by also referring to the requirement for the service villages as a whole, and the availability and suitability of sites in each village; the figures themselves “should not be afforded weight”.

The applicant’s PS in contrast makes no such acknowledgement in making comparison between the appeal site and potential sites for development in Woodmancote identified in the Tewkesbury Draft Issues and Options Plan.

One of these sites, Site C, is in the Green Belt. The JCS proposes the release from the Green Belt of a number of strategic sites to accommodate housing and other development. This does not preclude the emerging Tewkesbury Local Plan from identifying non-strategic sites such as this one for release from the Green Belt. It even paves the way for it, exceptional circumstances for rolling back the Green Belt having been shown. Local planning authorities have on the other hand no powers to amend AONB boundaries; these are nationally defined.

Green Belt is one of the designations, like Areas of Outstanding Natural Beauty, listed in footnote 9 attached to paragraph 14 of the NPPF. It is clear however that the reasons for such designations are quite different. Green Belts are designated solely because of their location, not their landscape value; although in practice some parts of the Green Belt will have landscape value. Although not concluded, the JCS Examination has found that the exceptional circumstances required by NPPF paragraph 83 to take land out of the Green Belt to accommodate necessary development have been met. The criteria for the selection of such land are the impact on openness (paragraph 79) and the five purposes (paragraph 80). These enable soundly based judgments to be made on which parts, if at all, of the Green Belt should be released in the event of exceptional circumstances being demonstrated. No comparable criteria exist for AONBs.

It is also worth noting that Site C has an indicative capacity of 152 dwellings at 30 dwellings per hectare, very little short of the nominal residual requirement of 162 dwellings.

We say “nominal” in the light of the qualifications in the Committee report; it is simply not true to state, as paragraph 7.42 of the appellant’s PS does, that Woodmancote “is required to deliver a minimum of an additional 162 units” [CPRE emphasis].

The shortcomings the appellant claims for the potential sites in the TLP do nothing to advance the credentials of the appeal site itself.

The weight that can at present be attached to the JCS and the emerging TLP is also important. The JCS Examination is still in progress and no final total housing requirement figure has been arrived at. At this stage it is possible, if not likely, that this figure will go up. Even if this is the case, however, it does not necessarily follow that the figure for the service villages collectively will be raised. What the TLP says about the distribution of housing between the service villages carries even less weight.

In practical terms however it will almost certainly not prove possible to accommodate 162 dwellings in Woodmancote without resort to land in the Green Belt. The Context Plan which forms Appendix 3 of the appellant’s PS clearly shows the severity of the constraints, with (clockwise from north) the SLA, AONB and Green Belt all adjoining the existing built up area. Even if the appeal were allowed, it would still be necessary to find land to accommodate a further 124 dwellings, which is much more than the combined capacity of Sites A and B identified for Woodmancote in the Tewkesbury Draft Issues and Options Plan.

In any event it would still be possible for the Tewkesbury Local Plan to be in conformity with the JCS, based on a slightly different distribution of housing. This distribution is still to be decided, at the TLP’s own Examination.

Sustainable Development

The three dimensions of sustainable development are addressed in turn.

In the economic domain, the proposed development would have undoubted benefits in terms of employment in the construction stage and increased consumer spending and Council tax revenues once the development is complete and occupied. The importance of these benefits must however be qualified in the balance by the observation made above, namely that similar economic benefits would derive from the construction of 38 dwellings in a more appropriate location in the Borough.

In the social domain, there would also be benefits from the provision of 38 dwellings, a significant proportion of them affordable.

In the environmental domain, Woodmancote's proximity to Bishop's Cleeve may increase its sustainability credentials (as indeed paragraph 2.6 of the appellant's Planning Statement argues).

However, there would in CPRE's view be significant adverse effects, in terms of the impact on a nationally protected landscape, the more significant precisely because the proposed development is on the edge of the Cotswold Area of Outstanding Natural Beauty and on the edge of a settlement which lies just outside it.

The Planning Balance

CPRE's interpretation of the balancing exercise set out in paragraph 14 of the NPPF is as follows. Under decision taking, the second bullet clearly applies. However the use of the word "or" to separate the last two clauses suggests that if (as in this case) the last clause and footnote 9 apply, the balancing exercise set out in the penultimate clause does not have to be carried out.

Nevertheless, both the appellant and the Council (in Section 15 of the Committee report) have done so. In short, CPRE's view is that the benefits brought about by the proposed development in boosting the supply of housing, including a measure of affordable housing, are fairly significant, but are substantially outweighed by the harm caused to the character and appearance of the AONB, where no exceptional circumstances or public interest have been convincingly demonstrated.

Summary and Conclusions

In respect of the main issues, CPRE finds the following:

- That proposed development is contrary to the provisions of the NPPF at paragraphs 109, 115 and 116
- That local planning policy for the provision of housing can be described as out of date, as the adopted Local Plan ran only to 2011. It can also be regarded as out of date in the absence of a five year supply of land for housing; this weighs in favour of the proposed development
- However, other Local Plan policy, in the shape of Policy LND1, can be afforded significant weight in terms of paragraph 215 of the NPPF because of its consistency with national policy
- That the proposed development would not significantly alleviate the difficulties of providing in the order of 160 new dwellings in Woodmancote without taking land from the Green Belt

- That in these particular circumstances, a stronger case could if necessary be made for the release of land in the Green Belt instead of encroachment on the AONB
- Even so, the amount of housing to be provided in the Service Villages and how it should be distributed between them is still to be decided
- Finally, that the adverse impacts of the proposed development demonstrably outweigh the benefits.

The balance of planning considerations in CPRE's opinion therefore weighs against the proposed development. For this reason, the Inspector is respectfully requested to dismiss the appeal.

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Director
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2 February 2016