



## Appeal Decision

Site visit made on 24 June 2025

by **K Townend BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12<sup>th</sup> August 2025

### Appeal Ref: APP/B1605/W/25/3361502

### Ham Road, Charlton Kings, Cheltenham GL52 6ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr Howard on behalf of LivedIn against the decision of Cheltenham Borough Council.
- The application Ref is 24/01123/OUT.
- The development proposed is outline application for the erection of up to 5no. self-build dwellings and associated infrastructure.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application was submitted in outline with all matters reserved. The Council determined the application on that basis. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative.
3. Two signed Unilateral Undertakings have been submitted with the appeal in respect of ensuring the proposed dwellings are provided as self-build units and in respect of a financial contribution towards mitigating the effect on the Cotswold Beechwoods Special Area of Conservation. These are matters which I will return to.

### Main Issues

4. The main issues are:
  - the effect of the development on the character and appearance of the Cotswolds National Landscape; and
  - the effect of the proposal on the integrity of the Cotswold Beechwoods Special Area of Conservation.

### Reasons

#### *National Landscape*

5. The appeal site lies outside the Cheltenham Principal Urban Area (PUA). It also lies within the Cotswolds National Landscape (the NL) (formerly the Area of Outstanding Natural Beauty).
6. I accept that the PUA runs along Ham Road and includes the housing on the opposite side of the road. Furthermore, the PUA is the area where development is expected to be focused. The site is close to services and facilities, including bus

stops. The local school is on the same side of the road as the appeal site and separated by an open field. However, for planning purposes the site lies in the countryside. The village of Ham lies beyond the appeal site. Albeit close to Cheltenham, and with little separation between the built form, the village of Ham has a distinct character and is clearly not part of the PUA.

7. Policy SD7 of the Gloucester, Cheltenham and Tewksbury Joint Core Strategy 2011-2031 (the CS) requires all development within the setting of the NL to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage, and other special qualities.
8. Paragraph 189 of the National Planning Policy Framework (the Framework) advises that great weight should be given to conserving and enhancing landscape and scenic beauty in NLs which have the highest status of protection in relation to these issues. It also advises that the scale and extent of development in these areas should be limited.
9. Section 245 of the Levelling Up and Regeneration Act 2023 (the LURA) amended the duty in the Countryside and Rights of Way Act 2000 in relation to NLs to require relevant authorities, in exercising or performing any functions in relation to, or so as to affect, land in a NL to seek to further the purpose of conserving and enhancing the natural beauty of it.
10. The LURA has imposed a more rigorous requirement than that set out in Policy SD7 of the CS. However, there would be overlapping considerations between the requirements of the LURA and the policies, and the policies remain broadly consistent with the thrust of the LURA.
11. The Cotswolds National Landscape Management Plan 2023-2025 (the MP) identifies the special qualities of the NL as, amongst other matters, the limestone geology, the Cotswold escarpment, including views from and to the NL, the flower-rich grasslands, and ancient broadleaved woodlands. The tranquillity of the area, extensive dark skies, distinctive settlements, and accessibility of the landscape are also part of the special qualities that are key components of the natural beauty of the NL.
12. In so far as it is relevant to the appeal, I consider the character of the landscape is, in part, derived from the hills and open countryside around Cheltenham. Albeit only a small section of the NL, the appeal site forms an area with this local character and the site has some, albeit only limited numbers, of the special qualities of the NL identified in the MP. The site currently makes a locally important, positive, contribution to the landscape and scenic beauty of the NL. It also forms an important part of the green gap between the PUA and the village of Ham which is already reduced on the opposite side of the road.
13. The MP acknowledges that some development will occur in the NL. Policy CE10 of the MP requires development to have regard to, and help deliver, the purpose of conserving and enhancing the natural beauty of the NL. The Policy requires a landscape-led approach which includes, amongst other matters, the need to address the natural beauty as a primary consideration, reflect and enhance the character of the local area, avoid adverse effects where possible and, if adverse effects cannot be avoided then minimise them, and deliver substantially more beneficial effects than adverse effects. The MP and the objectives of the NL are

not to prevent development but to ensure that any development contributes positively.

14. The submitted Landscape & Visual Appraisal (the LVA), amongst other matters, provides information on the landscape setting and the landscape character assessment areas. The key characteristics of the landscape character areas which cover the appeal site include gently undulating landscapes, woodland, small pasture fields, and neutral grasslands.
15. Although the LVA suggests that the site lacks a coherent composition, due to its close location with the urban edge, it also accepts that the susceptibility to change is medium, the value is high, and the overall sensitivity is high. The appellant's latest response has now changed the sensitivity to medium, the landscape value to medium and the landscape capacity to low/medium. Nevertheless, the site is still sensitive and of value.
16. For the purpose of considering the effect of the development on the NL, the LVA also identifies the Zone of Theoretical Visibility, key viewpoints, provides the authors opinion on the effect on each of the viewpoints, and a summary of the effect of the development on the NL and the wider landscape. Seven viewpoints were identified which are either specific points from where the development would be visible or are representative views.
17. The LVA notes that the proposed dwellings would be visible from Ham Road at viewpoints 2 and 3, albeit this would be restricted during the summer months by the existing trees. Nevertheless, there would be clear views of the development, especially from the access into the site. Although the views of the development would be, from certain angles, seen with the housing opposite and with the street lighting and footway at the front of the site, the existing view of the open countryside, the field, and the hills beyond, would be disrupted by the proposed development. The LVA assesses the significance of the effect on these two viewpoints as major/moderate, without mitigation.
18. The LVA also recognises that the appeal proposal would be visible from along the Public Right of Way (PROW) near to the site. There would be prolonged and extensive views which, when leaving Cheltenham, are currently views over the countryside and towards the hills, with little built development visible and filtered by vegetation. The change would be noticeable and add further built form. I acknowledge that the views of users of the PROW heading towards Cheltenham would also see the housing on the opposite side of Ham Road. Nevertheless, based on the indicative plans and the suggestions within the submitted documents the proposed development would not be comparable to the type of residential properties that are close to the site. The LVA sets the effect on this viewpoint, without mitigation, as major/moderate.
19. The development is assessed as having a negligible or minor effect on the other four viewpoints and, having viewed the site from these points, I have no reason to disagree.
20. Mitigation measures are recommended in the LVA which include the retention and filling out of the trees and hedges along the site boundaries, additional ornamental planting, the use of green roofs, setting the built form back from the boundary and the use of materials that reflect local vernacular. The LVA suggests that these

measures would reduce the effect of the development to minor, that the effects are localised and limited, and result in a small magnitude of change.

21. However, the development would still result in minor negative effects on a number of viewpoints. The existing trees and hedges along the boundary currently allow for views into and across the site and the retention of this landscaping would not substantially reduce the views. Additional tree and shrub planting may further screen the development but the opportunity for this would be limited by the provision of an internal access driveway and the proposed houses. The width of the site would not allow a similar depth of tree belt as those identified by the appellant in the Design and Access Statement. Moreover, the landscaped boundary would not screen the development from the access point.
22. The restriction on the height of the dwellings would limit their visibility and would allow views of the hills. However, even with a limited height the development would not retain the sense of openness or the gap between the PUA and the village of Ham, neither would it provide a transition between urban fringe and the rural area. The use of green roofs would not add any visual benefits as the roofs of the development would not form a significant part of the view of the site from any of the affected viewpoints. The development would still be likely to be prominent in views from the PROW and, to a lesser extent, from Ham Road. These views would be appreciated by local residents and by visitors due to the proximity to the PROW.
23. The proposal would result in housing on a site which is currently devoid of development. It would change the site from part of the unspoiled natural environment within the NL to built development. Although I find that the effect would be moderate to minor, rather than the major asserted by the Council, there would be adverse effects on the views, especially from viewpoints 2, 3 and 4. The adverse effects would, in my judgement, not be outweighed or mitigated by the benefits of the indicative design, layout and landscaping.
24. I am mindful of the outline nature of the proposal and that there would be an ability to further consider the layout, scale, and appearance at the reserved matters stage. I also acknowledge that there is other residential development in the immediate area with a modern housing estate on the opposite side of the road. Nevertheless, the proposal is indicated as single storey, flat-roofed houses, of modern architecture and that these factors are required to minimise the visual harm. These indicative elements would result in development that is distinctly different to the other housing in both the PUA and the village of Ham.
25. That there are currently less views over the appeal site than the field between the school and this site does not weigh in favour of the proposal. The reduction in the number of dwellings from the previous scheme is also not a material factor in favour of the current appeal. Furthermore, that the site only has some of the special qualities of the NL and some of the key characteristics of the landscape character type would not reduce the effect of the development on those qualities it does have. Even if I were to accept that the site is at the lower end of a scale of sensitivity when compared to other parts of the NL, it is still sensitive.
26. The appeal site is materially different to the three sites referred to by the appellant<sup>1</sup> which were either previously developed land or substantially enclosed by existing

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<sup>1</sup> Council reference 24/00519/FUL, Council reference 22/02101/FUL and Appeal reference APP/B1605/W/21/3273053

built development. It is also materially different to the appeal at Little Sparrows<sup>2</sup> which was near to a site of 'institutional scale' and prominent built form, as well as the modern fringe of the village, which altered the landscape context of the site. Moreover, that appeal was determined prior to the changes brought about in the LURA. Although there are similarities with that appeal, in regard to the limited views available, the limited special qualities of the NL within the appeal site, and that the effect would be limited and localised, there would remain an impact of the development and I find that, in this case, the proposal would cause material harm to the beauty of the NL.

27. I acknowledge that innovative designs are supported by Policy CE3 of the MP, however, this support is for developments that conserve natural beauty which the appeal would not. Furthermore, the support in Policy CE12 is for windfall housing for a specific local housing need supported by a neighbourhood plan or affordable housing need. The proposal is based on a district wide general need for housing, including self-build dwellings, rather than a local need specific to this part of Cheltenham. I do not find any specific support for the scheme within policies CE3 or CE12 of the MP.
28. The visual harm of the proposed development would, in my judgement, not conserve or enhance the landscape and scenic beauty, neither would it further the purpose of conserving and enhancing the natural beauty of the NL. The site does not currently detract from the NL and the proposal would be harmful development. Even if the development would enhance the ecological value of the site, and even though the site is only a small part of the NL, the development would not enhance the visual value.
29. Moreover, even if I were to accept the conclusions of the LVA, that the development would have a minor level of effect on the NL, this would fall short of the requirement in the LURA for development to further the purpose of conserving and enhancing the natural beauty.
30. For the above reasons, I find that the scheme would have an adverse effect on the character and appearance of the Cotswolds National Landscape. Consequently, the proposal would be contrary to Policies SD6, SD7 and SD10 of the CS and Policy L1 of the Cheltenham Plan, adopted 2020. Collectively these policies seek to conserve and, where appropriate, enhance the landscape, scenic beauty, wildlife, cultural heritage and other special qualities of the NL, protect the landscape character for its own intrinsic beauty, require development to have regard to the local distinctiveness and character of the different landscapes, seek to restrict development outside of the defined settlements, and seek to ensure that development would not harm the setting of Cheltenham including views into or out of areas of acknowledged importance.
31. For the same reasons, the proposal would conflict with paragraph 189 of the Framework, which states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes. The development would also conflict with the advice in the Framework which seeks to ensure that development is sympathetic to the landscape setting, contributes to and enhances the natural and local environment by, amongst other matters,

<sup>2</sup> APP/Q3115/W/20/3265861

protecting and enhancing valued landscapes and recognises the intrinsic character and beauty of the countryside.

### *Special Area of Conservation*

32. The appeal site lies within the zones of influence for the Chilterns Beechwoods Special Area of Conservation (SAC) and the effect of the development on the SAC was included as a reason for refusal. The appeal scheme would result in a net increase in residential accommodation which could result in adverse effects upon the integrity of the SAC through increased recreational use.
33. A signed and dated unilateral undertaking has been provided by the appellant which would secure a financial contribution payable to the Council, prior to the commencement of development.
34. As the competent decision-making authority, if I had been minded to allow the appeal, I would need to examine these matters further and undertake an Appropriate Assessment of the implications of the appeal scheme upon the SAC. However, as I am dismissing the appeal on other main issues, the outcome of an assessment would have no bearing on the overall outcome of the appeal. Therefore, it is not necessary for me to consider this further.

### **Other Matters**

35. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act'), requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The designated heritage assets, in this case, are Ivy Court, Ham Court and wall, and Court Barn, which are all Grade II Listed Buildings.
36. Ham Court and Wall and Court Barn are accessed off the driveway immediately to the side of the appeal site. Ham Court is a large property set within landscaped grounds. The significance of these buildings, in part, derives from their architecture, age and relationship with each other and the village. The setting in which these buildings are experienced includes the appeal site as it forms part of the landscape and open countryside around the properties. There would be some intervisibility between the site, Ham Court, and Court Barn and the site would be seen within the same views as the listed buildings. Nevertheless, the appeal site is not a significant element of the setting of any of these listed buildings. Moreover, it would be possible, subject to the final details of layout, scale, and design, to detail a scheme that would not harm the significance that the appeal site makes to the setting of these listed buildings or how the public appreciates them.
37. The significance of Ivy Cottage comes from its timber framed building material and its historic value to the village. The setting in which Ivy Court is experienced is contained by the boundary treatments. The significance of the setting derives from the buildings immediately around it and its relationship with the village. It is separated from the appeal site by intervening buildings and fields. The containment and intervening landscaping would limit the opportunity for views of the appeal site and Ivy Court together. As such, the proposal would preserve the way the setting of this listed building is experienced and therefore preserve the significance of the listed building.



38. For these reasons, I find no harm to the setting of the designated heritage assets and the appeal proposal would preserve the setting of the listed buildings. I have had regard to the Act as detailed above.
39. The proposal would provide five additional self-build plots. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.
40. The appellant's evidence provides details of the shortfall in self-build plots in Cheltenham and the Council has not sought to challenge this evidence or provide any alternative supply or demand figures. I have no evidence that the Council is achieving the requirement to provide self/custom build permissions, and I give substantial weight to the proposed five units to assist in this. Moreover, the Council acknowledged the benefits of self-build units.
41. A completed Unilateral Undertaking has been provided by the appellant to bind the construction of the proposed dwellings as self-build units. This complies with the statutory tests, and I am satisfied that the agreement would provide sufficient assurance in binding the self-build method of construction.

### **Planning Balance**

42. There is no dispute between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing land. On the basis of the information submitted at appeal, its latest information indicates a supply of only 2.52 years, which is a substantial shortfall. Furthermore, the Housing Delivery Test indicates that the delivery of housing was less than 75% of the housing requirement over the three year period up to March 2023.
43. There is also no reference to self/custom build housing within the CS or the Cheltenham Plan. Having regard to the importance attached to the provision of this form of development in the Framework and due to there being no relevant development plan policies paragraph 11d) also applies.
44. Policies SD6, SD7 and SD10 of the CS and Policy L1 of the Cheltenham Plan are the most relevant in considering the proposal. As far as the policies seek to limit development in the countryside to that which protects its character and seek to protect landscape character, including the NL, they are broadly in accordance with the Framework which seeks to ensure that development contributes to and enhances the natural and local environment, by recognising the intrinsic character and beauty of the countryside and the importance of NLs. Policy SD10 does not seek to prevent all development outside of settlements. Moreover, the adopted policies are broadly consistent with the Framework as a whole.
45. I have given the conflict with the local policies, in regard to the effect on the NL, significant weight in this appeal. Consequently, the proposed development would conflict with the development plan as a whole.
46. The proposal would accord with the advice in the Framework which seeks to boost the supply of housing and recognises the important contribution small and medium sized sites make to meeting the housing requirement of an area. The site would also be deliverable within a short timeframe and contributes towards self/custom

build housing in accordance with the Framework. It would also be in a location that is accessible to services and facilities so as not to rely wholly on the use of the private car and would provide biodiversity and environmental enhancements through the use of low energy construction and fittings.

47. However, although I afford significant weight to the provision of new houses and self-build dwellings, as only five dwellings are proposed these benefits are limited when weighing the merits of the scheme. I therefore afford significant weight to the limited benefit the development would make to addressing the housing shortfall and to the provision of self/custom build housing.
48. The proposal would also provide biodiversity and ecology improvements to which I give limited weight in favour of the development.
49. On the other side of the balance, the proposal would result in environmental harm from the effect of the development on the NL. Although this does not constitute a strong reason to refuse the application, the development would result in harm to the NL, and I have given this harm significant weight in the balance.
50. In my judgement the benefits of the proposal would be limited to moderate and would not outweigh the harm I have identified to the NL. Consequently, the presumption in favour of sustainable development as set out in paragraph 11d) of the Framework does not apply.

### **Conclusion**

51. There are no material considerations to indicate that the decision should be made otherwise than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

*K Townend*

INSPECTOR