
STATEMENT OF CASE

In respect of

**PLANNING APPEAL
INQUIRY FOR
RESIDENTIAL
DEVELOPMENT ON LAND
SOUTH OF COLLIN LANE,
WILLERSEY**

On behalf of

PARKROY LTD

Planning Application Ref:

14/04854/OUT

RCA Regeneration Ref:

RCA142a

Date: June 2015

rca

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Author:	PD
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EXECUTIVE SUMMARY

This Statement of Case has been prepared in support of an appeal on behalf of Parkroy Ltd (the appellant) against the refusal of outline planning permission (LPA ref: 14/04854/OUT) by Cotswold District Council on 12th March 2015.

The application was submitted in outline format with all matters reserved except for access, for the development of up to 71 dwellings of which 35 would be affordable. The application was refused for the following reasons:

1. The application site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB), wherein the Local Planning Authority is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape. By virtue of the scale of the development in the context of the existing settlement, the proposals are considered to constitute major development when considered against Paragraph 116 of the NPPF. The proposed development would result in an extension of built form into a predominantly naturalistic landscape, development which, by virtue of its size, scale and location would degrade the landscape and lead to the detrimental encroachment of built development into the countryside. The change from open countryside to built development would fundamentally harm the landscape character of the site and hence the natural beauty of the AONB. No exceptional justification has been advanced and it has not been demonstrated that the development is in the public interest, sufficient to outweigh the environmental harm outlined. The proposed development is therefore contrary to Local Plan Policies 19 and 42 and guidance contained in the National Planning Policy Framework, in particular Paragraphs 17, 109, 115 and 116.
2. The absence of a Section 106 Legal Agreement means that the contribution to improve library services cannot be guaranteed and no mechanism is in place to secure the provision of the affordable housing. Without this contribution and commitments, the proposal would not be acceptable in planning terms and would therefore be contrary to Cotswold District Local Plan policies 21 and 49 and Paragraphs 203, 204 and 206 of the NPPF.

3. Insufficient information has been submitted in support of the application to demonstrate that the surface water drainage scheme would adequately deal with the surface water discharge without increasing the risk of flooding in the locality, and for that reason, an informed planning decision cannot be made. The proposals are therefore contrary to guidance set out in Section 10 of the NPPF.

Notwithstanding the above, the appeal proposal represents sustainable development and, in accordance with the National Planning Policy Framework, should be approved without delay. The proposal is fully compliant with the relevant parts of the development plan and, in particular, the tests prescribed in paragraph 116 of National Planning Policy Framework which allows large-scale development within such landscape designations. Primarily, the conformity with paragraph 116 of the Framework stems from the following;

- Public benefit and need: The Council cannot demonstrate a 5 year housing land supply. There is also a substantial requirement for affordable housing within the district which this appeal proposal will positively contribute towards. Furthermore, the proposal will bring forward significant economic benefit through the provision of new employment opportunities.
- Scope for development outside the designation: There is no scope for the Local Planning Authority to meet its objectively assessed housing need through locating development solely outside the AONB. Such a process would result in substantial harm by way of creating an unbalanced development pattern.
- Mitigation: There is low level of harm associated with the development's impacts upon the landscape; with significant opportunity at reserved matters stage to mitigate such impact. The low level of harm stems from the fact that the site is situated at the outer extremity of the landscape designation and, alongside approved residential developments in this locality, the appeal proposal will readily integrate into the existing built form.

Notwithstanding the above, the appellant will demonstrate that the appeal proposal makes positive contributions to the social, economic and environmental roles of sustainable development. To this end, the proposal constitutes sustainable development which should be approved without delay.

1.0 INTRODUCTION AND BACKGROUND TO PLANNING APPEAL

- 1.1 The appeal site is situated within the administrative boundary of Cotswold District Council and is located to the west of the settlement of Willersey. The village is one of the northern most settlements within the district and the appeal site immediately abuts the defined settlement boundary.
- 1.2 To the east of the application site are the established residential properties of Collin Close; separated from the application site by a small brook. The northern aspect of the site fronts onto Collin Lane; separated from the roadside by a small hedgerow. To the west of the application site is a lane leading to farm buildings which have since been converted into general business uses. The southern boundary is again characterised by the presence of a small hedgerow with intermittent tree coverage; beyond which is a Public Right of Way.
- 1.3 Willersey is one of 17 settlements identified for growth within the emerging Cotswold District Local Plan (emerging policy SP5 – Distribution of Housing and Employment Development). It is currently proposed to accommodate 85 dwellings up to 2031; based on the Council's current proposed housing requirement. Notwithstanding this, the January 2015 consultation document does not propose residential development on the appeal site but rather it is seeking to allocate land to the north of the village.
- 1.4 The planning application was validated by the Local Planning Authority on 18th November 2014 and was accompanied by the following documentation:
- Architectural drawings;
 - a. Location Plan
 - b. Indicative Layout Plan – superseded version submitted following consultation responses to the planning application. The superseded iteration of the layout was designed in response to the Council's biodiversity officer wishing for greater protection along the site's eastern boundary, immediately adjacent to the Brook.
 - c. Indicative streetscenes
 - Design and Access Statement

- Planning Statement – incorporating the results of the pre-application public consultation undertaken by the applicant / appellant
- Transport Statement
- Archaeological reports;
 - a. Desk-based assessment
 - b. Geophysical survey
 - c. Trial Trenching report – required following objection from County archaeologist
- Flood Risk Assessment – the drainage strategy was superseded following a request for further information. Rather than a redesign of the drainage strategy, it was merely a case of clarifying a few points.
- Phase 1 Ecological survey
- Planning Performance Agreement
- Draft Affordable Housing Agreement
- Landscape and Visual Impact Assessment

1.5 On 12th March 2015, some 17 weeks after the validation of the application, the proposal was refused under delegated powers for the following three reasons;

- 1 *"The application site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB), wherein the Local Planning Authority is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape. By virtue of the scale of the development in the context of the existing settlement, the proposals are considered to constitute major development when considered against Paragraph 116 of the NPPF. The proposed development would result in an extension of built form into a predominantly naturalistic landscape, development which, by virtue of its size, scale and location would degrade the landscape and lead to the detrimental encroachment of built development into the countryside. The change from open countryside to built development would fundamentally harm the landscape character of the site and hence the natural beauty of the AONB. No exceptional justification has been advanced and it has not been demonstrated that the development is in the public interest, sufficient to outweigh the environmental harm outlined. The proposed development is therefore contrary to Local Plan Policies 19 and 42 and guidance contained in the*

National Planning Policy Framework, in particular Paragraphs 17, 109, 115 and 116."

- 2 *"The absence of a Section 106 Legal Agreement means that the contribution to improve library services cannot be guaranteed and no mechanism is in place to secure the provision of the affordable housing. Without this contribution and commitments, the proposal would not be acceptable in planning terms and would therefore be contrary to Cotswold District Local Plan policies 21 and 49 and Paragraphs 203, 204 and 206 of the NPPF."*
- 3 *"Insufficient information has been submitted in support of the application to demonstrate that the surface water drainage scheme would adequately deal with the surface water discharge without increasing the risk of flooding in the locality, and for that reason, an informed planning decision cannot be made. The proposals are therefore contrary to guidance set out in Section 10 of the NPPF."*

1.6 The second reason for refusal is fully capable of being addressed with the submission of a s106 unilateral undertaking which will be submitted to the Planning Inspectorate in the very near future. To that end, it is considered that refusal reasons 1 and 3 remain in dispute. Other matters to which the appellant and the Local Planning Authority remain in agreement are set out in the Statement of Common Ground and therefore not repeated here.

1.7 Notwithstanding the above, the appellant has repeatedly contacted the Gloucestershire County Council drainage engineer in respect of the final reason for refusal. The purpose of this correspondence has been to seek clarification as to what further information the engineer requires in respect of drainage. Emails to the engineer were sent on the following dates:

- 06th May 2015
- 14th May 2015
- 04th June 2015

- 1.8 To date no response has been received clarifying precisely what information the County Council drainage engineer requires. However, during a telephone conversation on 04th June, the engineer stated that the issue could readily be resolved by condition. However, without further clarification from the County Council engineer, the issue regarding drainage remains in dispute. Notwithstanding this lack of communication from the County Council drainage engineer, the proposal is accompanied with sufficient detail demonstrating that surface water can be adequately drained.

2.0 CASE FOR THE APPELLANT

- 2.1 Planning applications are to be determined in accordance with the development plan unless material considerations indicate otherwise¹. In respect of this appeal, the development plan comprises of the saved policies of the Cotswold District Local Plan (LP), 2006.
- 2.2 However, for two distinct reasons, saved LP policies in respect of housing supply are out-of-date. Firstly, the policies are formally/temporally out-of-date given that the development plan time-expired in 2011. Secondly, the policies are out-of-date by the operation of paragraph 49 of the National Planning Policy Framework: where a Local Planning Authority is unable to demonstrate a 5 year housing land supply, plus a requisite buffer, then development plan policies concerning the supply of housing are to be considered out-of-date.
- 2.3 Cotswold District Council is unable to demonstrate a 5 year housing land supply; a point that has been confirmed by recent planning appeal decisions and a position that still currently applies based on assessment undertaken by RCA Regeneration. The shortfall in housing land supply stems from an under-estimation of the Council's objectively assessed housing need alongside the fact that a number of sites that the Council consider deliverable within the next 5 years are in conflict with footnote 11 to paragraph 47 of the Framework.
- 2.4 Based on the above, it is considered that paragraph 14 of the Framework is fully engaged in respect of this appeal. The appellant accepts that the appeal site is situated within an Area of Outstanding Natural Beauty, which is an environmental designation contained within footnote 9 to paragraph 14.
- 2.5 The appeal proposal therefore has to be determined against the criteria prescribed in paragraph 116 of the Framework. This paragraph clearly indicates that major developments within such designations can be acceptable so long as the proposal satisfies key assessment criteria. These three tests are that there is a need for the development; limited scope for the development to proceed

¹ S38(6) Planning and Compulsory Purchase Act 2004

elsewhere and the ability to mitigate any detrimental effect on the environment. These criteria are explored below:

Development Need and Public Benefit:

- 2.6 There is a substantial need for the development. The need for the development arises from the Local Planning Authority's continued lack of housing land supply which has resulted in Cotswold District Council failing to significantly boost the supply of housing (as required by paragraph 47 of the Framework) and failing to deliver a balanced, inclusive and mixed community (as required by paragraph 50 of the Framework).
- 2.7 Detailed scrutiny of the housing land supply reveals a significant need for development across the District (i.e. a need at the local level). At the national level, the Framework has introduced a policy imperative on Local Planning Authorities to significantly boost the supply of housing (i.e. a need at the national level). In both instances, the appeal development positively addresses these requirements.
- 2.8 The test under the first criterion of paragraph 116 of the Framework has previously been examined at a Planning Appeal within Cotswold District Council's administrative boundary. Paragraph 14.48 of the Inspector's Report on the Highfield Farm, Tetbury appeal (APP/F1610/A/11/2165778) states:

"The Council pointed out that one measure of need would be whether or not there was already a sufficient supply of housing land to meet its requirements for the next five years. As I have discussed above, there is not; on that basis, there is clearly a need, and a pressing one at that, for the houses now proposed. This is reinforced by the Framework objective "to boost significantly the supply of housing", and the government's focus on the importance of getting the economy growing through the delivery of housing."

- 2.9 Based on the fact that there is a significant need for the development at both the local and national level, the appeal proposal is fully compliant with the first criterion of paragraph 116 of the Framework.

Cost of, and scope for, development outside of the AONB:

- 2.10 There is no scope for development outside the AONB capable of meeting the full objectively assessed housing need of the district. The designation itself is heavily prevalent across the District and the table below identifies the Council's identified growth settlements (as set out within the emerging Local Plan) and their location in respect of the AONB. Furthermore, the table contains the proposed scale of growth for each settlement as currently contained within the emerging Local Plan.

Settlement	Location in respect of AONB	Scale of growth
Cirencester	Land to the north and west of the settlement is within the AONB	3,387
Andoversford	Situated entirely within the AONB.	108
Blockley	Situated entirely within the AONB.	59
Bourton-on-the-Water	Situated entirely within the AONB.	337
Chipping Campden	Situated entirely within the AONB.	208
Down Ampney	Outside the AONB.	54
Fairford	Outside the AONB.	442

Kemble	Outside the AONB.	70
Lechlade	Outside the AONB.	114
Mickleton	The southern aspect of the settlement is within the AONB.	149
Moreton-in-Marsh	The western aspect of the settlement is within the AONB.	840
Northleach	Situated entirely within the AONB.	96
South Cerney	Outside the AONB.	155
Stow-on-the-Wold	Situated entirely within the AONB.	121
Tetbury	Situated entirely within the AONB.	763
Upper Rissington	Situated entirely within the AONB.	394
Willersey	Southern part of the village (including the majority of residential properties) is situated within the AONB.	85

- 2.11 Excluding Cirecenster, which is the main urban area within the district, a total of 3,995 homes are proposed to the remaining growth settlements. Of this figure, 2,086 new dwellings (52.2%) are allocated to settlements entirely covered by AONB designation. This figure does not include any growth within the AONB where the designation partly encompasses the settlement (e.g. Willersey).

- 2.12 This issue has been previously examined in detail within Cotswold District Council's administrative boundary, most notable at an appeal on land off Station Road, Bourton-on-the-Water². In allowing the appeal, the Inspector stated "*To confine development to those few settlements which are outside the AONB would be likely to unbalance the area's growth and put a considerable strain on those communities. In this context, it is worth re-stating that Bourton has been identified as a village for some growth*".
- 2.13 As previously highlighted, Willersey is identified as a sustainable settlement for growth within the emerging Cotswold District Local Plan. The AONB encompasses the main core of the village which incorporates the majority of the residential properties of the settlement. The appeal site itself is situated on the edge of the AONB with the appeal site's northern boundary being adjacent to the border of the designation. To this end, the site is not of high landscape value when compared to other areas within the designation which are situated more centrally within the AONB.
- 2.14 Furthermore, the scale of the appeal development equates to just 1.8% of the growth currently proposed by the Local Planning Authority to the settlements other than Cirencester.

Detrimental impact upon the environment and extent it can be moderated:

- 2.15 Land to the north of the appeal site is situated outside the AONB and it is not considered to be of such landscape quality as to merit the designation. The appeal site, by virtue of its location adjacent to such undesignated open countryside, is of less value than other aspects of the AONB.
- 2.16 Notwithstanding the above, any landscape quality associated with the western aspect of the village has been detrimentally impacted upon by the recent approved developments to the north and south of the appeal.

² Appeal reference: APP/F1610/A/13/2196383

- 2.17 Whilst the delivery of new residential properties upon the appeal site will change the landscape appearance of the site itself; any such change is not detrimental to the AONB landscape. This is particularly the case for the appeal development given the site's location immediately adjacent to a number of existing developments and urbanising features.
- 2.18 Furthermore, proposed mitigation planting along the appeal site's boundary edges will limit the visual impact of the proposed scheme to views in from elevated ground to the south. Consequently, the rationale behind the Local Planning Authorities first reason for refusal is unjustified.

3.0 PLANNING BALANCE

3.1 The appeal proposal constitutes sustainable development by virtue of the fact that it positively responds to the three interrelated social, economic and environmental roles.

Social Role:

3.2 The appeal proposal will deliver much-needed open market and affordable housing, for which there is an identified shortage within the district.

3.3 The site is in a highly accessible location. The identification of Willersey as a growth settlement is derived from the presence of a number of key services in the village, including:

- Willersey Primary school
- 2 public houses
- Petrol station with a small convenience retail facilities
- Employment opportunities
- Public transport connections
- Village hall and a church

3.4 Notwithstanding the above, it is also important to note the demographic composition of the settlement. 2011 Census data identifies that the Parish has a population of 816 residents but only 599 are of working age (63.6%). In comparison, 16% of the UK's population were of retirement age of which 90% were economically inactive. These statistics demonstrate that there is a higher percentage of economically inactive residents within Willersey. To this end, the appeal development can aid the balancing of the local population through the delivery of new family homes.

Economic Role:

- 3.5 The development will promote economic prosperity through the creation of direct jobs within the construction sector and as well as further employment opportunities within the wider supply chain.
- 3.6 Furthermore the scheme will contribute New Homes Bonus to the Local Planning Authority during a time of further public sector spending reductions. Such financial contributions will provide financial assistance for the continued delivery of key public services.
- 3.7 The development will also increase the level of disposable income which will be spent locally. This will underpin the continued viability of local businesses and services.

Environmental Role:

- 3.8 While noting that the appeal development will result in a non-detrimental, limited change to the immediate landscape, the environmental role extends far beyond landscape impact.
- 3.9 Firstly, the use of a suitably worded planning condition can ensure that the environmental net gains identified within the original phase 1 habitat survey can be delivered.
- 3.10 Furthermore, delivering growth within close proximity to key services will ensure a modal change in transport and thus reduce reliance on private car travel.
- 3.11 As part of the balancing exercise, the above evidence will demonstrate that the significant positive contributions arising from the appeal development are not outweighed against the low level of landscape impact.
- 3.12 Nonetheless, detailed landscape evidence will be provided by Ms H Donnelly of DNS Planning and Design which will set out the landscape characteristics of the

site and surrounding area. Furthermore, this evidence will demonstrate how the development of this land would not significantly or demonstrably harm the character or appearance of the designation. The use of a carefully worded planning condition will ensure that any limited harm will be sufficiently mitigated.

4.0 CORE DOCUMENTS

4.1 The table below details the range of documents that are pertinent to the appellant's case and will be referred to within the proofs of evidence.

CD	UK Acts of Parliament
1	Town and Country Planning Act 1990 (as amended)
2	Planning and Compulsory Purchase Act 2004 (as amended)
3	Planning Act 2008
4	Localism Act 2011
	Statutory Instruments
5	Town and Country Planning (General Development Procedure) Order 1995 (SI; 1995/419) (As Amended)
	National Policy
6	National Planning Policy Framework
7	National Planning Practice Guidance
	Development Plan Documents
8	Cotswold District Council Local Plan 2001 - 2011

	Planning Application and Supported Documents
9	Planning Application (as amended) and associated correspondence, together with all supporting plans and drawings and related correspondence
	Decision Notice
10	Decision notice and case officer's delegated report
	Other documents
11	Emerging Cotswold District Council Local Plan (2011 – 2031) including associated evidence base, including: 11a: Strategic Housing Market Assessment, March 2014 11b: The Cotswold Housing Requirement, March 2014 11c: Evidence paper: Rural Housing Policy, December 2014 11d: Role and function of settlements study, July 2012 11e: SHLAA review, May 2014 11f: Strategic employment land availability assessment, May 2014 11g: The White Report (examining local landscapes), 2014 11h: Cotswold District Council, 5 year housing land supply May 2014

12	The following appeal decisions are also of relevance in respect of this appeal, albeit the list is not exhaustive. • APP/F1610/A/11/2165778 – Highfield Farm, Tetbury (13th February 2013) • APP/F1610/A/13/2196383 – Land of Station Road, Bourton-on-the-Water (15th January 2014) • APP/F1610/A/14/2213318 – Land south of Cirencester Road, Fairford (22nd September 2014) • APP/F160/A/14/2227938 – Land west of Field House, Broadway Road, Willersey, Gloucestershire (06th February 2015) • APP/F1610/A/13/2203411 – Land at Oddington Road, Stow-on-the-Wold (27th March 2015)
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5.0 CASE FOR INQUIRY

- 5.1 The appellant considers that an inquiry is the only suitable procedure for the consideration of this planning appeal. This aspect of the Statement of Case details the justification for the appeal procedure and is based upon guidance contained within PINS Guidance "*Planning Appeals – England*".
- 5.2 The evidence needs to be tested and explored through cross-examination and targeted legal submission. Furthermore, the issues are complex and there is a significant level of local interest.
- 5.3 The appellant contends that there is substantial need for the development in line with the criteria of paragraph 116 of the Framework. This stems from the fact that the Local Planning Authority has a longstanding undersupply of market and affordable housing and accordingly cannot demonstrate a 5 year housing land supply. However, given that Cotswold District Council contend that they have such a housing land supply despite repeated appeal decisions to the contrary, it will be necessary, once again, to test the Council's latest housing supply evidence.
- 5.4 The issue around the objectively assessed housing needs for the District is complex and accordingly require a high detail of analysis, supported by oral evidence and subject to technical scrutiny.
- 5.5 There is also a very high degree of local interest associated with the proposal; as demonstrated by a high level of comments received during the pre-application public consultation. However, Cotswold District Council do not publish public comments received during the application; as such the appellant is unsure as to the scale of any representations submitted during the formal consultation period.
- 5.6 Based on the issues contained within the decision notice, the appellant expects to call the following three expert witnesses;
- Mr P Deeley MPlan (Hons) MRTPI of RCA Regeneration

- Ms H Donnelly, DNS Planning and Design
- Mr R Brunt, Robert West Consulting. The attendance of Mr Brunt is dependent upon the Local Planning Authority maintaining their position that insufficient evidence has been submitted in respect of surface water drainage.

5.7 On the basis of the current reasons for refusal it is anticipated that between 2 and 4 days will be required for this inquiry.