
Appeal Decision

Site visit made on 16 August 2016

by B Bowker Mplan MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 September 2016

Appeal Ref: APP/X0415/W/16/3148718

Jewson Ltd, Quill Hall Lane, Amersham, Buckinghamshire HP6 6LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lexham Properties Ltd against the decision of Chiltern District Council.
 - The application Ref CH/2015/1764/FA, dated 17 September 2015, was refused by notice dated 17 November 2015.
 - The development proposed is demolition of existing builder's merchant and erection of 7 new dwellings and associated works. Change of use from sui generis to residential.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether, having regard to development plan policy relating to employment land, it is appropriate to permit residential development on the appeal site;
 - Whether the proposed development would provide acceptable living conditions for future occupants with particular reference to amenity space, and noise and disturbance; and,
 - The effect of the proposal on the character and appearance of the surrounding area.

Reasons

Employment land

3. The appeal site comprises a builders' merchant surrounded by employment use to the south, residential use to the west, and a railway line to the east. The site is occupied and is located within an Area for Business General Industry and Storage or Distribution Development as defined by Policy E2 of the Chiltern District Local Plan (CDLP). Combined, Policy E2 and Policy CS16 of the Chiltern District Core Strategy (CS) seek to prevent the loss of employment sites to non-employment uses unless certain criteria are met. Policy CS16 states that the redevelopment of employment land for non-employment uses will be acceptable where there is no reasonable prospect of the site being used for employment purposes, or if the existing employment use is creating significant amenity or highway problems.
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4. Although both policies predate the National Planning Policy Framework (the Framework), I am satisfied that Policy CS16 is consistent with the approach to employment land outlined in the Framework, in particular the requirements set out in paragraph 22. Consequently, I attach full weight to Policy CS16. In reaching this decision, I also note that the Inspector determining the appeal at the Old Coal Yard¹ considered Policy CS16 to accord with the Framework.
5. The appellant suggests that the appeal site should not be judged against employment land policies, due to the current use upon it. I do not agree. Although the use may be considered as *sui generis*, the site is clearly part of a wider employment land area, identified in the development plan, and has been assessed as such in the Council's most recent employment land report, which is cited extensively by both parties. Thus, for the purposes of development plan policy cited above, I consider the site is an employment use comparable with those to the south of the site.
6. The appellant contends that as the land to the north of Raans Road is predominantly residential in use and domestic in scale, the current use of the site is not appropriate to its surroundings. The presence of speed bumps, signage regarding HGV Lorries, and the width of Quill Hall Lane are also cited as reasons to prove that the site's use is not suitable. However, I have no evidence before me to demonstrate that the current use of the site has caused any significant amenity or highway problems in the vicinity as required by Policy CS16.
7. The site is linear in shape and located at the northern tip of the employment allocation, so in this sense it can be considered distinguishable from nearby employment sites. In addition, the 2013 GL Hearn Employment Site Appraisal report identifies that the site is physically distinguishable from employment sites to the south and rates the site's importance and contribution to strategic economic objectives as 'average'. However, as the Council note, the GL Hearn report also recommends that any redevelopment required would be to provide modern commercial premises, and does not refer to residential redevelopment. Moreover, the GL Hearn report does not take into account employment need and the Council has identified a need for 15 hectares of employment land based on a recent study².
8. Submissions from Jewson Ltd outline that the business is performing financially well and that a renewal of the leasehold will be sought. Therefore, to my mind, the existence of a viable business with a long term intention to stay at the premises is a strong market signal that the site could remain in employment use for some time. Whilst the appellant considers that the site is small in area and is a low employment generating use, it nonetheless generates 7 direct jobs, and is likely to generate additional indirect employment.
9. I do accept that protecting commercial interests is not the purpose of the planning system. However, with an evidenced need for additional employment land and an extant viable business operating from the site, it cannot be shown that there is no reasonable prospect of the site being used for employment purposes.

¹ APP/X0415/W/15/3129202

² Central Buckinghamshire Housing and Economic Development Needs Assessment 2015, consultation draft January 2016

10. Permitted development rights in relation to change of use of certain commercial premises to residential have been introduced recently. Nonetheless, these rights are subject to specific criteria and are not being exercised here. Nor is there any evidence before me to suggest that they could or would be. As such, this factor does not weigh in favour of the appeal proposal.
11. Reference is made by the appellant to paragraph 51 of the Framework and 'strong economic reasons' needed to refuse planning permission referenced in it. However, the paragraph clearly uses the words 'should normally approve', indicating that this is not a rigid requirement. It seems to me that, although the site may not be the jewel in the crown of the District's employment land portfolio, it is far from redundant and there is no evidence before me to indicate that it cannot continue to make a valuable contribution to the economic development of the area.
12. Therefore, I conclude that, having regard to development plan policy relating to employment land, it is inappropriate to permit residential development on the appeal site. The proposal is contrary to Policy E2 of the CDLP, Policy CS16 of the CS and paragraphs 22 and 51 of the Framework. Combined, these policies seek to prevent the loss of employment sites in order to help maintain the local economy and local employment.

Living conditions

13. The proposed layout is designed in response to the triangular shape of the site and the embankment along its southern boundary. As a result, a number of the gardens would have a depth of 10 metres, compensated for in width to provide, in my judgement, an adequate amount of garden space for future occupants. However, the width of the garden at plot No 6 would be narrow and therefore would provide a garden area appreciably smaller in size compared with other proposed plots. As a result, I have concerns that the garden area at plot No 6 would not be large enough for typical garden purposes such as drying clothes, an area for table and chairs, and for general relaxation. This would be particularly harmful to future occupants residing at plot No 6 which could accommodate up to four residents.
14. During my site visit, I observed that residential development further north of the site is close to the railway track. In this context, I have no evidence that such circumstances have given rise to an unacceptable level of noise and disturbance for existing residents. Furthermore, only two trains passed the site during my visit and did so at a relatively slow speed and therefore did not generate a high level of noise and disturbance. Consequently, in my view, trains travelling past the site would not give rise to a harmful level of noise and disturbance for future residents, including those wishing to spend time in their garden. However, the lack of harm by way of noise and disturbance would not remove the harm identified to future occupants in relation to inadequate garden space.
15. I have found that the proposed development would provide adequate living conditions for future occupiers with regard to noise and disturbance. Nonetheless, this does not outweigh my findings with regard to outdoor amenity space for plot 6. Therefore, I conclude that the proposal would not provide acceptable living conditions for all future occupiers in this regard. Consequently, the proposal is contrary to CDLP Policies GC3 and H12, and paragraph 17 bullet point 4 of the Framework. Combined, these policies seek

to ensure development provides a good standard of amenity for future occupants.

Character and appearance

16. Dwellings opposite the site at Charter Drive, Centenary Way, and Scholars Way have gable roof designs and respond to their respective estate road, thus are relatively ordered in layout. In comparison, the proposal includes more varied roof designs, and owing to its 'L' shaped layout, the dwellings would not front onto Quill Hall Lane. However, I observed that the properties to the west of the site are set away from Quill Hall Lane and are bounded by large trees and hedgerows. Therefore, views of the proposal next to the existing residential properties would be limited. Moreover, the design, two storey scale and external materials proposed for the dwellings would complement those in the surrounding area.
17. I am also satisfied that appropriate landscaping to the front of the site would overcome the Council's concern about views of the proposal from Quill Hall Lane. Such landscaping would also complement the trees and hedgerow to the immediate west of the site. The appellant has also outlined that the proposal would only comprise 24 dwellings per hectare which indicates that the proposal would not have a cramped appearance in relation to its surroundings. The staggered layout of the dwellings would further reduce the proposal's visual effect. Acceptable details regarding the hard standing could be secured by appropriately worded planning conditions. In addition, as sufficient space is to the front of plots 5 and 6, a condition could also ensure satisfactory refuse and recycling facilities without detriment to surrounding character and appearance.
18. Therefore, I conclude that the proposal would not have a harmful effect on the character and appearance of the surrounding area. Consequently, the proposal meets the requirements of CDLP Policies GC1 and H3, and CS Policies CS4 and CS20 which requires development to be designed to a high standard that is in scale and character with its surroundings.

Other matters

19. I acknowledge that the proposal would make a contribution to housing supply, occupy a sustainable location and redeveloping a brownfield site. In addition, I have identified no harm in relation to the proposal's effect on the character and appearance of the surrounding area. However, these matters are outweighed by the harm identified in relation to the loss of employment land and the living conditions of future occupants.
20. It has also been put to me that the housing targets outlined in the CDLP and CS are out of date, and consequently the Council cannot demonstrate a five year supply of housing land. However, no substantive evidence is before me to reach a conclusion on this matter. Even if I were to conclude there is a shortfall in 5 year supply as suggested by the appellant and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission identified above would significantly and demonstrably outweigh the benefits arising from the proposal.
21. I have had regard to the Council's reason for refusal relating to affordable housing. I also note that the parties have a different opinion regarding the proposal's gross floor space in the context of the 1000 square metre threshold

outlined in the Written Ministerial Statement³. However, as I am dismissing the appeal for the reasons outlined above, I have not pursued these matters further.

Conclusion

22. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

B Bowker

INSPECTOR

³ Written Ministerial Statement, 28 November 2014