
Appeal Decision

Site visit made on 13 September 2016

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 6 October 2016

Appeal Ref: APP/E2734/W/16/3148175

Land to the North of Ash Grove, Ash Grove, Ripon, North Yorkshire HG4 2DJ

- 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 MCR Property Group against the decision of Harrogate Borough Council.
 - The application Ref 6.31.1556.D.FULMAJ, dated 1 August 2014, was refused by notice dated 16 September 2015.
 - The development proposed is demolition of existing commercial units and development of 49 residential dwellings and associated infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The scheme before me differs considerably from that described in the application form and in the banner heading above. This is because the proposal for the site evolved during the application stage, whereby a number of residential units were removed to make way for the provision of industrial units to be located at the site's frontage. The Council's decision, as is mine, is subsequently based on the amended scheme.
3. While not raised as a main issue, the Council states that financial contributions towards local services and facilities made necessary by the proposed development would be required in the event planning permission is granted for the scheme. Prior to my site visit, only a draft version of the obligation existed and I allowed the appellant further time to provide a finalised version, and for the Council to comment on it. A signed Unilateral Undertaken dated 30 September 2016 was subsequently submitted. The Council however points to a number of general omissions and apparent errors within it such that it objects to the obligation as submitted. Because of this, I find that the adequacy of the obligation is also a main issue, and I am satisfied that my decision will not prejudice the main parties, who have had adequate opportunity to respond accordingly.

Main Issues

4. Therefore the main issues are:
 - The effect of the proposed development on employment;

- Whether the proposed development provides an adequate mix of dwellings; and
- Whether the proposed development makes adequate provision for local facilities, services and infrastructure made necessary by the development.

Reasons

Effect on employment

5. The appeal site mainly comprises a series of small sized and low key commercial buildings. The main parties agree that these buildings are substandard and poorly accessible for commercial traffic, and that as an employment site its overall quality is poor. I have no reason to disagree, observing at my site visit that many of the units are vacant and sealed off by fencing, and are in a considerably dilapidated condition.
6. Policy E2 of the Harrogate District Local Plan 2001 (with Saved Policies) (Local Plan) states that the loss of industrial/business land and premises to other uses will not be permitted except in circumstances. The Council states that no such circumstances apply here and I have no reason to disagree. Policy JB3(d) of the Harrogate District Local Development Framework Core Strategy 2009 (Core Strategy) states that a good range and mix of employment sites will be enhanced by maintaining an appropriate mix of sites and premises to ensure adequate provision for small and medium enterprises.
7. Notwithstanding the current condition, I acknowledge that smaller and older buildings on sites such as this do have a role and purpose in providing a diverse range of employment accommodation in the borough. Such units would generally command lower rents, and would be attractive for new start-up businesses and other uses which may otherwise be unable to afford more modern and subsequently expensive accommodation. However, it is common ground that the current building stock on the appeal site cannot continue to exist indefinitely, and that significant investment and expenditure would be required to improve energy performance and to provide modern attractive premises. It follows that without such investment, the site's future as an employment provider could be in some doubt.
8. The Council considers that improvements to the existing buildings could be undertaken through an incremental programme of works and on a rolling basis, rather than in one go, which it says would keep initial investment costs low, and would allow the refurbished units to generate higher rental values and thus increase capital for further improvements.
9. However the appellant's viability statement states that because of the site's poor condition and access, the cost of redevelopment of the site whether undertaken incrementally or holistically, and to retain it in sole employment use, would be so substantial that it would result in a significant negative land value. It would also not be capable of raising rents sufficiently from the refurbished units to make such an investment viable or worthwhile to justify the expenditure. The values afforded by the appellant in the viability assessment, including demonstration that a mixed use redevelopment of the site would be viable, have not been disputed by the Council, and neither party has evidenced the possibility of such improvements being capable of being part

funded through grant funding. As such, I find the appellant's evidence on viability to be robust and persuasive.

10. The proposed development would in any event retain employment on the site by providing 559 sq.m of new commercial floor space to replace the existing stock. The appellant states that while some of the existing businesses would be able to relocate into the new units, some would inevitably be displaced as a result. I have noted both the Council's view in respect to the unsuitability of the nine other employment sites in the area identified within its Employment Land Review to accommodate those businesses, as well as the relocation difficulties encountered by existing tenants. However, neither provides any conclusive evidence that alternative accommodation is non-existent, unavailable, impractical, or that it would severely harm viability. I am subsequently not persuaded that the displaced businesses, assuming the new units would not be feasible, would not be capable of finding local alternative and vacant premises.
11. Therefore for the reasons set out above, I am satisfied that the proposed development would not cause significant harm to employment provision in the borough. The proposed development would accord with Local Plan policy E2 and with Core Strategy policy JB3(d), details of which I have identified above.

Housing Mix

12. Paragraph 50 of the National Planning Policy Framework (the Framework) states that to deliver a wide choice of high quality homes, local planning authorities should plan for a mix of housing based on current and future demographic and identify the size, type, tenure and range of housing that is required in particular locations.
13. The appeal scheme would provide 16 three bedroom dwellings and 20 four bedroomed properties. The Council states that its Strategic Housing Market Assessment (SHMA) for 2015 identifies that little need exists for 4 bedroom houses within the borough, but there is a growing demand for 1, 2 and 3 bedroomed dwellings.
14. While I accept that the Council might prefer a mix to include a greater number of smaller dwellings, the site would still provide housing to help meet the overall need in the Borough, including three bedroomed houses which the Council acknowledges would be part of its preferred mix. I also note this is a relatively small scale site and it is inevitable that other sites will come forward with a higher proportion of one and two bedroomed properties, or indeed entirely composed of such smaller dwellings. The Council has not identified any development plan policy which requires a specific housing mix to be provided on each individual development site.
15. I find that proposed development would not undermine the ability of the Council to meet its housing needs, including the greater proportionate need for smaller dwellings, over the Borough. It would accord with the Framework and the Council's SHMA.

Whether adequate provision is made for local facilities, services and infrastructure

16. As discussed above, the Council states that the proposed development would generate the need for a legal agreement to be completed to provide for developer contributions towards local services and facilities. In this case,

financial contributions of £122,364 towards education and £66,041.32 for open space are required. The Council accepts that because of the scheme's viability and the cost of provision of new employment units, affordable housing would not be sought. While the Council has offered no specific local policies to support its position, the appellant has not disputed the need for the obligation, or the sums sought by the Council or North Yorkshire County Council (the County Council). On the evidence before me and having regard to the tests set out in paragraph 204 of the Framework, I am satisfied that all the requests made have been sufficiently reasoned and justified, and that they meet the tests of the Framework.

17. However, I concur with the Council's concerns that the legal agreement fails to provide evidence in the form of the Title Deed from the Land Registry to confirm that the ownership of the land is indeed the company specified in the obligation. I find that without such evidence, the obligation is ineffective and flawed, as if it transpired that the two were not the same, the proposed development could be implemented without the landowner being bound by the terms of the obligation. Notwithstanding the number of errors which references incorrect clauses and which further undermines its credibility, as I have found the requests to be reasoned and justified and meet the tests of the Framework, such circumstances would place considerable additional pressures upon local services and facilities which in my judgement would cause significant harm to the local area. This is sufficient for me to find against the proposed development.

Other Matters

18. Concerns have been raised by residents in respect to the condition of existing local roads in the area, and whether further traffic from the proposed development could be accommodated. While I noted the road conditions of Ash Grove and the quantum of parked cars on either side of it, no evidence is before me which suggests the proposed development would be detrimental in its effects. Neither the Council nor the County Council raised this as an issue, and I have no reason to find otherwise. Land stability and drainage matters have not been substantiated in evidence by any party, such that I have not considered the matter further in my Decision.

Conclusion

19. For the reasons given above, I am satisfied that the proposed development would not undermine employment strategy in the borough, and that it would provide a good mix of housing to meet need. However, I find Legal Agreement to provide financial contributions towards local services and facilities made necessary by the proposed development fails to demonstrate that the landowner is suitably bound by the obligation, such that I find it to be unsound.
20. I conclude therefore that the appeal should be dismissed.

R Allen

INSPECTOR