
Appeal Decision

Site visit made on 20 September 2016

by Rory Cridland LLB (Hons)

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

Decision date: 20th October 2016

Appeal Ref: APP/Q3305/W/16/3152101

Land to the West of Date Palms Ltd, Ham Street, Baltonsborough, Glastonbury BA6 8PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Flower & Hayes Ltd against the decision of Mendip District Council.
 - The application Ref 2015/2532/OTS, dated 20 October 2015, was refused by notice dated 19 February 2016.
 - The development proposed is the erection of dwellings together with highway works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of dwellings together with highway works at Land to the West of Date Palms Ltd, Ham Street, Baltonsborough, Glastonbury BA6 8PT in accordance with the terms of the application, Ref 2015/2532/OTS, dated 20 October 2015, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on that basis, treating all plans as illustrative.

Application for costs

3. An application for costs was made by Flowers & Hayes Ltd against Mendip District Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is whether the loss of the existing site for employment purposes would be detrimental to the economic well-being of the area.

Reasons

5. The appeal site is situated within the settlement boundary of Baltonsborough, defined as a primary village by Policy CP1 of the Mendip District Local Plan 2006-2029 (LP). It consists of an area of land located to the west of Date Palms Ltd, a business specialising in the production of date palms. The site is part of a larger area of land with a convoluted planning history and which was previously occupied by glasshouses and buildings associated with the date palm business. Those structures were demolished as part of a planning permission granted in 2003, which I understand also involved the relocation of the date palm business to its current position to the east of the appeal site.
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6. The site itself benefits from extant permission for the erection of 8 industrial units which was obtained as part of a reserved matters application¹ on a larger development site. These units have not yet been constructed.
7. The Council is concerned that the proposal would result in the loss of an employment site and as a result would erode some of the inherent sustainability of the settlement. In support of this it refers to LP Policy DP20 which supports proposals for development on land or buildings previously used for activities falling within use classes B1, B2 or B8 where it can be demonstrated that the re-use for non-class B uses will deliver comparable employment generation or wider economic benefit and would not prejudice the Council's wider employment land strategy.
8. The appeal site is not currently used or allocated for employment purposes. However, the Council has suggested that, in view of the previous activities undertaken on the site and based on local knowledge, its previous use would fall within one of the B use classes specified in LP Policy DP20 and, as such, would result in the loss of an employment site. However, little evidence has been submitted in support of this and in view of the range of uses previously undertaken on the site, in the absence of anything which indicates otherwise, I agree with the Council's planning officer that it would more likely fall within a sui generis use class. Accordingly, LP Policy DP20 is not engaged.
9. While I note the concerns of both the Parish Council and local residents at the loss of a potential employment site, the appellant has submitted evidence which indicates that there is a limited market for the development of the site for such purposes. Furthermore, I have seen no firm policy basis which would justify withholding permission for a scheme such as that proposed on a vacant site not allocated for employment purposes.
10. I am therefore satisfied that the site would not result in the loss of an employment site and as such would not be detrimental to the economic well-being of the area. Accordingly, I find no conflict with LP Policies CP1, CP3, CP4 or DP20, which, taken together, seek to ensure that new development is tailored to meet local needs, support business development and where necessary, delivers comparable employment generation.

Other Matters

11. The Council has identified a need for planning obligations in respect of affordable homes, education and the provision of public open space. These are supported by LP Policies DP11, DP19 & DP16 respectively. The appellant does not dispute the need for such contributions and on the evidence before me, it appears that the need for the obligations sought arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010.
12. As part of this appeal, the appellant submitted a Unilateral Undertaking (UU) which sought to secure the above obligations to which the Council raised a number of objections. Although the original UU submitted by the appellant was unacceptable, an alternative document has since been provided which addresses these concerns and adequately secures appropriate contributions for the matters sought. While I note the Council's concerns regarding defined

¹ Ref: 2014/1791/REM

terms, these are minor drafting errors and would not be fatal to its enforceability against the owner.

13. Likewise, while I note the Council's position in respect of the previous UU entered into, the existence of the earlier document does not affect either the validity or the enforceability of the latter. I am therefore satisfied that the development makes adequate provision in respect of affordable housing, public open space and education contributions and would not be in conflict with LP Policies DP11, DP16 or DP19.

Conditions

14. I have had regard to the conditions suggested by the Council. In addition to the standard time commencement conditions and those relating to the submission and approval of the reserved matters, those relating to drainage and sewage are necessary in order to ensure the site has sufficient infrastructure to accommodate the scheme. Likewise, I consider a construction method statement to be necessary in the interests of amenity and in order to provide continuity with the neighbouring site. A number of these conditions need to be discharged before work commences on site as these relate to matters which need to be resolved on a fully coordinated basis.
15. However, I do not consider the suggested conditions regarding landscaping and highways to be necessary as these matters can adequately be dealt with at reserved matters stage.

Conclusion

16. For the reasons set out above, I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE

Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) No development shall be undertaken on-site unless a surface water drainage scheme, based on sustainable drainage principles, together with a management and maintenance plan for the lifetime of the scheme, has been first submitted to and approved in writing by the Local Planning Authority. No building hereby permitted shall be occupied until the sustainable drainage scheme has been completed in accordance with the approved details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 6) No development shall commence on any relevant phase of the development hereby permitted until details of a scheme for the disposal of sewage has been submitted to and approved in writing by the local planning authority. No building shall be occupied until the disposal scheme for the development has been constructed in accordance with the approved details.