
Appeal Decision

Hearing held on 1 November 2016

Site visit made on 1 November 2016

by Michael Boniface MSc MRTPI

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

Decision date: 05 December 2016

Appeal Ref: APP/J0405/W/16/3154094

Former Buston Garage Site, School Hill, Charndon, OX27 0BL

- 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 Hobbs Developments Ltd against the decision of Aylesbury Vale District Council.
 - The application Ref 15/03623/APP, dated 21 October 2015, was refused by notice dated 29 February 2016.
 - The development proposed is demolition of the existing buildings and construction of 14no dwellings with associated landscaping, parking and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Prior to the Hearing, the appellant submitted additional information to the Council with respect to the proposed drainage proposals. In light of this, the Council confirmed that its concerns in respect of its fourth reason for refusal had been overcome. I have considered the appeal on this basis.
3. The parties had also reached agreement on the terms of a Unilateral Undertaking to provide appropriate Planning Obligations by the time of the Hearing. As such, the Council did not pursue its sixth reason for refusal. A completed Unilateral Undertaking has subsequently been provided and I have had regard to it.
4. It is common ground between the parties that the Council cannot demonstrate a deliverable five year housing land supply in accordance with the National Planning Policy Framework (the Framework)¹. In such circumstances its relevant policies for the supply of housing should not be considered up-to-date² and the presumption in favour of sustainable development applies. For decision taking, this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole; or specific policies of the Framework indicate that development should be restricted³. I have considered the appeal on this basis.

¹ Paragraph 47 of the Framework

² Paragraph 49 of the Framework

³ Paragraph 14 of the Framework

Main Issues

5. The main issues are whether the site is in a suitable location for residential development having regard to planning policy; whether future residents would be unduly reliant on private vehicles; the effect on highway safety; the effect on the character and appearance of the area; and the effect on local employment provision.

Reasons

Location

6. The site comprises areas of hard standing and a range of dilapidated buildings that were most recently utilised for commercial purposes but have been vacant since 2012. The site is some distance from the nearest settlement of Charndon and it is agreed between the parties that it falls in open countryside. Undeveloped agricultural fields surround the site and an area of woodland stands opposite.
7. The Council outlines a strategy for directing development to the most sustainable settlements in the district, primarily at Aylesbury and then at a number of specified rural settlements. Charndon is not one of the settlements where the Council expects any significant growth, notwithstanding that emerging policy (of little weight given its early stage or preparation) might make some provision. I heard that this strategy was contained in the Aylesbury Vale District Local Plan (2004) (LP) but the relevant parts were not submitted as evidence, nor were any of its relevant policies for the supply of housing. I was told that these policies had not been provided in light of the agreed position between the parties that they were out of date, both parties agreeing that they should therefore attract no weight. As the policies are not before me, I am unable to take them into account, notwithstanding the requirements of S38(6) of the Planning and Compulsory Purchase Act 2004.
8. Both parties agreed that paragraph 55 of the Framework was applicable to the proposal. Generally, isolated new homes in the countryside should be avoided but provision is made for the re-use of redundant or disused buildings that would lead to an enhancement to the immediate setting. The appeal does not seek to re-use the existing buildings on site but it was recognised by both parties that the existing site impacted negatively on the character and appearance of the area and redevelopment represents an opportunity to improve the area. The Framework also seeks to prioritise the use of previously developed land.
9. There is dispute between the parties as to the extent of the site that should be considered previously developed land. Whilst I note that there is no planning permission for the various storage containers and stored vehicle bodies, much of the site was covered by hard standing and crushed gravel surface. This was clearly visible within the site and was likely to have been used in connection with the commercial use of the buildings; there is no evidence before me of any restrictions on its use.
10. Although the site is now overgrown, I do not consider this to be to such an extent as to have blended into the landscape in the process of time. I noted that the front part of the site accommodated notably less stored material and was more overgrown, absent of structures or hard surfacing. Whilst this is so,

it is not subdivided and appeared to be functionally linked to the remainder of the site. I am not convinced by the evidence available that differing uses are apparent on different parts of the site, notwithstanding any use in the past. The definition of previously developed land contained within the Framework is clear that the curtilage of the developed land should be included and I am satisfied that the entire site should be considered as such in this case.

11. The efficient re-use of previously developed land is a matter that weighs in favour of the proposal.

Reliance on private vehicles

12. The site is located in an isolated position outside the settlement of Charndon, which is itself poorly served by services and facilities, benefiting only from a village hall and recreation ground. A bus service is available within the village to Bicester and Aylesbury and the nearest bus stop is around 200m from the appeal site. However, it was accepted by the appellant that a relatively infrequent service was available with only a few buses throughout the day during the week, limited service on a Saturday and no Sunday service. As such, it is readily accepted by the appellant that there would be a heavy reliance on the private car for accessing day to day services and facilities.
13. Whilst the Framework recognises that the opportunities for sustainable travel will be less in rural areas, there is a clear objective to locate development where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Future residents would have very limited opportunity for accessing day to day services by sustainable modes of travel and it is clear that future residents would be reliant on private vehicles for accessing almost all day to day needs. Such reliance is clearly at odds with the Framework's objectives to promote sustainable transport and this weighs significantly against the proposed development.

Highway safety

14. There is currently no formal footpath link between the appeal site and Charndon, nor is any proposed as part of the appeal scheme. The appellant identified a section of verge that had recently been worked on and might be utilised as a footway. However, by the time of my visit the unbound surface was beginning to appear overgrown and it was clear that it would not serve as an appropriate footpath link for future residents, nor was it intended to do so. In any case it only stretched along a small part of the intervening distance between the site and the village and remains unlit.
15. School Hill is a rural country road without footpaths and is subject to a 40mph speed limit. Notwithstanding that I have established limited services and facilities likely to draw future residents into the village on foot, there would not be any safe walking route for future residents that might seek to utilise the village hall, recreation ground or bus stops. The prospect of walking on a rural country road is likely to further dissuade walking to the village but would also present a very real danger for future residents, particularly those less mobile or young children, likely to be present in the family sized homes proposed. The development cannot be said to provide safe and suitable access for all people and this weighs against the proposed development.

16. The Council raised a further concern that the necessary visibility splays at the proposed vehicular access would be unachievable within the land ownership of the appellant. However, it was agreed during the Hearing that this could be controlled by condition if planning permission were to be granted. I have no reason to reach a different conclusion as there is no reason to believe that any necessary consent from third party land owners would not be forthcoming.

Character and appearance

17. The existing buildings on site are dilapidated and utilitarian in appearance. Together with the sites unkempt appearance and the numerous storage buildings and stored/discarded materials across the site, the existing appearance has a negative impact on the surrounding undeveloped countryside and its intrinsic rural character. Whilst this is so, the existing buildings are relatively modest in terms of their scale and height and the other storage buildings and materials on site are similarly low level and concentrated on the rear portion of the site. As such, the surrounding tree planting and hedgerows provide some visual screening.
18. The proposed development would involve two storey residential buildings which would be significantly taller than the existing structures on site. Furthermore, the proposed buildings and associated works would spread across the entire site, involving development of a significant scale and mass at depth from the highway. The full extent of the scheme would be visible on long views along School Hill above the line of any boundary screening or planting, which it is accepted would need to be of a domestic scale, being within residential gardens. Views are also likely from the public right of way to the rear.
19. The scheme seeks to maximise the sites potential and make efficient use of the previously developed site. However, the Framework is clear that it should not be assumed that the whole of the curtilage of previously developed land should be developed⁴. The proposed development at depth has little regard for the linear settlement pattern at Charndon or the ribbon development close by at the far end of School Hill. The site would be seen as a separate parcel of development but the amount of development proposed, combined with the uniform and generic building design and layout would create a distinctly suburban form of development that would be at odds with the rural context of the site. This would result in a harmful urbanising impact on the countryside.
20. Whilst I recognise that the existing site detracts from the character and appearance of the area, the proposed development would in itself be harmful and the overall benefit is therefore tempered. The proposed scheme does not represent the good standard of design required by the Framework and fails to take the opportunities available for improving the character of the area. It would also be in conflict with Policy GP35 of the LP which requires that development respect and complement the physical characteristics of the site and the surroundings, the building tradition, ordering and form of the locality and the natural qualities and features of the area.

Loss of employment

21. Policy GP17 of the LP states that the Council will seek to retain existing employment sites and uses and sets a range of criteria that must be met for

⁴ Definition of previously developed land, Page 55 of Framework

changes of use or redevelopment to be considered favourably. The appellant suggests that the existing site and its extant use makes it a 'bad neighbour' and that its replacement would improve the living conditions of nearby residents. However, the site is located some distance from neighbouring residential buildings and there is no evidence before me to suggest any expressed concern or complaint arising from the sites activities. Therefore, I attach this matter little weight.

22. The Council highlighted the importance of the employment use (albeit that the site is currently vacant) given its rural context and the lack of employment available locally, suggesting that the site could contribute to local employment needs and more sustainable access to local employment for local people. This was not disputed by the appellant but it was said that the site is no longer suitable for employment purposes.
23. In this respect I have had regard to the Marketing Report (5 July 2016) undertaken by a commercial property agent. The report identifies the locational disadvantages of the site, suggesting that its rural context is not desirable for most occupants. Further, it is highlighted that the existing buildings are beyond economic repair and would be unlikely to be seen as acceptable to the market. Whilst this is so, some potential is noted, particularly for storage or vehicle maintenance uses, noting the benefits of the external hard surface area.
24. Despite the prospect of securing a further commercial use on the site, no marketing of the site has been carried out and I cannot conclude that the market has been robustly tested. Whilst there is no explicit requirement for marketing in policy terms, I am not persuaded by the evidence available in this case that an employment use is an unreasonable prospect. Whilst noting that the site is vacant at present, it has the potential to provide important rural employment for local people, the loss of which would be contrary to Policy GP17 of the LP.
25. The appellant refers to a recent Government consultation on potential changes to the Framework, including paragraph 22, suggesting a more favourable emphasis on the release of existing underused employment land. Whilst I have had regard to this consultation it is not yet policy and may never become policy. Under these circumstances I attach the matter little weight.

Planning balance

26. A number of benefits would arise from the proposed development, including the delivery of 14 dwellings of various sizes and types. In the context of the Framework's objective to boost significantly the supply of housing and the Council's shortfall in housing land supply, this is a benefit that I attach significant weight. I also attach significant weight to the benefit of efficiently re-using previously developed land as a priority over greenfield sites and moderate weight to the fact that redevelopment would facilitate 'tidying up' the existing site.
27. Whilst this is so, the harm that I have identified with regards to reliance on private vehicles, highway safety, loss of employment and the character and appearance of the area amount to harm that significantly and demonstrably outweighs the benefits.

Conclusion

28. In light of the above, and having considered all other matters, the appeal is dismissed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nick Stafford MRTPI	Agent
Tim Jones DIP VEM MRICS MEWI	Property Agent

FOR THE LOCAL PLANNING AUTHORITY:

Nina Hewitt-Jones MA(Dist) MRTPI	Senior Planning Officer
Del Tester	Lead Development Management Consultant

INTERESTED PERSONS:

Cllr Angela Macpherson	County and District Councillor
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DOCUMENTS SUBMITTED AT THE HEARING

- 1 Signed Statement of Common Ground
- 2 Proposed conditions
- 3 Local Plan extracts containing policies GP38, GP39 and GP40
- 4 Appeal decision ref. APP/J0405/W/15/3139518
- 5 Reptile Survey, Great Crested Newt Survey, Motion Camera Monitoring, Black and Brown Hairstreak Winter Survey and Bat Survey (5 September 2016)

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1 Completed Unilateral Undertaking