
Appeal Decision

Site visit made on 10 January 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 8th March 2017

Appeal Ref: APP/W0340/W/16/3158031

Glenvale Nurseries, Hungerford Lane, Southend, Reading, Berkshire RG7 6JH

- 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 Mr J Atkinson (Charlesgate Homes Limited) against the decision of West Berkshire Council.
 - The application Ref 16/01193/OUTD, dated 29 April 2016, was refused by notice dated 6 September 2016.
 - The development proposed is the demolition of Glenvale Garden Centre and associated buildings and replace with 5 custom build houses with associated garages using existing access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form with access being considered at the outline stage and I have dealt with the appeal on this basis.
3. The Council have referred to Policy C1 of the Draft West Berkshire Council Proposed Submission Housing Site Allocations Development Plan Document (November 2015) (DPD). However, from the information before me the examination of this emerging plan has yet to be completed, and as such this policy could be subject to change. I can therefore afford only limited weight to it.
4. The Appellant has also completed two unilateral undertakings for this development. The first undertaking states that the proposed plots will be made available only as custom build plots. The second undertaking states that the proposed plots will be available as custom build plots but also makes provision for one discounted self build or custom build plot on the site. I will return to these agreements later.

Main Issues

5. The main issues are the effect of the development on the character and appearance of the area and the provision of affordable housing.
-

Reasons

Character and appearance

6. The appeal site is located in a rural area with some residential properties nearby, including a cluster of properties to the south of the site accessed via South End Road. These surrounding dwellings are set in large plots. The land to the east and west of the site are open fields, whilst on the opposite side of Hungerford Lane is a large agricultural field. Despite the presence of the nearby houses, the area is very rural in character. The site is also located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB) and is beyond the defined settlement boundary for Bradfield Southend. Therefore, in planning policy terms, the land is located in the countryside.
7. The appeal site itself contains a number of poly tunnels and glass houses associated with the current business being run from the site. These structures are single storey in scale and are partially screened from view by the existing hedgerows and trees around the site and the topography of the surrounding land.
8. Although the application is in outline an indicative layout plan has been provided which shows a way the five dwellings could be developed. Given the shape and size of the site, it is significant to note that in order to achieve five dwellings the overall plot sizes would be smaller than that of the existing residential properties. Furthermore, the plot closest to Hungerford Lane appears to turn its back to the road frontage, which would be in contrast to the site layout of the few dwellings which do exist in the area. The site would also be much more densely developed than the surrounding properties, and would not reflect the dispersed nature of the existing development to the detriment of the rural character of the area.
9. In coming to that conclusion, based on the indicative plans, I acknowledge that the development could result in a net reduction of the footprint of the buildings on the site.
10. However, the description of the proposal refers to the development of custom build houses, which I take to mean dwellings which are of more than one storey. Given the scale of the existing buildings the development would be likely to have a greater visual presence on the surrounding area than the current situation as a result of the increased height of the development when compared to the existing buildings. This increased height would give rise to harm to the views across the AONB and the rural character of the area.
11. Area Delivery Plan Policy (ADDP) 5 of the West Berkshire Core Strategy 2006 – 2026 (2012) (CS) outlines that there will be further opportunities for infill development and for development on previously developed land. The policy goes on (under the environment section) to recognise the area as a national landscape designation and that development should conserve and enhance the local distinctiveness, sense of place and setting of the AONB whilst preserving the strong sense of remoteness.
12. The planning history indicates that the site is in agricultural use as a nursery. However, the Appellant considers that the use of the site is a garden centre. From the evidence before me, including what I observed on my site visit, it is clear that there has been some retailing activity at the site. However, it is

unclear what the extent of such activity is. In the absence of firm evidence, such as a certificate of lawful development, I give this matter limited weight.

13. For the above reasons, the proposed development would give rise to significant harm to the character and appearance of the area and the setting of the AONB contrary to Policies ADPP1, ADPP5 and CS1 of the CS, Policy HSG1 of the West Berkshire Local Plan Saved Policies 2007 (LP) and the National Planning Policy Framework (the Framework) which amongst other matters seek to protect the character and appearance of the area.

Affordable Housing

14. Policy CS6 of the CS indicates that a minimum of 20% of the total number of new dwellings should be provided as affordable housing. However, following the Court of Appeal's judgement of 11 May 2016, wherein the Secretary of State successfully appealed against the judgment of the High Court of 31 July 2015, it follows that considerable weight should be given to the Secretary of State's Written Ministerial Statement (WMS) of 28 November 2014 and the updated Planning Practice Guidance (PPG) which indicates that planning obligations of this type should not be sought from development of this limited scale.
15. Whilst the proposal is in outline, the Appellant had indicated that the development would consist of 5 residential units with a gross floor area of less than 1,000 square metres. The size of this development clearly falls within the scope of the WMS.
16. At the present time there is clearly a conflict between Policy CS6 and the national policy outlined in the WMS. Notwithstanding that, as a matter of principle, the need for affordable housing is not specific to West Berkshire.
17. Whilst the starting point for the determination of planning applications should be the Development Plan (and that should be given significant weight), I consider that it does not outweigh the WMS and PPG which are the clearest and most up-to-date expressions of national planning policy.
18. Therefore, the WMS and the PPG should be given more weight than the identified conflict with Policy CS6 and I conclude that the development should not be required to make provision for affordable housing. Therefore, I give the completed unilateral undertaking which includes the provision for one discounted self build or custom build plot on the site no weight in the determination of this appeal.

Planning Balance

19. The Appellant contests that the Council have a five year supply of deliverable housing sites. However, the Council contests this and points to the information published in the January 2016 Annual Monitoring Report which suggests a supply of 6.6 years. The Appellant has provided several appeal decisions¹ from other sites which have questioned the housing land supply position in West Berkshire although I am not aware of the circumstances of these cases. Moreover, each case must be determined on its individual merits and on the evidence before me.

¹ APP/W0340/W/14/2228089; APP/W0340/W/16/3150842 and APP/W0340/W/16/3154466

20. From the limited evidence before me, it is unclear whether the Council does have a five year housing land supply. Notwithstanding that, the Framework indicates that permission should not be granted if the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole or where specific policies (such as in relation to an AONB) indicate that development should be restricted.
21. I have found that the proposed development would harm the character and appearance of the area and the views across the AONB in conflict with the Framework, the CS and the LP. These factors weigh heavily against allowing the proposed development.
22. The development has been put forward as a custom build scheme. However, the submitted unilateral undertaking does not define what a custom build scheme is. Furthermore, the undertaking goes on at clause 4.1(c) to refer to a "self builder or custom builder", again without any definition of what a self-builder is or how this would fall within the definition of a custom build. Additionally, in the recitals section the undertaking also indicates that the Council "failed to determine the application on 6th September 2016" (sic) and this is repeated in the definitions section in relation to the application.
23. Consequently, given the lack of definition of what a custom builder is and that there does not appear to be any mechanism to ensure that the custom builder has commissioned the individual dwelling, I am not convinced that the submitted undertaking completely secures the development as a custom build site. In respect of the other decisions which have been brought to my attention on this issue, I am not aware of the full details of these cases, nor the content of the legal agreements submitted with them.
24. Given the deficiencies in the submitted unilateral undertaking, I give limited weight to the custom build credentials of the development.
25. Notwithstanding that, the development would give rise to some minor social benefits in that it would provide much need additional housing. The development would also bring some minor economic benefits through the construction process. These matters are in favour of the proposed development.
26. The provision of five additional dwellings would be unlikely to have any significant effect in reducing the deficit to the housing land supply for West Berkshire should there be one. Against this background, the harm identified significantly and demonstrably outweighs the minor benefits when assessed against the policies in the Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development.

Conclusion

27. Taking all matters into consideration, including the letters of support for the development, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR