
Appeal Decision

Site visit made on 21 March 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 4 May 2017

Appeal Ref: APP/W0340/W/16/3165818

9 Shooters Hill, Pangbourne, Reading RG8 7DZ

- 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 Mr Arrowsmith, Weirview Ltd against the decision of West Berkshire Council.
 - The application Ref 16/01466/FULD, dated 25 May 2016, was refused by notice dated 31 August 2016.
 - The development proposed is the demolition of existing 11no. bed guest house and construction of 5no. terraced dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Arrowsmith, Weirview Ltd, against West Berkshire Council. This application is the subject of a separate Decision.

Main Issue

3. This is whether the proposed development should include affordable housing or contribute to its provision off-site.

Reasons

4. Because of the absence of any affordable housing within the scheme or an alternative contribution to off-site provision and in the absence of any justification regarding the viability of the development, the Council refused the application. The appellant has not offered any financial appraisal of the proposal to suggest that the provision of affordable housing would make the scheme unviable, but refers to the Court of Appeal judgment¹ of 11 May 2016 in respect of a challenge to the Written Ministerial Statement² of 28 November 2014 (WMS). The WMS stated that '*for sites of 10 units or less....affordable housing and tariff style contributions should not be sought*', and that '*for designated rural areas....which includes National Parks and Areas of Outstanding Natural Beauty, authorities may choose to implement a lower threshold of 5-units or less, beneath which affordable housing and tariff style contributions should not be sought.*'

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

² House of Commons: Written Statement (HCWS50) 28 November 2014

5. The Court upheld that this should be considered as national planning policy defining the specific circumstances where contributions for affordable housing planning obligations should not be sought from small scale development. The Planning Practice Guidance (PPG) has been amended to reflect the judgment.
6. My determination, as required under section 38(6) of the Planning and Compulsory Purchase Act 2004, and unless material considerations indicate otherwise, must be in accordance with the development plan, in which Policy CS6 of the West Berkshire Local Plan Core Strategy (2006-2026) adopted July 2012 is relevant to the issue in this appeal. It sets out that, subject to the economics of provision, on sites of between 5 and 9 dwellings, 20% of the housing should be affordable housing, which in this case amounts to one dwelling. There is an alternative, in accordance with the calculations set out in the Council's SPD³, for a contribution to be made towards off-site provision in lieu of providing the affordable housing on-site, and the Council suggests that off-site provision would be acceptable in this case.
7. The Council's evidence describes an acute problem of housing affordability in the Borough, where the income to house price affordability ratio is 9.09 and where around 52% of households would be unable to afford market housing without subsidy. Its 2013 data reveals that West Berkshire then had over 3,000 households living in unsuitable accommodation. It refers to its Strategic Housing Market Assessment 2016, and indicates that 30% of the projected annual need for housing is for affordable housing. It estimates, taking into account schemes already identified to provide affordable housing, that there remains an annual need for affordable housing of 160 dwellings per year.
8. There is nothing to suggest that CS Policy CS6 is inconsistent with the National Planning Policy Framework (the Framework), or that it should be accorded less weight. Indeed, the Framework sets out that where local planning authorities have identified that affordable housing is needed, they should set policies for meeting this need (paragraph 50, bullet 3), which is what the Council has done. Moreover, there is no evidence that suggests the requirements of CS Policy CS6 are placing an unreasonable burden on developers or rendering developments unviable. In fact, the policy provides sufficient flexibility to take account of different market conditions.
9. Furthermore, I note that the appellant does not challenge the Council's evidence on the need for affordable housing, and has offered no evidence that the provision of affordable housing, or alternatively, a contribution to off-site provision, would threaten the viability of the scheme, for which there is a mechanism of flexibility provided within the Policy.
10. I appreciate the intention of the WMS was to ensure that financial contributions should not become a disproportionate burden to small developers and thereby frustrate housing supply; it is a material consideration to which I attach significant weight. However, it does not, given the circumstances of this proposal and the acute and substantial need for affordable housing in the Borough, outweigh the development plan. Accordingly, the need for the contribution sought by the Council arises from the proposal and satisfies the

³ Appendix 3 of Topic paper 1 (Affordable Housing), West Berkshire Planning Obligations Supplementary Planning Document, adopted 2014

tests in Regulation 122(2) of the Community Infrastructure Regulations 2010 and paragraph 204 of the Framework.

11. The appellant draws my attention to various appeal decisions for development on sites outside this borough in which the provision of affordable housing was found unnecessary. However, the development in the decision⁴ in Elmbridge of March 2013 concerned the viability of the proposal, whereas in this case there has been no viability appraisal submitted.
12. I note the decisions in Oxford⁵ of April 2016 and in Islington⁶ of July 2016, in which the Inspectors gave more weight to the advice in the PPG than to the relevant policy in the development plans. However, I am not aware of the details of the supporting evidence or the individual circumstances of those boroughs regarding affordable housing before the Inspectors when those decisions were made.
13. I note the appellant's point that in the July 2016 appeal decision⁷ in Elmbridge referred to by the Council, that the appellant signalled willingness to enter into an agreement regarding an affordable housing contribution. However, the Inspector's decision indicates that this offer was withdrawn. The Council also refers to an appeal decision⁸ in South Cambridgeshire of June 2016, in which the Inspector gave regard to that Council's unchallenged development appraisal and the lack of evidence to suggest the level of affordable housing sought would make the development unviable, which has parallels with this case.
14. Moreover, the Council refers to two, more recent appeal decisions⁹ in Reading and Wokingham of November 2016 in which the Inspectors accorded more weight to the development plan than to the PPG. As in this case, the appellants in those appeals did not dispute the Council's evidence and did not provide substantive evidence to indicate that a contribution towards affordable housing would be a disproportionate burden. I also take into account the conclusion of the Inspector in the appeal decision¹⁰ of November 2015 for a scheme of 5 dwellings on this site which was dismissed for a lack of contribution to affordable housing.
15. I also attach substantial weight to previous Inspectors' decisions which have been determined in the same way on the basis of similar material considerations.
16. While the provision of affordable housing or a contribution to its provision off-site would be contrary to national policy, on the evidence before me, I am satisfied that it is justified by the local circumstances in this case. While the WMS is a material consideration of significant weight, it does not, in this instance, outweigh the development plan's requirements in CS Policy CS6. While the relevance of CS Policy CS5 to which the Council refers is limited, I conclude that the proposed development should provide a financial contribution

⁴ Appeal Ref: APP/K3605/A/12/2180683

⁵ Appeal Refs: APP/G3110/W/15/3139468+3139945

⁶ Appeal Ref: APP/V5570/W/16/3149062

⁷ Appeal Ref: APP/K3605/W/16/3146699

⁸ Appeal Ref: APP/W0530/W/16/3142834

⁹ Appeal Ref: APP/E0345/W/16/3153661

Appeal Ref: APP/X0360/W/16/3154971

¹⁰ Appeal Ref: APP/W0340/W/15/3051526

to affordable housing, the absence of which would place it in conflict with the development plan.

Other Matters

17. The Council has indicated that, the Swan public house which stands on the opposite side of the road from the appeal site is a Grade II listed building. While it does not object to the proposal in terms of the impact on its setting, I have nevertheless undertaken my statutory duty¹¹ to have special regard to the desirability of preserving the listed building or its setting, or any features of architectural or historic interest which it possesses. In view of the road separating the sites, the set-back of the proposed building from the road, and the mature trees alongside it, I consider that the setting of the listed building would be unaffected by the proposal and therefore preserved.
18. Similarly, while the site lies within the North Wessex Downs Area of Outstanding Natural Beauty, given the site's location within the settlement and the design of the building, the proposal would conserve the landscape and scenic beauty of the surrounding area in accordance with paragraph 115 of the Framework.
19. Whilst I have considered the concerns from the occupiers of 7 Shooters Hill regarding the existing retaining wall between the sites and the need for its repair or replacement, this matter is adequately covered under other legislation. It does not add to my reason for dismissing the appeal.

Conclusion

20. While the development would provide a benefit of five houses to local housing supply in accordance with paragraph 47 of the Framework which anticipates a significant boost to the supply of housing, this is outweighed by the lack of affordable housing or an alternative, off-site contribution, which would be in conflict with the development plan. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR

¹¹ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990