



Appeal Decision

Site visit made on 10 July 2017

by Susan Ashworth BA (Hons) BPI MRTPI

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

Decision date: 4 August 2017

Appeal Ref: APP/R1038/W/17/3172885

Plot A, Coney Green Road, Clay Cross, Chesterfield S45 9BF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by C & S Ball Ltd against North East Derbyshire District Council.
 - The application Ref NED/16/01284/OL, is dated 9 December 2016.
 - The development proposed is described as '8no 2 bedroom detached bungalows, with individual detached garages and off street parking. With vehicle access from the public highway. The frontage of Plot A to mirror and complement the residential development immediately opposite'.
-

Decision

1. The appeal is allowed and outline planning permission is granted for 8no 2 bedroom detached bungalows, with individual detached garages and off street parking. With vehicle access from the public highway. The frontage of Plot A to mirror and complement the residential development immediately opposite at Plot A, Coney Green Road, Clay Cross, Chesterfield S45 9BF in accordance with the terms of application ref: Ref NED/16/01284/OL, dated 9 December 2016, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for subsequent approval. I have dealt with the appeal on that basis.
3. The application was not determined by the Council within the prescribed period but since the appeal was lodged the Council has resolved to raise no objection to the proposal. I have taken this into account.

Main Issue

4. The main issue in this case is whether the proposal complies with the development plan and, if not, whether there are other material considerations that weigh in favour of it.

Reasons

5. The appeal site comprises a narrow strip of land some 0.54ha in size, located on Coney Green Road, close to its junction with Market Street, A6175. The site is undeveloped and at the time of my visit was overgrown. Mature trees and hedgerows bound the site along the Market Street frontage and to the north-east, whilst to Coney Green Road, the site is open. The immediately

surrounding area incorporates a mix of commercial and residential uses. The site lies close to an industrial estate which has access from Coney Green Road. Immediately opposite the site are modern residential properties backing onto Copenhagen Road.

6. The proposal is for the development of the site for residential purposes. Although submitted in outline, the application was accompanied by an illustrative layout indicating 8 residential plots served by two access points off Coney Green Road with dwellings fronting the highway.
7. The site lies within an area of land designated in the North East Derbyshire Local Plan 2005 (the Local Plan) for employment use. Policy E7 of the Local Plan relates to such areas and states that proposals for the development of land will be permitted for employment uses (Use Classes B1, B2 and B8) subject to certain criteria. A strict interpretation of that policy would prevent any other uses from occupying the site. The proposed residential development would fall outside these use classes indicated in Policy E7 of the Local Plan and is therefore contrary to this policy.
8. I understand that the site is shown as part of a 'Primary Employment Area' in the emerging Local Plan but as yet this document is at an early stage of preparation and currently carries little weight.
9. However, the Local Plan pre-dates the introduction of the National Planning Policy Framework in 2012 which is a weighty material consideration. The Framework sets out the Government's commitment to economic growth noting at paragraph 21, amongst other things, the need to support existing business sectors taking account of whether they are expanding or contracting, and requiring that policies should be flexible enough to accommodate needs not anticipated in the plan.
10. The Council is undertaking an Employment Land Study although its findings have not yet been published. Nevertheless, I understand that around 17.92ha of employment land is currently available. The development of the appeal site would reduce that to 17.38ha which equates to around 19 years supply. Whilst employment land take-up rates have increased in the last five years, I noted that there was an amount of vacant land, including the appeal site, in the immediate area and I understand that there are a number of empty units on the estate. Moreover, evidence submitted by the appellant indicates that the site has itself been marketed for employment uses for over 10 years with little interest shown.
11. In 2014 outline planning permission was granted for a public house and restaurant on the land (Use Classes A3/A4)¹ contrary to the strict interpretation of Policy E7. Whilst I understand that permission was granted on the basis of a wider interpretation of employment generating uses, that permission is still extant and would in affect result in the loss of employment land safeguarded for the particular uses specified.
12. In addition to this, the Council accepts that it cannot currently demonstrate a five year supply of housing land. Whether Policy E7 is a relevant policy for the supply of housing is debatable but nevertheless the Framework advises that housing applications should be considered in the context of sustainable

¹ Planning Application Ref: NED/14/00314/OL

development. The site lies in a highly sustainable location close to the town centre, close to employment uses and public transport links.

13. The Framework advises that planning applications for a change to residential use from commercial should be approved where there is an identified need for additional housing in that area provided that there are not strong economic reasons why such development would be inappropriate. In this case there is a demonstrable need for additional housing, and, on the other hand, a significant supply of employment land. In these circumstances I am not convinced there is a strong economic reason why the development would be inappropriate. Consequently, whilst the development fails to comply with policy E7 of the Local Plan, and in the absence of any other evidence about the need for the retention of allocated employment sites, the approach of the Framework carries more weight as a material consideration.

Conditions and Conclusion

14. No conditions have been suggested by the Council in the event that the appeal is allowed. I have however, considered the conditions suggested by statutory consultees in the light of advice in the Planning Practice Guidance. Suggested conditions that relate specifically to the submitted layout are not relevant given that it was submitted for illustrative purposes only. Similarly conditions that relate to details that will be agreed under the reserved matters application are also unnecessary.
15. To provide certainty and in the interests of proper planning I have imposed the standard outline and time limit conditions and specified the approved plans.
16. As the site has been subject to underground and surface coal mining, a condition requiring investigation and remedial works prior to the commencement of development is necessary. In addition, in the interests of highway safety conditions requiring the provision of a construction compound within the site; wheel washing facilities; provision of car parking and manoeuvring facilities and details of arrangements for bin storage are necessary. To ensure adequate and sustainable drainage of the site, conditions requiring the proposed drainage measures are submitted to and agreed by the Council also necessary.
17. For the above reasons and subject to these conditions, the appeal is allowed and outline planning permission is granted.

S Ashworth

INSPECTOR

SCHEDULE

- 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 three years from the date of this permission.
- 3) The development shall be carried out in accordance with the following approved plans : Location Plan.
- 4) Before any other operation is commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local planning Authority. Once implemented, the facilities shall be retained free from any impediment to their designated use throughout the construction period.
- 5) Throughout the period of development vehicle cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.
- 6) No dwelling shall be occupied until details of the proposed parking and manoeuvring areas within the site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be retained thereafter.
- 7) No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the facilities retained for their designated use thereafter.
- 8) Prior to the commencement of development investigation works shall be carried out in accordance with the recommendations of the submitted Coal Mining Risk Assessment report to establish coal mining legacy issues on the site. In the event that site investigations confirm the need for remedial works, such works should be undertaken prior to the commencement of development in accordance with a scheme which has been submitted to and approved in writing by the Local planning Authority.
- 9) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 10) No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any attenuation works and off -site works, have been submitted to and approved by the local planning authority . If surface water is to drain wholly or partly to existing public sewer, the details shall include evidence as to why other more sustainable methods of drainage , such as soakaways, are not feasible. Furthermore, unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.