



Department for  
Communities and  
Local Government

Our ref: APP/K0425/W/15/3135297

Mr Pravin Patel  
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14 September 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY MR MIFF CHICHESTER FOR ERLP 1 SARL C/O ST CONGAR  
LAND  
LAND AT FORMER MOLINS FACTORY SITE, HAW LANE, SAUNDERTON, WYCOMBE  
APPLICATION REF: 15/05250/OUTEA**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Frances Mahoney DipTP PGDipTP MRTPI IHBC, who held a public local inquiry between 7-22 September 2016 into your client's appeal against the failure by Wycombe District Council to determine your client's application for planning permission for the demolition of all existing buildings and outline planning permission to construct 212 dwellings (Class C3) with a proposed footprint of 16,208 sq metres (ground floor gross external area including garages) and total gross floor area of 25,800 sq. metres, associated car parking, pedestrian access, and open space with access via Haw Lane and approval of scale and layout in accordance with application ref: 15/05250/OUTEA dated 29 January 2015.
2. On 13 October 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Procedural Matters**

5. Following the submission of the appeal the Council went on to consider the proposal on 16 December 2015 and identified 8 putative reasons for refusal. Like the Inspector the Secretary of State has treated this 'decision' as that which the Council would have made had it been empowered to do so (IR3).
6. At the Inquiry the appellant company requested that the proposal be considered on the basis of a scheme for 192 dwellings, details of the layout should be dealt with as a reserved matter, that there should be provision of a mixed A1/D1 building and a new footpath link included (IR21). The Secretary of State's consideration and conclusions on this matter are set out in paragraph 16 of this letter.

## **Matters arising since the close of the inquiry**

7. The Secretary of State received correspondence from Wycombe District Council dated 26 June 2017 informing him that the Bledlow-cum-Saunderton Neighbourhood Plan had been made and now forms part of the development plan.
8. The Secretary of State is satisfied that the issues raised do not necessitate referral back to parties. A copy of this letter may be obtained on written request to the address at the foot of the first page of this letter.

## **Policy and statutory considerations**

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan includes the Wycombe Development Framework Core Strategy (CS) dated July 2008; the Adopted Delivery and Site Allocations Plan (DSAP) dated June 2013; the saved policies of the Wycombe District Local Plan (WLP) (2004); and the Bledlow-cum-Saunderton Neighbourhood Plan (NP) which was made on 23 June 2017. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR12 and IR15.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance') and the Chilterns Building Design Guide and Technical Notes (CBDG) produced by the Chilterns Conservation Board (CCB).
12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

## *Emerging plan*

13. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the

Framework. The Wycombe District Local Plan (WDLP) is at a very early stage with the aim for adoption now being spring 2019 and therefore the Secretary of State gives it limited weight.

### **Main issues**

14. The Secretary of State agrees with the Inspector that the main issues are those set out in her conclusions starting at IR200.

#### *Submission of amended scheme*

15. The Secretary of State has considered the Inspector's reasoning and conclusions at IR201-215. He considers the amended scheme is not the scheme originally considered by the Council. Like the Inspector, for the reasons given the Secretary of State cannot be sure that those consulted on the changed development have not been deprived of the opportunity to comment in an appropriate informed way, and that interested parties have not been prejudiced. For these reasons he agrees with Inspector's recommendation at IR215 that this appeal is considered on the basis of the original scheme for 212 units submitted as detailed in IR19.

#### *Previously Developed Land*

16. The Secretary of State has given careful consideration to the Inspector's reasoning and conclusion regarding the extent of Previously Developed Land (PDL) on the appeal site (IR216-217). The Secretary of State has noted that the Inspector had the benefit of directly viewing and experiencing the land in the eastern section of the site during the site visit and has taken account of the Inspector's view that the site has yet to blend into the landscape in the process of time. He, therefore, agrees with the Inspector that it is reasonable to consider the whole of the red-lined appeal area as being PDL (IR216).

#### *The Fall-back*

17. The Secretary of State has given careful consideration to the Inspector's reasoning and conclusion on whether the data centre permission is a feasible fall-back (IR218-231). For the reasons given, the Secretary of State agrees that, while he cannot be sure that there would be no possibility that the extant permission would be implemented at some time in the future, he has little reassurance that the scheme would come forward within the next 5-10 years (IR229). Therefore, like the Inspector, the Secretary of State gives only limited weight to the effect of the data centre compared to that of the appeal proposals as a material consideration in the planning balance (IR230).

## *Green Belt*

18. The Framework notes that inappropriate development is, by definition, harmful to the Green Belt and substantial weight should be given to any harm to the Green Belt. The Secretary of State agrees with the Inspector that the number of dwellings in the scheme is significant and the proposal would introduce an urban character of built form (IR236). He also agrees that the visual impact of the development would impinge on the character and nature of the Green Belt significantly diminishing the quality of its openness, and that the significant peppering of light sources across the site would add to the change in the character and nature of the Green Belt (IR238-239). As such, for the reasons given in IR232-240, the Secretary of State agrees with the Inspector that the appeal proposal is inappropriate development in the Green Belt and should not be approved except in Very Special Circumstances (IR241).

## *Any other harm*

### *- Chiltern AONB/Design*

19. For the reasons given in IR242-251 and IR253-254, the Secretary of State agrees with the Inspector that the scheme would not respect its local context and cannot fail but to seriously harm the sensitive character and appearance of the countryside setting and the special qualities of the Chiltern AONB. He thus concludes that the proposal would conflict with policy WLP Policy L1. Furthermore it would not integrate into the natural and built environment and would not take the opportunity to improve the character and quality of the area (IR259). Guidance on settlement character set out in the CBDG would be compromised. Paragraph 116 of the Framework does identify that major development can be permitted in exceptional circumstances and where it can be demonstrated they are in the public interest. The Secretary of State concludes on this matter later in this letter.

20. The Secretary of State has also noted the Inspector's comments at IR255-258 should the data centre be accepted as being a fall-back to the appeal proposal. He has already set out his conclusions on the data centre as a fall-back in paragraph 18.

### *- Location*

21. For the reasons given in IR260-268, the Secretary of State agrees with the Inspector that the appeal proposal runs counter to CS Policies CS19 and CS20 which support paragraph 29 of the Framework in seeking to improve our environment by encouraging more sustainable travel choices. However, taking into account that the site is PDL, along with the previous and extant uses of the site, the wishes of the community expressed in the NP and the willingness of the appellant company to adopt, promote and fund an appropriate travel plan. He also agrees with the Inspector that harm by reason of conflict with planning policy is reduced (IR269).

## *Other considerations*

### *- The principle of residential development and jobs*

22. The Secretary of State has considered the Inspector's comments in IR274-278. However, he agrees with the Inspector that the viability of the data scheme has not been established and that, should it come to fruition it would not be in immediate times but in the medium to long term. He further agrees that the residential development, were it to go ahead, would generate economic activity and so, the weight to be given to any harm

by reason of conflict with the development plan policy in this regard can be greatly reduced (IR279-281).

- *Housing*

23. For the reasons given in IR282-288 the Secretary of State agrees with the Inspector that the Council is unable to demonstrate a 5YHLS. The Secretary of State further considers that policy CS13 (Affordable housing and housing mix) for the purposes of this appeal can be deemed a housing supply policy. Given his findings on the 5YHLS, the Secretary of State therefore considers that paragraph 14 of Framework is engaged. As such planning permission should be granted unless (a) any adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against policies in the Framework as a whole or (b) specific policies in the Framework indicate that development should be restricted. The Secretary of State considers this further in paragraph 35 of this letter.

- *Affordable housing*

24. The Secretary of State agrees with the Inspector's view that the identified need for affordable housing is considerable. He also agrees that the scheme can comply with the requirements of CSP Policy 13 in respect of the provision of affordable housing and that the compliance with policy is a clear benefit (IR289-291).

- *Heritage*

25. For the reasons given in IR292-923, the Secretary of State agrees with the Inspector that the recovery of the Bronze Age barrow cemetery (a Scheduled Ancient Monument), from beneath the office building and the establishment of an open landscape setting for the heritage asset would be an important public benefit.

26. He further agrees, for the reasons given in IR294-296, that the proposal would only have a neutral effect on the setting and significance of two listed buildings (Grange Farmhouse and stable and Bradenham Manor) and that the merits of the Ballroom building are not of sufficient importance to warrant specific protection. For these reasons he concludes, like the Inspector, that the appeal proposals would not cause harm to heritage assets (IR297).

- *Biodiversity and public open space*

27. The Secretary of State agrees with the Inspector's assessment and conclusions in IR298 that there would be public benefit through the provision of some public open space, improvements to biodiversity and the overall sustainability of the site.

- *Highways*

28. Like the Inspector, the Secretary of State acknowledges the concern expressed by residents in relation to the impact of traffic generated. However, the Secretary of State agrees, for the reasons given in IR300-303 that the proposed development would not adversely impact on highway safety.

- *Flooding*

29. For the reasons given in IR304, the Secretary of State agrees with the Inspector that the proposed new drainage provision can only be a positive wider public benefit.

- *Community building*

30. While the Secretary of State has noted the Inspector's comments and conclusions about the community building which was proposed as part of the amended scheme, he has set out in paragraph 16 of this letter that he is considering this appeal on the basis of the original application for 212 units.

### **Planning conditions**

31. The Secretary of State has given consideration to the Inspector's analysis at IR177-195, the recommended conditions set out at the end of the IR at Annex A in respect of the scheme for 212 units and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning obligation**

32. Having had regard to the Inspector's analysis at IR196-199, the planning obligation dated 10 October 2016, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR198 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

### **Planning balance and overall conclusion**

33. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with WLP policies L1, CS19 and CS20, and is thus not in accordance with the development plan overall.

34. As there is a lack of a 5-year housing land supply the Secretary of State considers there is a relevant housing supply policy, paragraph 14 of the Framework is engaged. However, the Secretary of State considers that the Green Belt and AONB policies of the Framework indicate that the development should be restricted, and therefore the 'tilted balance', that permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits, would not apply. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

35. Weighing in favour of the proposal is the contribution to the provision of market and affordable housing, as well as a mix of accommodation types to which the Secretary of State affords substantial weight. The proposal will also bring a derelict previously developed site back into active use which is afforded considerable weight. The Secretary of State gives moderate weight to the benefits of the improvements to the SAM, the highway, bus stops, biodiversity/ecology, drainage, the provision of open space and play areas.

36. The Secretary of State considers the proposal would permanently reduce openness of the Green Belt and conflict with some of the purposes of the designation and gives substantial weight to this harm. He also considers that there would be a significant amount of harm to the landscape and scenic beauty of the AONB and that this would not be outweighed by the benefits of the scheme. He has concluded, therefore, that there are no exceptional circumstances in the public interest that would reduce the significant weight afforded to that harm.
37. The Secretary of State also gives weight to harm in respect of the site's location and a possible conflict with employment policy although the level of harm has been reduced to modest for the reasons given earlier in this letter.
38. Overall, the Secretary of State concludes that the harm caused by the inappropriate nature of the proposal in the Green Belt and any other harm would not be clearly outweighed by other considerations and thus very special circumstances would not exist to justify development in the Green Belt. There are no material considerations to indicate that the appeal proposal should be determined other than in accordance with the development plan.
39. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

#### **Formal decision**

40. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the demolition of all existing buildings and outline planning permission to construct 212 dwellings (Class C3) with a proposed footprint of 16,208 sq metres (ground floor gross external area including garages) and total gross floor area of 25,800 sq metres. Associated car parking, pedestrian access, and open space with access via Haw Lane and approval of scale and layout in accordance with application ref: 15/05250/OUTEA, dated 29 January 2015.

#### **Right to challenge the decision**

41. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
42. A copy of this letter has been sent to Wycombe Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Philip Barber*

Philip Barber  
Authorised by Secretary of State to sign in that behalf