

Appeal Decision

Inquiry held on 27-30 November & 4-5 December 2018

Accompanied site visit made on 5 December 2018

by M C J Nunn BA BPL LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2019

Ref: APP/K0425/W/17/3191512

Land at Glory Mill, Glory Park Avenue, Wooburn Green, Buckinghamshire

- 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 BAM Glory Mill Ltd against Wycombe District Council.
 - The application Ref: 17/06279/OUT is dated 11 May 2017.
 - The development is described as "outline planning application for residential development in a mix of houses, town houses and apartments for up to 110 units with associated works and infrastructure with all matters reserved".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline with all matters reserved for subsequent determination although a 'parameters plan' has been included for consideration. In addition to my accompanied site visit, I made a number of unaccompanied visits to the site and its surroundings before, during and after the Inquiry.
3. The Council failed to determine the application with the prescribed period. It subsequently assessed the application and confirmed it would have refused the scheme for two reasons¹: the first related to the retention of allocated employment land; and the second to the absence of a planning obligation to secure affordable housing. A planning obligation dated 6 December 2018² has now been completed securing affordable housing so the second ground now falls away.
4. A Statement of Common Ground (SOCG)³ and a Housing Statement of Common Ground (HSOCG)⁴ were completed and submitted at the Inquiry.

¹ Council's Statement of Case, Paragraph 5.6

² ID31

³ ID1 – dated 26 November 2018

⁴ ID5 – dated 27 November 2018

5. Since the Inquiry closed, there have been changes to the National Planning Policy Framework ('the Framework')⁵. The 'Housing Delivery Test' results have also been published, along with updated guidance on how to assess housing needs. The views of the parties were sought on these matters and the comments received have been taken into account in my decision⁶.

Main Issues

6. The main issues are: whether the proposal complies with local and national policy objectives relating to employment land; and whether there are material considerations to justify a determination other than in accordance with the development plan.

Reasons

Site and Surroundings

7. The appeal site, some 2.8 hectares of land⁷, comprises the remaining parcel of a larger area that was historically occupied by a paper mill. The paper mill closed in stages and much of the larger site has now been redeveloped with a mix of offices and housing. The appeal site itself comprises two separate areas of land – an eastern parcel and a western parcel, bisected by an access road and the River Wye. The site is broadly level, although there is an embankment along the north eastern boundary of the eastern parcel which rises up to Old Moor Lane and a footpath. The site has been cleared apart from a building – Sirius House, which is located in the south eastern corner. This was previously occupied by a business but is now vacant.
8. The site abuts the Watery Lane Conservation Area to the north. It lies within about 1 km of Wooburn Green centre and around 6.5 kms from High Wycombe. There are local bus services and Junction 3 of the M40 is around 1 km away.
9. The appeal site has a complex planning history which is set out in the SOCG⁸, including a 2016 appeal for residential development that was dismissed⁹. The site benefits from an extant planning permission for offices, which originally comprised three phases. 'Phase 1' was completed by the appellant and is now let and occupied. It was originally envisaged that the remaining 'Phase 2' and 'Phase 3' would be built on the appeal site, but this has not occurred.

Planning Policy Context

10. The relevant legislation¹⁰ requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The statutory development plan comprises the 'saved' policies of the Wycombe District Local Plan, adopted in 2004 ('the Local Plan'); the Wycombe Core Strategy ('the Core Strategy'), adopted in 2008; and the Delivery and Site Allocations Plan ('the DSAP'), adopted July 2013. The Council's remaining putative reason for refusal alleges conflict with Policy E3. This states that within identified 'Employment Areas', such as the appeal site,

⁵ New Framework published 19 February 2019

⁶ ID33, ID34 & ID35

⁷ Net developable area is approximately 2.1 hectares

⁸ ID1

⁹ APP/K0425/W/15/3140361

¹⁰ Section 38(6) of the Planning and Compulsory Purchase Act 2004

development of land for employment generating uses will be permitted, and planning permission will not be granted for uses falling outside Classes B1, B2 and B8 of the Use Classes Order¹¹.

Emerging Policy

11. A new Wycombe District Local Plan ('the Emerging Local Plan') is currently being prepared which will cover the period up to 2033. When adopted, this will replace the existing Local Plan and Core Strategy, although the DSAP will be retained. The Emerging Local Plan is at an advanced stage: the Examination Hearings have taken place, the Proposed Main Modifications have recently been consulted on and the Inspector's report is awaited.
12. The remaining putative reason for refusal cites Policy CP5 (Delivering Land for Business) and Policy DM28 (Employment Areas) from the Emerging Local Plan. Policy CP5 states that the Council will address the needs of the local economy by safeguarding Strategic and Local Employment Areas from non-business development, as well as encouraging and facilitating their ongoing regeneration and redevelopment for economic purposes. Policy DM28 states that development in designated Strategic Employment Areas will be restricted to Class B uses. The appeal site is identified as a Strategic Employment Area within the Emerging Local Plan.
13. Paragraph 48 of the Framework advises weight may be given to relevant policies in an emerging plan according to the stage of its preparation, the extent to which there are unresolved objections, and the degree of consistency with the Framework. Main modifications are proposed to elements of these policies to ensure 'soundness', but no changes are proposed to the parts cited above¹². I acknowledge that there are still unresolved objections to the plan and the Examination is not yet concluded. Importantly, the Inspector has yet to produce her final report. Nonetheless, having regard to Paragraph 48 of the Framework, I consider that some weight can be given to the Emerging Local Plan.

Housing Land Supply

14. The position on housing land supply has been a changing one, partly reflecting recent changes in national policy. Since the Inquiry closed, the 'Housing Delivery Test' has been introduced, along with the 'Standard Methodology' for assessing Local Housing Needs, which now requires the use of the 2014 Sub National Household Projections (SNHP) rather than those from 2016. The Inquiry evidence was 'future proofed' to take account of these anticipated changes.
15. At the Inquiry, the respective positions of the parties were agreed in the HSOCG¹³. As the Council's strategic housing requirements are more than five years old, any assessment of five year supply should be made against Local Housing Need, assessed using the 'Standard Methodology'. On the basis of a 5% buffer as per the Housing Delivery Test, and using an annual requirement of 778 dwellings per annum, as per the Standard Methodology, the appellant

¹¹ Town and Country Planning (Use Classes) Order 1987 [ID12]

¹² ID32

¹³ ID5

contends a supply of 2.8 years, compared with the Council's 4.92 years¹⁴. In other words, both parties agreed that the Council could not demonstrate a five year supply of housing, as required by the Framework.

16. In terms of the requirement figure, the appellant has proposed including an undersupply figure for the period 2013-2017 of some 787 dwellings, which means that its requirement figure (with a 5% buffer) is increased to 4,911 compared with 4,085 cited by the Council. However, I agree with the Council that when using the Standard Methodology, no undersupply or previous under-delivery should be taken into account. Such an approach is consistent with other appeal decisions¹⁵.
17. The Council contends a supply of 4,019 compared with the appellant's 2,764. The main disagreement is whether there is a realistic prospect of certain sites being delivered within the five year period. A schedule of disputed sites was produced setting out the parties respective cases¹⁶. In essence, the appellant has sought to remove sites or shift them beyond the five year period for various reasons: that they do not have full or detailed permission; that they have a history of non-delivery; that they have constraints requiring resolution before development could proceed, or that there has been no recent material progress on site. The appellant also draws attention to the new stricter definition of 'deliverable'¹⁷ in the Framework which requires greater certainty and means the supply is potentially less than that proposed by the Council. Given the contradictory evidence supplied on the various sites, and my limited knowledge of them, it is difficult to reach a definitive view.
18. In post Inquiry correspondence, the Council produced an update to the Wycombe Monitoring Report, dated March 2019, which contends that the Council can now demonstrate a 5.7 year supply of housing¹⁸. The appellant was given the opportunity to analyse this data and concluded in a Rebuttal Statement¹⁹ that the supply was between 3.1 and 3.8 years, depending on whether an allowance for a backlog is made. The appellant disputed the inclusion of various sites within the Council's supply and questioned aspects of the calculations, as well as raising concerns about the late submission of evidence²⁰.
19. Although the Council was no doubt trying to assist in providing the most up-to-date housing data, I did convey to the parties that any post inquiry consultations on the changes to national policy should not be used as an opportunity to introduce new evidence. I am concerned that the evidence in the latest Monitoring Report has not been fully tested. The evidence presented at the Inquiry represented a snapshot of the position as it stood at that time, with various scenarios to account for any future policy changes. Circumstances constantly alter in terms of housing data, but this does not justify updating the evidence once an Inquiry has closed. There must be a cut-off. Therefore, in the absence of a full re-opening of the Inquiry, I consider that it would be

¹⁴ ID5, Paragraph 1.19, Row J of Table

¹⁵ For example, the 'Woolpit Decision' – APP/W3520/W/18/3194926 – see Paragraph 64; attached at Appendix 1 to Mr Coop's Proof

¹⁶ ID19

¹⁷ Annex 2, Glossary

¹⁸ ID33

¹⁹ ID35

²⁰ ID34

inappropriate to have regard to the latest Monitoring Report and I have therefore placed no weight on it.

20. To sum up, calculating whether there is a five year housing supply is not a precise science. Judgements have to be made on technical evidence which may permit a range of possible outcomes. Using the appellant's preferred supply figure (2,764) but excluding the previous undersupply/shortfall (787) would result in a supply of around 3.3 years. If the Council's more optimistic supply figure is used (4,019), the supply increases to 4.92. It is clear that on either of these scenarios, the Council cannot demonstrate a five year supply of housing.

Approach to Decision Making

21. In such circumstances, Paragraph 11(d) of the Framework is engaged in this appeal. Paragraph 11(d)(ii), together with Footnote 7, is clear that where a local planning authority cannot demonstrate a five year supply of housing (with the appropriate buffer), the policies which are the 'most important for determining the application' are rendered out of date. Also, that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole – the so called 'tilted balance'. Since Policy E3 of the Local Plan was relied on in the putative reason for refusal, it self-evidently falls within that category, and must be considered out-of-date on that basis.
22. Although being 'out-of-date' provides a reason to depart from a policy, it does not of itself mean that the policy should be disregarded or that the weight given to it be automatically reduced. Although the Framework is a material consideration in planning decisions²¹, it does not change the statutory status of the development plan for decision making. It also advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework²². The closer a policy is to the policies of the Framework, the greater weight that it may be given.
23. The Framework requires that strategic policies should provide for objectively assessed needs for not only housing, but other uses including employment, and that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs, and wider opportunities for development²³. The Framework also requires that policies should set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to local economic strategies, and to identify strategic sites for local and inward investment to match the strategy and meet anticipated needs.
24. The appellant argues that Policy E3 was adopted some time ago²⁴, and national guidance has changed on a number of occasions since then: for example Planning Policy Guidance notes (PPGs) have been replaced by Planning Policy Statements (PPSs), which in turn have been replaced by the Framework with

²¹ Paragraph 212

²² Paragraph 213

²³ Paragraph 80

²⁴ 14 years ago at the time of the Inquiry

editions in 2012, 2018 and most recently in February 2019. It is also the case that the Local Plan is 'time expired' originally being designed to provide policy guidance up to 2011. However, the mere age of a plan does not mean it loses its statutory standing as the development plan, and the Framework advises²⁵ that existing policies should not be considered out of date simply because they were adopted prior to its publication.

25. The appellant also criticises Policy E1 on the basis that it allows for offices which are a town centre use and subject to a 'sequential test' within the Framework²⁶. However, it seems to me that once a site is allocated within a plan, the principle of the use is established. Indeed, the Framework is clear that the sequential test applies to planning applications for main town centres uses which are neither in an existing centre, nor in accordance with an up-to-date plan²⁷. As the Council points out, the site's employment allocation has been reviewed through the evolving local plan process: Policy E1 was 'saved' in 2007²⁸; it was reviewed in 2008 as part of the Core Strategy and again in 2013 as part of the DSAP (when some employment policies were cancelled and replaced).
26. To sum up, the crucial test is whether Policy E1 accords with the current guidance, rendering a forensic historical analysis of the evolution of the policy and its original evidential base unnecessary. I find the overall approach of Policy E1 that safeguards employment land to meet the economic needs of the district to be clearly consistent with the Framework, notwithstanding its age, and the fact it was drafted prior to the publication of the Framework. This is reinforced by the fact that the Emerging Local Plan, which is at an advanced stage, also retains the site for employment uses, and allocates it as a Strategic Employment Area in order to address the shortfall in employment land compared with the district's needs. Therefore, I consider that Policy E1 continues to carry significant weight in the overall planning balance.
27. However, it is relevant to consider whether there are other material considerations that warrant determining the appeal other than in accordance with the development plan. The nub of the appellant's submissions is that there is 'no reasonable prospect'²⁹ of a viable or acceptable scheme coming forward, and that the land should be used for an alternative, more deliverable use. I deal with these matters below.

Suitability of the Site for Employment Use

28. Noise: The appellant has raised noise concerns about light industrial or employment uses at the appeal site in close proximity to residential properties. A pre-application scheme drawn up by the Council has been assessed by the Council's Environmental Health Officer (EHO) who concluded that noise impacts could be satisfactorily addressed through detailed design measures and the imposition of appropriate conditions³⁰. This opinion was criticised by the appellant, including the EHO's reliance on the 'Verco' site to demonstrate how

²⁵ Paragraph 213

²⁶ Paragraph 85

²⁷ Paragraph 86

²⁸ Secretary of State's Direction 'Saving' Policies, dated 26 September 2007 [Appendix 8, Mr Pritchett's Proof]

²⁹ As per Paragraph 120 of the Framework

³⁰ See Pre-application Submission (Appendix 4 – Rebuttal Proof of Ms Jarvis); and Statement of Carl Griffin (Appendix 2 – Rebuttal Proof of Ms Jarvis)

noise issues could be addressed. It was argued that the acoustic modelling for the 'Verco' site was flawed, and in any event that that site was not comparable being located in a predominantly industrial business area. My attention has also been drawn to the Inspector's comments in the 2016 appeal that *'due to the proximity of housing B2 and B8 uses would not generally be suitable'*³¹.

29. Importantly, the appellant has not put forward any assessment of its own that shows a breach of any relevant noise guidance for employment use³². Indeed, the appellant acknowledges that its own evidence does not provide a detailed noise assessment for employment use on the basis that it would not be possible until specific operators are known³³. Rather, it has provided a 'high level overview' for undefined B2 and B8 uses, based on generic operators, and it has concluded that employment use within the site 'has the potential to give rise to both significant adverse impact, and justified noise complaints'³⁴.
30. It is pertinent to remember that this appeal relates to a residential scheme. No employment proposal is before me for formal determination. Notwithstanding the observations of the previous Inspector, I consider that a proper and thorough consideration of noise matters could take place should detailed proposals for employment uses come forward. I see no reason why mitigation, through the careful design of buildings and layout, could not be effective in reducing any noise effects to ensure living conditions are protected in any residential properties in the vicinity.
31. In support of its case on noise, the appellant has mentioned that the Courtyard office building, adjacent to the appeal site to the north, has previously been the subject of a 'prior approval' for residential use³⁵. However, that approval has now lapsed and so cannot weigh against any potential future employment use at the site, or be regarded as an impediment to its development. I accept a residential conversion of the Courtyard building cannot be ruled out in the future, but it would have to ensure any noise impacts are properly addressed in the event of any employment use operating at the site.
32. Highways: The appellant has raised various highway concerns in the event of an employment use proceeding. For example, the suitability of the existing access roads serving the site was questioned on the basis that their widths and radii were designed for office users rather than large commercial vehicles. Concerns were raised regarding the Council's pre-application scheme in terms of car parking, internal layout and configuration, vehicle turning space, tracking and manoeuvring. It was also observed that there is currently uncontrolled parking along the road by existing users of the office space that could cause obstructions for larger vehicles trying to access the site.
33. All that said, there is no evidence that the existing estate road cannot be upgraded if this is required. It seems to me that layout concerns are premature and go to detailed matters of design. Ultimately, the provision of parking and the scheme layout would depend on the end-mix and disposition of uses. Again, there is no reason to suppose that such matters could not be

³¹ APP/K0425/W/15/3140361 – Paragraph 32

³² British standard 4142:2014; World Health Organisation (WHO) Community Noise Guidelines; the Framework; the PPG

³³ Mr Metcalfe's Proof: Technical Note – Paragraphs 1.5 & 4.1

³⁴ Mr Metcalfe's Proof: Technical Note – Paragraphs 5.1 & 5.2

³⁵ Ref: 14/05963 – decision issued May 2014

addressed in future should a scheme come forward. On-road parking is a management issue for the estate owner, who could control it in future if it were deemed necessary. The Highway Authority has confirmed that there is no impediment to locating employment floorspace here³⁶ and I see no reason to take a different view.

34. Site Accessibility: Much has been made of the fact that, whilst the appeal site is physically very close to the M40 motorway Junction 3, this only provides access on to the northbound carriageway. However, there are other options should one wish to travel southwards, including joining the motorway at Junction 3 and travelling a short distance northwards, turning southwards at Junction 4. I do not regard this as especially inconvenient or as fundamentally reducing the attractiveness of the site. I appreciate that the Inspector concluded differently in 2016³⁷, but notably, his comments were made in relation to an office use, and specifically the potential attractiveness of a headquarters building. The Council now envisages a mixed employment use for the appeal site, and in my judgement the site's attractiveness would not be significantly impaired by the lack of a southbound access.

Viability of Employment Use

35. It is the appellant's view that an employment use at the site is not viable. There is no single approach to assessing viability. Arriving at a 'correct' figure for determining whether a scheme is viable is far from an exact science. Much evidence was presented by the parties on viability, but with different outcomes, depending on what assumptions, input data and methodologies were used. Indeed, appraisals using the 'residual method' which generate a land value at the end of the process are especially sensitive to input assumptions. Even relatively minor differences in rent, the quantum of floorspace (whether a mezzanine floor is included), or what yield is assumed, or what allowance should be made for site remediation will all affect levels of viability and profitability.
36. In terms of rent, the Council argue for £12/psf whereas the appellant says £10.50/psf is more realistic. The appellant says that Wooburn Green is a secondary market, and less accessible to the M40 motorway, hence the lower figure. The appellant's various comparables³⁸ include rental values between £8.05/psf and £11.07/psf. The Council has referred to the proposed letting of the 'Verco' site at £13.50/psf which is further away from the M40 motorway and located north of the more congested Junction 4³⁹. The Council also refers to the Gateway Centre which has been let for £12/psf where the accommodation is not new and has restrictive eaves height⁴⁰. There is clearly a range of rents, and what is achievable would ultimately depend on the quality of any scheme. Overall, I do not consider that £12/psf, assuming a high quality premises with unrestricted eaves at the appeal site to be unreasonable or unrealistic.

³⁶ Ms Jarvis's Rebuttal – Appendix 1 (Memorandum from Matthew Hardy – Buckingham County Council)

³⁷ APP/K0425/W/15/3140361 – Paragraph 34

³⁸ Mr Francis's Proof – Appendix J

³⁹ ID16

⁴⁰ ID17

37. In terms of floorspace, the Council's pre-application scheme (which now includes a mezzanine) provides for 93,458 sq ft⁴¹. The appellant is of the view that this quantum is overly optimistic, on the basis that, amongst other things, the layout does not allow adequate access of HGVs and fails in its design to take account of noise issues and other constraints. I appreciate that any decrease in floor area will have a negative effect on viability. The reality is that floorspace in any scheme may increase or decrease, but it is likely that any future developer of the site would wish to maximise the floor area, taking account of any constraints. The pre-application scheme does not seem to me inherently untenable, and appears to be a reasonable indicative view of what could potentially be achieved on site at this stage.
38. Turning to yields, the Council has advocated a figure of 5.25% based on comparables⁴². This is said to "*reflect the uncertain nature of the likely covenant strengths of various new tenants as they are unknown*"⁴³. Taking account of build costs⁴⁴, and a developer's profit applied at 20%, a land value of £5,563,764 would result⁴⁵. The objective of a residual method appraisal in this context is to produce an open market value, and a positive sum shows that the development of the site is viable. A scheme is financially viable if the value generated by a development is more than the costs of developing it⁴⁶. On these assumptions, the scheme is viable with a developer's profit of 20%⁴⁷.
39. The appellant points out that minor downwards adjustments of the Council's figures in terms of rent, yield or floorspace could result in significant changes on overall profitability⁴⁸. For example, a 2,000 sq ft reduction in floor area reduces profit to 18.9%; a 10 pence reduction in rent per sq ft reduces profit by 1%; a yield at 5.5% reduces profit to 13.64%. Restrictions on operating hours, were they to be imposed to protect the living conditions on properties in the area, may also affect viability. Of course, I accept all these variables may impact on the viability of a scheme but they do not render the Council's viability evidence fundamentally unsound.
40. The appellant has argued in rebuttal evidence⁴⁹ that land remediation costs of £1.7 million should now be taken into account which would reduce profits very substantially to 6.38%. I share the Council's concerns about the inclusion of such a large abnormal cost. Firstly, the appeal site was subject of detailed viability evidence at the previous planning appeal in 2016 and no suggestion was made then of an abnormal cost for remediation. Secondly, whilst the main viability evidence of the appellant identified historic contamination issues, it did not include a specific abnormal cost, although I acknowledge it did note that there could be additional costs⁵⁰. Thirdly, when the appellant originally purchased the site, it retained £1 million from the vendor to address contamination issues⁵¹. The appellant states that this money has now been

⁴¹ ID18

⁴² Mr Deriaz's Proof – Appendix V (Lambert Smith Hampton letter dated 29 October 2018)

⁴³ Ibid, Paragraph 6.04

⁴⁴ Based in BICS data with an allowance (£600,000) in relation to two bridges

⁴⁵ ID18

⁴⁶ PPG Paragraph 010 Reference ID: 10-010-20180724

⁴⁷ ID18 – profit is £3,438,949

⁴⁸ Appellant's Closing Submissions – Paragraph 47

⁴⁹ Mr Francis's Rebuttal Proof

⁵⁰ Mr Francis's Proof - Paragraph 23.3.3

⁵¹ Mr Francis's Proof – Appendix G (GVA Grimley Report – Page 13)

paid back to the vendors, which does seem perplexing if such extensive remediation works are still required on site.

41. The LBH Wembley Land Contamination Assessment carried out in 2016⁵² which was prepared in the context of a residential scheme notes that, although recent investigation has found no problematic concentrations of contaminants within the main ground underlying the site, there is a clear expectation of some contamination⁵³, and seems to suggest a 'clean cover' system in all garden and soft landscaped areas⁵⁴. However, it does not appear to suggest that large scale excavation of material would be necessary of the type now accounted for within the Cumming Report⁵⁵. Therefore, I consider that an allowance for such a large sum as advocated by the appellant should be treated with caution. It is notable that, even assuming an abnormal remediation cost, and based on a floorspace of 93,458 sq ft, a positive land value still results.
42. Reference has been made to the Peter Brett Associate Reports of January 2014⁵⁶ and February 2015⁵⁷ in terms of viability. In 2014, it was noted that because Glory Park was primarily an office orientated development, it was appropriate to protect it as a 'Business Park'. However, the 2015 report confirmed that the site was suitable for light industrial and small scale warehousing based on its proximity to similar uses and the motorway junction⁵⁸. Although the 2015 report noted that speculative industrial development may not have been viable at that time, the market has changed significantly since then.
43. Much time could be spent debating viability, using different approaches, assumptions and techniques. However, standing back and looking at the broader picture, there is cogent evidence that there is an inadequate supply of employment land to meet demand in the district. For example, the evidence base for the Emerging Local Plan (Topic Paper 3) demonstrates that there is a clear shortage of employment land across the district⁵⁹. It has been established that there is a net requirement of 151,000 sqm for the district for all B Class uses⁶⁰ made up as follows: Class B1 - 69,000 sqm; Class B2 - 33,000 sqm; and Class B8 - 49,000 sqm. The Emerging Plan allocates only 95,000 sqm and there is a shortfall of some 57,000 sqm⁶¹. Evidence submitted to the Local Plan Examination appears to corroborate that there is a shortage of warehouse premises, with an imbalance between supply of sites and market demand⁶².
44. The appellant says that there are other sites elsewhere that can meet need, the appeal site only accounts for a very small element of the supply (0.6%) and that all calculations for need are, in any event, a 'best guess' given the

⁵² Mr Francis's Rebuttal – Appendix B

⁵³ Paragraph 7.1

⁵⁴ Paragraph 7.3

⁵⁵ Prepared 19 November 2018 – attached as Appendix to Mr Francis's Rebuttal

⁵⁶ CD 2.4

⁵⁷ CD 2.10

⁵⁸ Paragraph 5.1.7

⁵⁹ Topic Paper 3: Economic Development -October 2017 [CD 2.6]

⁶⁰ Table E10, Page 38

⁶¹ This comprises a shortfall for both B1 & B8 uses -55,000 sqm & 19,000 sqm respectively, and a surplus for B2 of 17,000 sqm– Table E10, Page 38

⁶² See Segro Plc Representation at Paragraph 2.14 – Ms Jarvis Rebuttal Proof: Appendix 5

wide range of estimates in the Topic Paper⁶³. However, the requirement figure was agreed by all the Buckinghamshire authorities as a reasonable basis for identifying future employment needs. Allowing the development of the site for housing would potentially add to the identified deficit that already exists. In my judgement, the shortfall in supply of employment land underlines the importance of protecting employment sites across the district.

Offers to Buy the Appeal Site

45. The Council has offered to buy the appeal land for £5 million in order to facilitate an employment use on the site, although this offer was refused by the appellant. The Council has also mentioned that, in the absence of an agreed acquisition, a Compulsory Purchase Order (CPO) may also be an option. The Council has agreed in principle to set aside appropriate funds to acquire the site⁶⁴. The appellant has expressed some scepticism on this issue and notes that the funds to be made available relate to a year that has now passed⁶⁵. I acknowledge that any successful exercise of CPO powers would have to demonstrate that there is a compelling case in the public interest. It is not for me to express a view on any future CPO, or to prejudge whether it would be confirmed. Nonetheless, the actions of the Council reinforce the view that a future employment use of the site cannot necessarily be ruled out.

The 2016 Appeal

46. I have already referred to the earlier 2016 appeal. At that time, the Council was contending that an office use was viable. In short, the Inspector concluded that the residential proposal before him was contrary to the provisions of the development plan and would result in the loss of land for employment use. However, he considered there was no reasonable prospect of the extant permission for offices being built or the site being used for employment purposes in the foreseeable future. Whilst he considered that there were benefits of a residential scheme, he also had serious concerns that the scheme would displace an established business within the site at Sirius House (now vacated), with the potential loss of skilled employment opportunities in the area. On this basis, he dismissed the appeal.
47. Importantly, each decision will turn on its own facts and evidence base. The Inspector's findings no doubt reflected the evidence before him at that Inquiry. To be clear, I have assessed this proposal on the evidence before me, including regarding market conditions and rents, and taking account of up-to-date policy guidance and development plan policy.

Planning Obligation

48. A planning obligation, dated 6 December 2018⁶⁶, has been completed by the Council and appellant⁶⁷. It stipulates that no development shall commence until the Council has approved an affordable housing scheme of not less than 40% of bed spaces within the approved scheme. The obligation contains various clauses to ensure that the affordable housing is properly implemented.

⁶³ Topic Paper 3 – Paragraph 3.24

⁶⁴ CD 6.3 (Cabinet Report) & ID22 (Minutes)

⁶⁵ 2017-18

⁶⁶ ID31

⁶⁷ Pursuant to s106 Town and Country Planning Act

49. I have no reason to believe that the formulae to calculate the quantum of affordable housing to be other than soundly based. It would comply with the Council's policy requirement. I am satisfied that the provisions of the obligation are necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Revised Framework⁶⁸ and the Community Infrastructure Levy Regulations⁶⁹. I have taken the obligation into account in my deliberations.

Overall Conclusions and Planning Balance

50. The relevant legislation requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. At the Inquiry, based on the publication of the Housing Delivery Test Results (applying the 5% buffer) and using the 2014 SNHP as required by the Standard Methodology, the Council's supply figure was 4.92 years and the appellant's was 2.8 years (or around 3.3 years if past 'undersupply' is removed). Either way, the absence of a demonstrable five year supply of housing engages the second limb of Paragraph 11 of the Framework and the so called 'tilted balance'. This requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
51. The Framework also states at Paragraph 11 that proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by economic, social, and environmental dimensions and the interrelated roles they perform. In this case, the scheme would deliver up 110 dwellings. Within the scheme, 40% of the bed spaces would be affordable. Both market and affordable dwellings are much needed within the district as acknowledged by the Council. As the appellant notes, the Council has failed to meet its affordable housing targets in recent years⁷⁰. Such homes are therefore a weighty benefit for the area. The scheme would bring about additional housing choice and competition in the housing market. It would also boost the supply of housing in accordance with the Framework⁷¹.
52. The scheme would generate economic and social benefits. Jobs would be created during the construction phase, albeit for a temporary period. The scheme would create investment in the locality and increase spending in shops and services by new residents. The Council has not objected to the scheme in terms of its effect on the character and appearance of the area, and is satisfied that it would preserve or enhance the setting of the adjacent Watery Lane Conservation Area⁷². I see no reason to disagree on these matters. In my view the scheme would deliver environmental benefits by utilising a previously developed site.
53. However, balanced against these positive factors is the clear conflict with both the adopted and emerging development plan, which allocate the appeal site for

⁶⁸ Paragraph 56

⁶⁹ Regulation 122

⁷⁰ CD 2.12 – Wycombe Monitoring Report - Table 3.6, Page 14

⁷¹ Paragraph 59

⁷² SOGC- Paragraph 6

employment uses. I have carefully considered the evidence on the suitability of the site for employment use, in terms of noise, highways and site accessibility. I have also analysed the viability evidence including the likely demand for employment uses in the future. The evidence before me does not conclusively or unequivocally demonstrate that there is no reasonable prospect of an application coming forward for an employment use.

54. Overall, the various benefits of the scheme do not justify a departure from Policy E1 of the adopted Local Plan, or Policies CP5 and DM28 of the Emerging Local Plan. These policies are consistent with national policy. The adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. I reach this view even on the basis of the appellant's lower housing supply figure. I find that there are no material considerations of sufficient weight that would warrant a decision other than in accordance with the development plan. Accordingly, I conclude that the appeal should be dismissed.

Matthew C J Nunn

INSPECTOR

APPEARANCES

FOR THE COUNCIL:

Guy Williams	Instructed by Jenny Caprio, Principal Planning Lawyer, Wycombe District Council
He called	
Richard White	Wycombe District Council, Planning Policy
Carl Griffin	Wycombe District Council, Environmental Health
Paul Deriaz	Consultant, Deriaz Campsie Property Consultants
Philippa Jarvis	Philippa Jarvis Planning Consultancy Ltd

FOR THE APPELLANT:

Jeremy Cahill QC and Christian Hawley	Instructed by Pritchett Planning Consultancy
They called	
Simon Coop	Planning Director, Lichfields
Keith Metcalfe	Director, Sharpes Redmore
Simon Tucker	Director, David Tucker Associates
Russell Francis	Director, Colliers International
Philip Pritchett	Director, Pritchett Planning Consultancy
David Parker	Chairman, Pioneer Property Services Ltd ⁷³

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Statement of Common Ground (Final), dated 26 November 2018
2. Agreed draft list of conditions, dated 23 November 2018
3. Opening Statement on behalf of the Appellant
4. Opening Statement on behalf of the Council
5. Housing Statement of Common Ground, dated 27 November 2018
6. Methods for rating and assessing industrial and commercial sound: BS 4142:2014
7. TRC Noise Impact Assessment (May 2018) relating to the Verco site
8. Aerial photographs - Verco Site

⁷³ This witness produced a Proof but was not called to give evidence orally

9. Guidance on sound insulation and noise reduction for buildings: BS 8233:2014
10. Guidelines for Community Noise, World Health Organisation
11. Coventry and others (Respondents) v Lawrence and another (Appellants) (No2) [2014] UKSC 46
12. Town and Country Planning (Use Classes) Order 1987
13. Documents relating to Verco Site
14. Planning Practice Guidance relating to: Housing & Economic Land Availability Assessment
15. Planning Practice Guidance relating to: Housings Need Assessment
16. Sales / letting Brochure for Chancery Gate 40:40 Link
17. Sales / letting Brochure for 'The Gateway Centre', High Wycombe
18. Appraisal Summary for Glory Park - Pre-Application Scheme
19. List of disputed housing sites
20. Email attached to Draft Cabinet Report relating to CPO
21. Cabinet Minutes of meeting of 18 September 2017
22. Council Minutes of meeting of 9 October 2017
23. Residual Valuation Sensitivity Table
24. Colliers Land Value Calculation
25. Planning Practice Guidance relating to: Viability
26. Site Visit List
27. Planning Obligation (unsigned)
28. Closing Statement on behalf of the Council
29. Hopkins Homes Ltd v Secretary of State for Communities and Local Government and another [2017] UKSC 37
30. Closing Statement on behalf of the Appellant

Documents Submitted after the Inquiry

31. Completed Planning Obligation dated 6 December 2018
32. Letter dated 25 February 2019 from Council re Main Modifications to Emerging Wycombe District Local Plan
33. Council's Comments in respect of revised Framework and Housing Delivery Test, dated 4 March 2019
34. Appellant's response in respect of revised Framework and Housing Delivery Test, dated 7 March 2019 – including Briefing Note dated 6 March 2019
35. Appellant's Rebuttal Statement (Lichfields), dated 10 April 2019