
Appeal Decision

Site visit made on 9 December 2019

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

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Appeal Ref: APP/J3530/W/19/3227271

Former Council Offices, Melton Hill, Melton IP12 1AU

- 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 David Hughes, Active Urban (Woodbridge) Ltd, against the decision of Suffolk Coastal District Council.
 - The application Ref DC/18/3424/FUL, dated 15 August 2018, was refused by notice dated 22 January 2019.
 - The development proposed is residential development (100 units) including affordable housing (Class C3) plus a community building (364.1sq.m) (Class D1) and a retail unit (102.3sq.m) (A1/A2/A3), car parking, means of access and landscaping, all following demolition of the buildings on site.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Though the examination of the emerging Local Plan has begun, I am not advised of its progress, or whether there are any outstanding objections to it. This limits the weight I can accord its draft policies.

Main Issue

3. This is whether the proposal would make adequate provision for affordable housing, with particular regard to the application of vacant building credit.

Reasons

4. The appeal site contains a group of buildings and a large car-park, last used as the offices of Suffolk Coastal District Council until it moved out to smaller premises. The appellant proposes to demolish the buildings, and to build 100 dwellings, a shop, and a community building.
 5. Policy DM2 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies DPD 2013 (CS) sets out how the Council expects development of this scale to provide one third of the homes as affordable housing. There is no dispute that there is a need in the District for affordable housing. It is common ground that against CS policy DM2, in isolation, and given the particular configuration of buildings in the scheme, that the development should provide at least 32 dwellings as affordable housing.
 6. However, the appellant contends that account should be taken of vacant building credit (VBC), which would reduce the affordable housing requirement.
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He points to the Framework, which supports the re-use of brownfield land, and which says¹ that where vacant buildings are to be redeveloped, any affordable housing contribution should be reduced by an amount equivalent to the floor space of the existing buildings. He contends that once VBC is applied against the existing buildings, then the requirement for affordable housing would reduce from 32 dwellings to 15, a figure which, notwithstanding its objection to the application of VBC, the Council accepts as a numerically correct offset against the floor areas in the design of this scheme.

7. The Framework says that VBC will not apply to vacant buildings which have been abandoned. Turning first to vacancy, the Council considers that the building is not vacant, and it refers to its advice note on VBC. This defines a vacant building as one which has not been in continuous use for any six month period during the last 3 years. However, this note has not been subject to public consultation and has not been formally adopted as part of the development plan. While vacancy is not defined in the Framework, the Council's decision notice confirms that the site was last occupied in May 2017, almost 3 years ago. Notwithstanding the Council's definition, 32 continuous months of non-use is compelling evidence of vacancy.
8. Turning next to abandonment, the Planning Practice Guidance² (PPG) provides criteria against which to consider abandonment. The buildings' condition is of little relevance as they are owned by the Council, who, consistent with its public responsibilities, has secured them, and prevented any neglect which might affect the surrounding area. There has been no intervening use, and it is clear from the evidence of the Council's office relocation programme that the buildings were not abandoned but were vacated as part of a project of rationalisation of accommodation where staff were redeployed to more modern, smaller offices, with lower running costs.
9. The PPG indicates that the intention of the VBC policy is to incentivise brownfield development, including the reuse of empty and redundant buildings, and that authorities may consider whether the building has been made vacant for the sole purposes of redevelopment. It is clear that the circumstances of this development are quite different from abandonment for the sole purpose of redevelopment of the site. All these factors suggest that VBC should apply to the proposal.
10. However, the PPG also indicates that it may be appropriate to consider whether the building is covered by an extant permission for the same or substantially the same development. Since the appeal was made, the Council has granted planning permission on the same site for a substantially similar development without VBC, but which includes the policy compliant number of 32 units of affordable housing, as sought by the Council. The appellant has confirmed that he is content, and indeed, willing, to implement that second, permitted scheme.
11. The PPG describes the intention of the VBC policy as to incentivise brownfield development. In the light of the permission granted since the appeal was made, I cannot conclude other than that there is no longer any need to incentivise the development of the site, as there now exists a planning

¹ National Planning Policy Framework, paragraph 63

² Planning Practice Guidance, paragraph 028 Reference ID:23b-028-20190315

permission for a similar scheme, which the appellant is willing to implement. In the absence of any viability assessment to demonstrate that the 32 units required under CS policy DM2 would make the scheme unviable, I can only conclude that the 16 affordable homes proposed would be an inadequate level of provision. This places the proposal in conflict with the development plan, by failing to address the need for affordable housing in the District.

Other Matters

12. I have noted the representations of local residents, and I have had regard to my statutory duty and the advice in the Framework with regard to the desirability of preserving the setting of neighbouring listed buildings, the setting of the Woodbridge Conservation Area, and the scheduled monument at Sutton Hoo. However, as I am dismissing the appeal on the main issue, in these circumstances there is no need for me to consider these further.

Planning Balance

13. Though I have no indication of the 5-year supply of deliverable housing sites, both parties have applied the tilted balance in paragraph 11(d) of the Framework. I note the substantial economic benefits of the proposal including short and long term employment, spending in the local economy and New Homes Bonus and infrastructure funding from the additional floorspace. I give significant weight to the social benefit of 100 new homes of which 16 would be affordable, and to the environmental benefit of their location close to the centre of Woodbridge, and to its public transport links to other centres.
14. However, the shortfall in affordable housing would be substantial, and this is a very significant adverse social impact on those without such housing. Even in the circumstances of the tilted balance being engaged as the parties indicate, this adverse impact would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework taken as a whole. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that I determine this appeal in accordance with the development plan unless material considerations indicate otherwise. I have concluded that the proposal conflicts with the development plan when read as a whole. Given that on the basis of the planning balance it would not be sustainable development, there are no material considerations warranting a decision other than in accordance with the development plan.

Conclusion

15. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR