

Appeal Decision

Site visit made on 27 May 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2020

Appeal Ref: APP/B2355/W/20/3246286

Piercy Works, Piercy Road, Waterfoot, Rossendale BB4 9JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr D Tattersall (Inxpress) against the decision of Rossendale Borough Council.
 - The application Ref 2019/0478, dated 7 October 2019, was refused by notice dated 3 February 2020.
 - The development proposed is Up to 9 No Houses.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr D Tattersall (Inxpress) against Rossendale Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. This appeal relates to an application that was made for permission in principle. The Planning Practice Guidance states that the scope of permission in principle is limited to location, land use and amount of development. Accordingly, I have only considered the issues relevant to those in principle matters in the determination of this appeal.
4. The Council has referred to emerging Policy EMP2 of the Rossendale Local Plan 2019-2034, which they advise would protect the appeal site for employment purposes. I have however not been provided with any specific details of this emerging policy, or details in relation to the emerging local plan other than that it is at examination stage but this is paused. I can therefore only give this emerging policy, and the protection to the site it may afford, limited weight.

Main Issues

5. The main issues are (i) the loss of employment land and (ii) whether the appeal site could accommodate the amount of development proposed.

Reasons

Employment land

6. The appeal documents refer to the three units on the site as being occupied, and based upon my observations during my site visit, this appears to still be

the case. Policy 10 of the Rossendale Core Strategy Development Plan Document 2011 (CS) sets out a number of criteria that are to be applied in instances where existing employment sites and buildings are proposed to be lost to non-employment uses. The appellant does not seek to demonstrate that any of the relevant criteria could be met in the appeal case and therefore I have nothing before me to show that the proposed loss of the employment land would comply with the policy.

7. I therefore conclude that the proposed development would fail to accord with Policy 10 of the CS, which seeks to protect existing employment sites and buildings. Whilst it would appear that there would also be conflict with emerging Policy EMP2, I have already set out that this policy can only be given limited weight.

Amount of development

8. The Council considers that it has not been demonstrated that the appeal site could accommodate 9 dwellings, due to the proximity of the rear boundary of the site to the adjacent river and its defined flood zone. However, whilst an indicative plan has been provided, there may be other configurations and dwelling types that could be used to allow 9 dwellings to be accommodated, and I have no conclusive evidence before me which demonstrates that this number of dwellings could not ultimately be achieved.
9. Furthermore, detailed consideration of matters of flood risk would be made at the technical details consent stage, at which point it would become apparent to what extent, if any, flood risk was a constraint on the quantum of development possible on the appeal site. In the event that flood risk, or any other parameter, meant that 9 dwellings ultimately could not be achieved, then it would seem likely that at least the stated minimum of 5 could. Therefore, a permission in principle which permitted a minimum of 5 dwellings and a maximum of 9 would represent a reasonable range, based upon the information which has been, and is required to be, submitted at this stage in the permission in principle process.

Other Considerations

10. Both parties agree that the Council cannot demonstrate a 5 year housing land supply, but they disagree on the extent of the shortfall, with the figures quoted by the Council ranging between 2.1 years and 3.8 years and the appellant placing it at 2.46 years. However, the Council concedes that the figure based upon the CS would be 2.1 years and I will therefore take that figure for the purpose of this decision. In any event though, by virtue of footnote 7, the shortfall triggers paragraph 11d) of the National Planning Policy Framework (The Framework). I have not been made aware that the proposed development would harm any areas or assets of particular importance, and therefore paragraph 11d)ii) is the relevant part of The Framework in this case.
11. The main benefit that would arise in this instance would be the delivery of new housing, which must be considered against the shortfall in the 5 year housing land supply that the Council is able to demonstrate. The Council's shortfall is significant and the delivery of new housing must carry weight in favour of the proposals, owing to the fact that it would serve to reduce the shortfall and provide both economic and social benefits.

12. The appeal development would deliver new housing, in the form of between 5 and 9 new dwellings. This would make a contribution to the delivery of new housing, against the shortfall in the 5 year housing land supply. Due to the number of dwellings proposed, this contribution would only be modest but, mindful of the 5 year housing land supply position, I afford moderate weight to the benefits of the delivery of new housing that would arise as a result of the appeal proposal. Whilst there would be some associated economic benefit during the construction of the proposed development, this would be limited due to the scale of the proposal.
13. The appellant considers that the proposal would make effective use of land and they have provided details of what they consider to be an oversupply of employment sites and buildings in the local area, which has resulted in units remaining vacant for prolonged periods of time. However, I have not been provided with full details relating to the circumstances of these other premises, and in any event the appeal site is occupied. No evidence has been provided to suggest that it will not remain so, that it is inadequate for ongoing employment purposes or that, if it were to become vacant, new occupiers could not be found to allow the current use to be retained. Therefore, there is no evidence that the current use does not make an effective use of land. This consideration therefore does not weigh in favour of the proposed development.
14. The appellant also points to the Council's findings that the site is sustainably located including being close to existing residential properties, that it is a brownfield site within the existing urban boundary, it is not remotely located and that there would not be likely to be adverse impacts on the visual or other amenities of adjoining occupiers or the character and appearance of the area. From the information before me and my own observations during my site visit, I have no reason to dispute the validity of these particular points. Whilst these considerations would meet many of the objectives of the CS and The Framework, there is no suggestion that the current use is unsustainably located or causes harm in any of these respects. Therefore, the fact that the appeal proposal would also itself not cause harm can only be a neutral consideration in the planning balance.
15. Although the site is not specifically allocated for employment use in the CS, this does not mean that it does not make a contribution to providing employment land in the borough. The appellant refers to the site only offering low level employment use but no specific details have been provided relating to these levels, and by their own admission, the site sustains three different businesses at the current time. I therefore too give the fact that the site is not allocated for employment use neutral weight in the planning balance, in this described context.

The development plan

16. The appellant considers that Policy 10 of the CS is a constraint on the release of housing land and the local economy and that it should be given little weight as a result of the lack of a 5 year housing land supply. However, the purpose of the policy is in part to secure the retention of viable employment sites and buildings. It therefore serves an important purpose as a component of the development plan, and in helping to deliver the economic objectives of the borough. No evidence has been provided to suggest that the housing shortfall that does exist in the borough is as a direct result of Policy 10. Furthermore,

although the appellant considers that Policy 10 should be given little weight, they have not provided any detailed evidence that the policy is inconsistent with The Framework. In light of these considerations, the conflict that would arise with Policy 10 as a result of the appeal proposal must carry substantial weight.

17. Balanced against this is the fact that the development plan (the CS) seeks to promote the delivery of new housing, notably in Policies 2 and 3, and that there is a significant shortfall in 5 year housing land supply. This gives importance to a proposal that would contribute to the supply of new housing. In this case however, the two principal considerations of protecting employment land and providing new housing are competing against one another.
18. Therefore, whilst I accept that there are policies in the development plan which seek to deliver new housing, the proposed development would conflict with the objectives of Policy 10 and this conflict carries substantial weight. This conflict alone would mean that the proposed development would conflict with the development plan, when it is taken as a whole.

The paragraph 11d)ii) balance

19. When triggered, Paragraph 11d)ii) of The Framework states that planning 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. I have already established that the delivery of new housing would be a benefit, and that this should carry moderate weight in support of the proposal.
20. The proposed development would however result in the loss of an employment site and the employment buildings upon it, with no substantive evidence having been provided to support or justify its loss. An overarching objective of The Framework is to deliver economic objectives, which include helping build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity. The evidence before me fails to demonstrate the appeal site is not the right type of land or that it is not in the right place for employment use.
21. The Framework further advises that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Again, based on the information provided, the loss of this employment site and buildings would run counter to these objectives. I have also established that it has not been demonstrated that the proposal would serve to make an effective use of land when compared to the existing use, and there is nothing before me to suggest that the site and buildings are under-utilised. Collectively, these factors mean that the proposed development would result in an adverse impact upon economic objectives and I attach substantial weight to this.
22. Whilst the delivery of new housing is a benefit which carries moderate weight in support of the proposal, the adverse impacts arising from the loss of an occupied and, on the basis of the evidence provided, seemingly viable employment site carry substantial weight. The adverse impacts would therefore significantly and demonstrably outweigh the benefits, when assessed against

the policies in The Framework as a whole. Accordingly, I conclude that the proposal does not benefit from the presumption in favour of sustainable development that is set out in Paragraph 11 of The Framework.

Planning Balance and Conclusion

23. The proposal would not accord with Policy 10 of the CS, which seeks to protect employment sites and buildings. The conflict with this policy carries substantial weight and means the proposed development would conflict with the development plan, taken as a whole. Whilst the provision of housing would be a benefit of moderate weight, it does not outweigh the harm that would result from the loss of the employment land and the resultant conflict with the development plan. Furthermore, for the reasons I have outlined, the proposal does not benefit from the presumption in favour of sustainable development set out by The Framework.
24. Therefore, there are no material considerations which indicate that the determination of this appeal should be made otherwise than in accordance with the development plan, and I conclude that the appeal should be dismissed.

Graham Wraight

INSPECTOR