



Appeal Decision

Site visit made on 7 July 2020

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2020

Appeal Ref: APP/C1950/W/20/3248395

Former Shredded Wheat Factory, Welwyn Garden City AL8 6UN

- 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 The Wheat Quarter against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2019/1330/FUL, dated 24 May 2019, was refused by notice dated 6 December 2019.
 - The development proposed was originally described as 'Erection of a 5-storey Community Bridge Building (1,257m²) for flexible use (B1/D1/D2 Use Classes)'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address in the banner heading above has been taken from the Council's decision notice as it reflects the location of the appeal site accurately. The description of the development has been taken from the planning application form. However, the information provided with the appeal shows that the proposal was amended during the course of the application. Both the appeal form and the decision notice describe the development as 'Alterations and amendments to planning permission 6/2018/0171/MAJ, for the erection of a five-storey community bridge building (1,257m²) for flexible use (b1/d1/d2 use classes), incorporating a minimum of 338 square metres of D2 use class floor space, the removal of the skate park'.
3. The amended description infers that the proposal seeks to modify an existing planning permission (reference: 6/2018/0171/MAJ). Section 73 of the Town and Country Planning Act 1990 (the Act) enables development to be carried out without complying with conditions subject to which a previous planning permission was granted. However, the application has not been made under Section 73 of the Act and thus I have determined the appeal on the basis that a fresh and independent planning permission is sought. Notwithstanding this, I have determined it on the basis that the proposal includes a minimum of 338 square metres of D2 use class floor space.
4. The main parties have referred to the Council's emerging Local Plan (ELP)¹ within their submissions. The appellant has stated that the ELP is yet to complete its examination in public and this has not been disputed. The ELP is therefore subject to change and thus I afford it limited weight in my decision.

¹ Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016

5. Following my site visit I gave the main parties an opportunity to comment in respect of disabled parking and parking for vehicles that may serve the development. In response, the Council raised concerns regarding the absence of disabled parking and the accessibility of the development for people with disabilities. The appellant has been provided with an opportunity to comment on the Council's response. I have taken all the comments received into consideration. This is reflected in the main issues identified below.

Main Issues

6. In my view, the main issues are: (i) the implications of the proposal for parking; and (ii) the effects of the proposal on the provision of space for older children and teenagers to spend time within the vicinity of the appeal site, with particular reference to the provision of a skate park.

Reasons

Implications for parking

7. The appeal site mainly consists of trees and vegetation that are below a pedestrianised footbridge which provides access from Hydeway to Welwyn Garden City's train and bus stations and the Howard Centre shopping mall within the town centre.
8. The site forms part of an area that Welwyn Hatfield District Plan (DP) policy EMP3 identifies as Broadwater Road West (BRW). The policy explains that BRW is an opportunity area of planned regeneration for mixed use development. It also states that development at BRW shall comply with a Development Brief, which is the Broadwater Road West Supplementary Planning Document (SPD). DP policy EMP3 is consistent with the National Planning Policy Framework (the Framework), which states that policies should encourage multiple benefits through mixed use schemes at paragraph 118. The existing permission is for mixed use development at BRW and the appellant has confirmed that it is currently under construction.
9. Policy M14 of the DP requires parking provision for new development to accord with the standards set out in the Parking Standards Supplementary Planning Guidance (PS). The PS adopts maximum parking provision levels for development, except for disabled parking, where minimum levels apply. It indicates that development in more accessible locations may provide lower levels of parking; however, this does not apply to disabled parking. The Council has stated that DP policy M14 and the PS are not consistent with the Framework and produced an Interim Policy for Car Parking Standards, which explains that parking will be assessed on a case-by-case basis and the maximum provision levels in the PS will be treated as guidelines.
10. Paragraph 105 of the Framework sets out that parking standards should take into account matters of accessibility and the availability of public transport. In addition, paragraphs 103 and 109 advise that development should be focused in accessible locations and opportunities to promote sustainable transport modes should be taken up.
11. The Council's concerns relate to car parking. No parking is proposed within the site. There are parking restrictions along Hydeway and Broadwater Road and I have not been provided with information regarding the status of Bridge Road or whether parking is possible along it. However, as a result of the footbridge, the

- site is close to the town centre and only a few minutes' walk from the train and bus stations. There are also car parks in the town centre a short distance away.
12. I thus find the site is highly accessible and many people travelling to and from it are able to do so without reliance on cars. As a result, it is unlikely that a high quantity of people would travel to the development by car at any one time, particularly as regular visitors would be aware that parking is not available. The proposal would not therefore result in the displacement of vehicles onto the highway to the extent that the operation of the highway network would be adversely affected. Furthermore, I note that the Highway Authority has no objection. I do not therefore find that the absence of parking within the vicinity of the site would be harmful in this respect.
 13. However, the site may not be close enough to the town centre via the footbridge for it to be accessible to all who may attempt to travel to the development. I noted from my visit that the footbridge is not accessible via a lift. Whilst it appeared that works to the footbridge were underway, I have not been provided with evidence which suggests that accessibility improvements will be made. The town centre is further from the site via other routes and, although I noted there was a bus stop along Broadwater Road, it was also some distance from the site. People with disabilities may therefore be reliant on private motor vehicles to access the development. Consequently, as it has not been demonstrated that parking spaces are available in the vicinity of the site, I find that the proposal would not be accessible for people with disabilities.
 14. The appellant has suggested that those travelling to and from the site would be able to use the 142 non-residential parking spaces that would be provided across the site of the approved scheme and that this could include 7 to 9 disabled parking spaces. It is also suggested that this proposal could be subject to controls imposed on the approved scheme and that a condition could prevent the occupation of the development until parking has been provided within the wider site. However, I have been provided with limited information regarding the terms of the approved scheme. I cannot be certain that reliance on the approved scheme would not have consequential negative impacts on it, nor can I be certain that the disabled parking spaces would be accessible for those visiting the development.
 15. It has not been demonstrated that parking is available in the vicinity of the development and no parking is proposed within the site. I thus conclude that the proposal would not be accessible for people with disabilities. The proposal is contrary to DP policies D1, D9 and M14 which require development to be well-designed, accessible and provide disabled parking spaces. These policies are consistent with paragraphs 105, 108 and 127 of the Framework which, amongst other things, advise that local parking standards should take into account the accessibility of development and that suitable access to sites can be achieved for all users.

Provision of space for older children and teenagers to spend time

16. The existing planning permission includes the provision of an office building for train operating companies and a skate park within the appeal site. The Council refused the proposal subject to this appeal on the basis that it would not include a skate park and, consequently, there would not be provision for older children and teenagers to "hang out" within BRW.

17. Paragraph 96 of the Framework states that planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities. The policies to which I have been referred and the SPD do not indicate that there is a specific requirement for a skate park within BRW and thus I do not find that the provision of a skate park is necessary.
18. The SPD sets out that space for older children and teenagers to “hang out” should be provided; however, it does not define the term “hang out” or provide specific requirements that must be satisfied. It appears that the SPD seeks the provision of space wherein older children and teenagers can spend their time, be that individually or jointly and irrespective of whether or not they are engaging in sports or recreational activities.
19. The main parties do not dispute that over half of the total site area of the approved scheme would constitute open spaces, or that formal and informal open spaces and play facilities would be provided. The skate park thus forms only a small element of the approved scheme’s open space provision. I therefore consider that older children and teenagers who may reside at BRW would be able to spend their time in the manner I have described in the remaining open space. Whilst alternate proposals may be pursued, I have no reason to conclude that any approved schemes would not include adequate open space provision.
20. In addition, the majority of uses included within use class D2 are suitable for older children and teenagers to spend their time, including indoor sports and recreation uses. The proposed class D2 floor space would thus likely be put into use to provide opportunities for socialising and recreation for older children and teenagers.
21. The Council contend that, unlike a skate park, the proposed class D2 floor space would be provided within the building and therefore it would not be accessible all year round, free of cost, encourage physical activity or promote health, well-being or social inclusion. There is no evidence to suggest that the use of the class D2 floor space would be unable to promote health, well-being or social inclusion. Additionally, it is likely that the class D2 floor space would be usable throughout the year, outside daylight hours and in inclement weather. It is likely to benefit the wider community, including older children and teenagers, in different, but no less valuable, ways to a skate park.
22. The Council has stated that a financial contribution towards ‘provision’ for older children and teenagers, such as improvements to the skate park at King George V Park, was not sought when the approved scheme was considered as such provision was proposed on the site. The proposal was refused due to its effect on the provision of space for older children and teenagers within BRW and not elsewhere in the borough. Furthermore, I have found that the proposal would not have a harmful effect on the provision of space for older children and teenagers to spend time in the vicinity of the site. A contribution towards provision elsewhere would be unnecessary in this context.
23. I conclude that the proposal would not have a harmful effect on the provision of space for older children and teenagers to spend time within the vicinity of the site. The proposal accords with the guidance set out within the SPD. Accordingly, the proposal complies with DP policy EMP3, which seeks mixed use development at BRW that is in accordance with the SPD. In addition, the proposal complies with paragraphs 92 and 96 of the Framework, which seek

the provision of appropriate open spaces and social and recreational facilities that communities need.

Planning Balance

24. The appellant contends that the DP is out-of-date as it pre-dates the Framework and is not reflective of the current importance of sustainability. The appellant therefore considers that the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, is applicable. Paragraph 213 of the Framework explains that policies should not be considered out-of-date simply because they were adopted or made prior to the Framework and that due weight should be given to them according to their degree of consistency with the Framework. The appellant has not stated that any specific policies are out-of-date and I have already found that the policies to which I have referred are consistent with the Framework. I thus conclude the presumption in favour of sustainable development does not apply.
25. Notwithstanding this, the proposal would make efficient use of brownfield land and create jobs in a location which is accessible for many people. It could also provide an uplift in employment floorspace in the borough. I also have no reason to conclude that the building would not be visually attractive. In addition, as set out above, the proposed D2 floorspace is likely to benefit the wider community. However, I do not find that these matters outweigh the harm identified.

Conclusion

26. I conclude that the proposal is contrary to the development plan as a whole. There are no material considerations which outweigh my findings in respect of the development plan. Accordingly, the appeal is dismissed.

Mark Philpott

INSPECTOR