



Appeal Decision

Site visit made on 22 October 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2020

Appeal Ref: APP/J1915/W/20/3247445

**The Oaks Factory, Rear of Ginns Road, Stocking Pelham, Hertfordshire
SG9 0JD**

- 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 Richard Newman of Newman Property Group Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/2281/FUL, dated 7 November 2019, was refused by notice dated 13 January 2020.
 - The development proposed is for the demolition of commercial unit (B8) and other outbuildings and erection of 9no. dwellinghouses and associated external works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and precision, I have inserted 'Hertfordshire' into the address in the banner heading above as it is listed on the appeal form.
3. Policy VILL3 of the Council's District Plan 2018 (DP) was not cited on the Council's decision notice. However, it was provided with its Questionnaire. Consequently, I will not prejudice any party in taking this policy into account during the determination of the appeal.

Main Issues

4. The main issues of this appeal are:
 - i. whether the proposed development would conflict with local and national planning policies, which seek to achieve a sustainable pattern of residential development;
 - ii. whether the proposed development would result in the loss of employment land; and,
 - iii. the effect of the proposed development on the character and appearance of the appeal site and surrounding area.

Reasons

Sustainable location

5. The appeal site is located in the countryside, set back from Ginns Road and a little distance away from Stocking Pelham (SP), which is a small village identified as a Group 3 Village in the DP. DP Policies GBR2 and VILL3 apply to

SP in terms of the Rural Area Beyond the Green Belt (RABGB) and Group 3 Villages, respectively.

6. DP Policy DPS2 advises the strategy of the DP is to deliver sustainable development in accordance with a hierarchy, including sustainable brownfield sites, amongst other things. DP Policy GBR2 outlines the development that would be permitted in RABGB provided that they comply with various criteria. One criterion includes limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) in sustainable locations where appropriate to the character, appearance and setting of the site and/or surrounding area.
7. During my visit I noted that SP has little in the way of shops and services, but does have some facilities comprising a church, recreation ground and village hall. Furthermore, I have no details relating to public transport services serving the area. Nonetheless, SP is a short distance away from the site, along Ginns Road. Whilst Ginns Road is unlit and without footpaths, I consider that SP could be easily accessed through walking or cycling. I accept that the site is not located within easy access to shops and services, other than by car. The appellant has referred to a Judgment¹, which I consider represents a material consideration of significant weight in this appeal. In this instance, and for the purposes of paragraph 79 of the National Planning Policy Framework (the Framework), I do not find the proposed development would amount to isolated residential development in the countryside.
8. Both main parties have referred to an appeal decision² in their respective submissions. However, whilst I have had regard to this decision as the site in this appeal is in proximity to the site in the case before me, I note that this appeal was surrounding the separation of ancillary accommodation from the main dwelling through the sub-division of the planning unit, which differs significantly from the appeal scheme. Nonetheless, the site currently comprises various commercial buildings, including a large storage building³ to the rear of the site. The proposed development would replace the existing commercial units and whilst the future occupiers of the proposed dwellings, would, in all likelihood, be largely reliant on private vehicles to get to and from the site, the same could be said equally of any employees or visitors to the existing commercial units.
9. Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and planning policies should identify opportunities for villages to grow and thrive, especially where this would support local services. Furthermore, the Framework states that where there are groups of smaller settlements, development in one village may support services in a village nearby. In this case, I find the proposed development would contribute in supporting the existing, albeit modest facilities in SP and to the surrounding villages. Additionally, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making⁴.

¹¹ Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

² APP/J1915/W/18/321040

³ Building C

⁴ Paragraph 103

10. For the reasons given above, I find that the proposed development would not conflict with local and national planning policies, which seek to achieve a sustainable pattern of residential development. Consequently, there would be no conflict with the sustainability aims or the Council's overall development strategy contained within Policies DPS2, GBR2 and VILL3. Furthermore, the location of the proposed development can be considered sustainable as it would accord with guidance contained within Paragraphs 78 and 103 of the Framework.

Employment land

11. Located to the rear of 'The Oaks' and its former residential annexe, the appeal site comprises of 5no. buildings⁵ which vary in size and appearance. All of the buildings are single storey in height, apart from Building C, which is 2-storeys in height. Additionally, there are a number of other structures, including shipping containers and a mobile home.
12. The key policy for considering the loss of employment land in this instance is DP Policy ED1. This policy permits the redevelopment of a non-designated employment area, subject to a number of criteria. Criterion (a) of DP Policy ED1 is that before loss of an employment use is allowed the retention of the site or premises for use Classes B1, B2 and B8 should be fully explored without success, including consideration of whether improvements to the site/premises would make it more attractive to alternative B1, B2 or B8 uses. Although it also says that evidence of a period of marketing of at least 12 months must be provided, it also states that for a non-designated area, a proportionate approach must be taken. Paragraph 15.2.2. of the justificatory text explicitly states that for non-designated sites this would normally be a minimum period of six months. The main parties do not dispute that the appeal site comprises a non-designated employment area.
13. The appellant has alerted me to the extensive planning history that surrounds the site at 3.1 of his Statement of Case (SoC) and has also included a number of appeal decisions⁶ to which I have had regard. However, these appeal decisions are not directly relevant to the case before me and thus, carry moderate weight in the determination of this appeal. Furthermore, the appellant seeks to demonstrate the authorised use of the site in his SoC⁷. However, this is not a matter for my consideration in this appeal. In any event all appeals are judged on their own individual merits. Accordingly, that is how I have assessed this appeal scheme.
14. I noted that a number of units were in operation during my visit, including Building C. Additionally, I noted that Building E was occupied. The Council refer to a motor service company, occupying all or part of Building C. This would correspond with the signage⁸ at the entrance of the site, which is not disputed by the appellant. Additionally, I noted during my visit that another automotive business was operating from Building A and that a notable number of vehicles were parked in the area between Building B and Building D. Consequently, whilst I acknowledge the marketing details⁹, this only refers to Building C, in

⁵ Listed as: A, B, C, D and E

⁶ T/APP/J1915/A/90/173723/P6; PP/J1915/A/06/2020454 and APP/J1915/C/07/2056741

⁷ Paragraph 2.5

⁸ Unit 8 – SG9 Auto Service and Tyres

⁹ Jonathan Hunt Letting Agency dated 15 October 2019

particular Unit 7. Thus, I do not find that this accurately reflects the commercial activity on the site.

15. Even if I did consider lawful status of the businesses operating from the site and the period of marketing undertaken, which appears to be ongoing due to the presence of the 'Unit to Let' sign at the site entrance. There are significant misgivings surrounding the marketing evidence, when comparing the commercial activities being undertaken at the site to provide enough clarity to convince me that the proposed development complies with the requirements of DP Policy ED1.
16. For all of these reasons, I therefore conclude that the proposed development would result in the unacceptable loss of employment land. Consequently, the proposed development would be contrary to the employment and economic aims of DP Policy ED1 and the requirements of the Framework.

Character and appearance

17. The site currently represents 'backland' development, comprising various commercial units, extending further into the surrounding countryside than the neighbouring properties by a notable distance. Nonetheless, the site and its buildings contribute to the existing character and appearance of the surrounding area. In this context Building C is particularly prominent due to its overall size and height.
18. The proposed development would extend the length of the site to approximately the current extent of built development and would generally be located on areas of the site where there are currently buildings. However, apart from Building C, the other buildings on the site are single storey, which accounts for a large proportion of the site. Whilst I do not have any particular concerns regarding the approach to the design of the individual dwellings, I only consider in this instance that potentially 2-storey development would be appropriate in the location of Building C.
19. The neighbouring dwellings in the surrounding area, are largely single storey in form and appearance. This gives a distinct sense of place and rhythm of development, making a positive contribution to the surrounding countryside. In the context of the area surrounding the appeal site, the proposed development would be distinctly at odds with the character of neighbouring dwellings, as it would appear discordant in its location and more visually intrusive in its appearance. I note the condition and appearance of the existing buildings and I acknowledge that, in principle, demolition offers an opportunity for possible visual improvements to the character and appearance of the surrounding area. However, on the details before me, this would not provide a sufficient reason to outweigh the harm identified. I have considered whether suitably worded conditions could be imposed to ensure that otherwise unacceptable development could be made acceptable in this respect, but this is not possible in this instance.
20. For all of these reasons, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and surrounding area. As a consequence, it would conflict with the design, character and appearance aims of DP Policy DES4, GBR2 and the requirements of the Framework.

Planning Balance and Conclusion

21. Whilst I accept the absence of other harm arising from the proposed development, including the location of the site, and the social and economic benefits that would occur from the construction phase of the development and its subsequent occupation, these factors, do not outweigh my assessment of the main issues.
22. Given my findings above, the proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. The proposed development would conflict with part of the economic and environmental objectives set out in paragraph 8 of the Framework. Thus, the proposal does not constitute sustainable development and would be at odds with the requirements of the Framework.
23. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR