



Appeal Decision

Hearing held on 18 November 2020

Site visit made on 24 November 2020

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2020

Appeal Ref: APP/K0425/W/20/3253325

**Commercial land and buildings and yard north of Bockmer End Farm,
Bockmer Lane, Lower Woodend, Buckinghamshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Alexander Richardson against the decision of Buckinghamshire Council.
 - The application Ref 20/05176/OUT, dated 21 January 2020, was refused by notice dated 9 April 2020.
 - The development proposed is the redevelopment of previously developed land and buildings to provide 4 residential dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of existing land and buildings to provide 4No. residential dwellings at Bockmer End Farm, Bockmer Lane, Lower Woodend, Buckinghamshire, in accordance with the terms of the application, Ref 20/05176/OUT, dated 21 January 2020, and the plans submitted with it, subject to the conditions included in the schedule to this letter.

Procedural Matters

2. The appeal proposal is in outline with all matters reserved. The appeal is accompanied by a series of floor plans and other drawings. As these are matters which are covered by the reserved matters, I regard them as purely illustrative.
3. The Council relies on a series of planning documents from Wycombe District Council and Buckinghamshire County Council to substantiate its reasons for refusal. Both these organisations predate the establishment of the unitary authority, Buckinghamshire Council.

Main Issues

4. The effect of the proposals on:
 - highway safety
 - settlement hierarchy
 - local employment opportunities
 - biodiversity, and
 - flood risk

Reasons

Highway safety

5. Both parties agree that the lawful use of the appeal site is for commercial purposes. The appellant base their assessment of trip generation from the site on a 'realistic summary' of the operation of the businesses in occupation at the time the application was submitted. This amounts to around 12,480 trips per annum (tpa). This compares with the Council's evidence that there would be only around 14,633 tpa (or rounded up on the basis of appellants floorspace calculations to around 15,511 tpa).
6. However, at the time of my site visit the whole site was vacant. In these circumstances the Council's figures based on TRICS would appear to offer a more rationale and ultimately fairer assessment of the number of trips generated by the lawful use of the site than the approach advocated by the appellant.
7. It is unclear the basis on which the appellant identifies that the proposals would generate around 9,636tpa. In the absence of alternative figures from the Council, I cannot identify an exact figure for the amount of annual trips generated from the proposals. It is likely, however, that the normal pattern of movements associated with 4 dwellings would be less than those generated by the lawful use of the existing site. Furthermore, these trips would largely involve private cars compared to commercial vehicles and heavy goods vehicles which could form a significant proportion of trips given the site's lawful use.
8. The proposals would use the existing access point, which lies on the inside of a bend on a single track lane bordered by thick hedgerows. Lanes around the site are unlit with no pedestrian footways. The access has been used for many years and there have been no reports of personal injury accidents on local roads within the last 5 years. There would be a reduced risk that serious accidents would occur in the future, from the proposals, given that fewer HGVs and commercial vehicles would be generated.
9. The Council has stated that if there was evidence to suggest that vehicle movements to/from the site would be either the same as or less than the current operations then it would have no objections to the proposed scheme. The narrow width of the roads means that that it is unlikely that cars would readily achieve the maximum speed limits. Information on speed as well as vehicle numbers would inform a decision on whether the existing junction is fit for purpose or whether a revised layout would be appropriate. As it is unlikely that the proposals would result in additional traffic generation compared to that generated by the site's lawful use a decision on junction design could be approved in response to the requirements of a planning condition, as suggested by the Council.
10. For these reasons, on this main issue, I conclude that the proposals are not contrary to policy DM33 of the Wycombe and District Local Plan 2019.

Location of proposals

11. The appeal site is located within the hamlet of Bockmer End within a small collection of residential and commercial buildings. It lies outside the main settlement hierarchy and is not on any bus routes. The area's undulating topography means that walking and cycling are difficult. For these reasons, it is

highly likely that the proposed development would generate trips dominated by private transport compared to other modes.

12. However, it is important to recognise that despite the site's location it is previously developed land and with a lawful use for commercial purposes. Its development, subject to other matters raised by this appeal, would be appropriate. This appeal can be distinguished from that cited in the officer report to Committee¹ which was allowed, as the appeal site in that case comprised a garden on which new development was proposed.
13. For this reason, whilst I acknowledge that the proposal would run counter to Policy DM33 the planning history of this site warrants that an exception be made to adopted policy in this instance.

Local employment site

14. The appeal site comprises two large portal framed sheds in a poor standard of repair surrounded by hardstanding. They have a lawful use for commercial purposes. Policy DM5 of the Delivery and Site allocations Plan 2013 (DSP) requires the protection of scattered industrial sites and that where sites are proposed for residential development they are marketed for a period of time sufficient for their sale or letting.
15. I am satisfied that the appeal site falls within the remit of this policy. The appellants have submitted a marketing report which demonstrates that it was marketed through an extensive range of media. Although it is unclear how long the marketing continued, I am satisfied that range of contacts and material produced point to a comprehensive approach as required by policy. The marketing did not identify interest in continued commercial use on this site.
16. For the above reasons I conclude that the proposals do not offend Policy DM5 of the Council's DSP.

Biodiversity

17. The appeal scheme has not been submitted with a Phase 1 Ecological report. The site is not a protected site. Although this is an outline scheme, the Council require the inclusion of an initial survey of the site which identifies whether there are protected species and habitat on the site. This would allow consideration of adequate protection and mitigation measures to be designed into a detailed scheme to secure a net gain in biodiversity.
18. However, without the required surveys the scheme would not comply with Policies DM13, DM14 and DM34 which require appropriate measures to identify how biodiversity assets will be maximised and net gain secured. I understand that a Phase 1 report was submitted with the previous application for 6 dwellings on this site which identified that the 2 barns had negligible potential to host roosting bats. The Council in its final comments acknowledges that this survey means that it would not be reasonable to require further surveys of the two barns which form part of the appeal site.
19. For these reasons, I conclude that the requirement for surveys can be adequately conditioned in line with the requirements of Policies DM13, DM14 of the DSP and Policy DM34 of the Wycombe District Plan.

¹ APP/K0425/W/18/3195989

Flood Risk

20. The appeal site lies outside Flood Zone 1 and is less than 1ha in area. Policy DM39 requires details of a surface water drainage scheme. The existing site is covered by two large storage sheds and by hardstanding. In these circumstances, it is highly likely that the level of flood risk caused by surface water would be decreased by the redevelopment of the site for 4 dwellings which are likely to include areas of garden. The appellants have indicated that the scheme would drain to an existing overflow pond situated on land within their ownership to the north of the appeal site.
21. Whilst I acknowledge that details of a surface water drainage scheme is required in line with the comments of the LLFA² supported by adopted policy, this would be appropriate if submitted in response to the requirements of a planning condition. The LLFA refers to several decisions of my Inspector colleagues which were dismissed, either wholly or partly because of their over concerns about the amount of detail submitted regarding flood risk. I do not have the full details of each of these appeals but consider that they can probably be distinguished from this appeal which is entirely covered by buildings and impermeable hard standing. The proposal represents a reduced risk of flooding from surface water. In these circumstances a requirement for details submitted in response to a condition attached to this decision is entirely appropriate.
22. The submission of these details would allow consideration of all matters related to layout and design linked to consideration of all reserved matters thereby reducing the need, for a possible re-design at a later date, which could adversely impact on the character and appearance of the area.
23. For the above reasons I do not consider that the proposal is contrary to Policy DM39 of the Wycombe District Local Plan.

Interested parties

24. Representations from interested parties have raised issues which are largely addressed in the preceding sections in this letter. I address the outstanding matters below.
25. The loss of this rural employment site can be balanced against the net increase in housing provision and the reduction in traffic movements to the site. In these circumstances the appeal scheme is unlikely to significantly result in an unacceptable increase in pollution when compared with what could result from traffic operating from the site in line with its lawful use.
26. I am satisfied that the site is previously developed land as it benefits from a Certificate of Lawfulness for commercial purposes. Although representations have been made to the contrary, I have no evidence to disprove the Council's assessment of this site's planning history.
27. The site is prominent lying at the top of a rise but the existing buildings are largely hidden from view by the mature hedgerows which lie on 3 sides of the site. The proposed scheme would have less physical impact and result in less

² Lead Local Flood Authority

harm to the rural environment and by extension the Chilterns AONB³ than the existing buildings. This is acknowledged in the officer's report.

28. Furthermore, the appeal site is located away from the main part of Bockmer End, and its development would not adversely impact on the cluster of listed buildings which form the heart of this settlement.
29. The Chilterns Conservation Board has made reference to its comments in respect of a previous application on the site for up to 6 dwellings. I do not have the detail of the previous scheme before me but consider that the physical impact of 4 dwellings on the AONB is highly likely to be less than 6 dwellings.
30. Requirement for payment of the CIL⁴ remains with the Council. The scheme is below the Council's threshold for affordable housing.

Planning balance and conclusion

31. The appeal scheme is in outline, which poses a question of principle as to whether the proposal is acceptable on this site. Underpinning any decision on this appeal is a need for due consideration to be given to a range of matters which determine the likely impacts and the extent of harm which could arise from the proposed development on its surroundings.
32. Both parties accept that the site is previously developed land, where subject to other matters, the principle of redevelopment would be appropriate. Although the site is outside the settlement hierarchy in a location where choice of transport modes is limited, its identification as a 'scattered' employment site is an acknowledgement of its development potential.
33. I am satisfied, that given the site's lawful use, the amount and type of traffic which could be generated would exceed the amount which would be generated by the proposals.
34. The lack of detail on matters such as flood risk and ecology could be addressed by those pre-commencement conditions suggested by the LLFA and the Council.
35. The redevelopment of this site for 4No. new dwellings would be an important windfall site contributing to the District's housing land supply. This would be consistent with the Government's housing target to deliver 300,000 additional dwellings each year.
36. It is for the above reasons, and having regard to all other matters, that I hereby allow this appeal.

Conditions

37. I have included conditions relating to the submission of each of the outstanding reserved matters and the relevant time limits associated with their submission and the commencement of development. In addition to the submission of outstanding reserved matters for means of access other conditions are required that no part of the development is occupied until the means of access has been completed in accordance with the details submitted. Related to the submission of details in respect of 'Layout', a scheme is required indicating parking and

³ Area of Outstanding Natural Beauty

⁴ Community Infrastructure Levy

turning areas within the site to ensure that these matters can be contained within the appeal site boundaries. Furthermore, given that junction design would be influenced by an understanding of the speed of traffic on local roads I have included a condition requiring a 7 day Automated traffic count, traffic survey.

38. I have also included a condition specifying the relevant plan for reasons of certainty and for the same reason a condition requiring details of levels to account for site conditions across the site which could affect the final design of the scheme.
39. I have included 3 conditions relating to the agreed means of access, vehicle movement and turning within the site in the interests of highway safety. As calculations of the speed of traffic on local roads are likely to influence junction design I have included a condition requiring the results of a speed survey.
40. I have included a condition regarding contamination and remediation given the lawful use of the site for commercial purposes. This would protect the living conditions of the future occupiers of the site.
41. Given the sensitivities of the site's location in relation to the AONB, I have included a condition which restricts the number of proposed dwellings. For the same reason I have included a condition requiring details of boundary treatment.
42. As the site can only be approached through country lanes, I have included a condition regarding a construction method statement required to protect the local environment and the living conditions of surrounding occupiers.
43. Given that the site lies on the edge of open countryside and within 500m of a SSSI, I have included conditions requiring a full ecological appraisal involving a Biodiversity Impact Assessment, identification of appropriate ecological mitigation, compensation and enhancement and the submission of a Landscape and Ecology Management Plan and monitoring report.
44. Finally, conditions are required for the submission of details of a surface water drainage scheme required to meet appropriate water efficiency standards. This would reduce the potential for flooding on land away from the appeal site.

Stephen Wilkinson

INSPECTOR

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved. The submission of details for the reserved matter, 'Access', shall include a 7 day automatic traffic count, speed survey.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans, Site Plan 552189-20 05176 OUT Ordnance Survey 3771685 (Existing).
- 5) Details of all screen and boundary walls, fences and any other means of enclosure shall be submitted to and approved in writing by the local planning authority before any part of the development is occupied. The development shall thereafter only be carried out in accordance with the approved details, and the buildings hereby approved shall not be occupied until the details have been fully implemented. The screen and boundary walls, fences and other means of enclosure which are part of the approved scheme shall thereafter be retained, in accordance with the approved details unless otherwise first agreed in writing by the local planning authority
- 6) No development shall take place until the following information shall have been submitted to and approved in writing by the local planning authority:
 - i) a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings;
 - ii) full details of the proposed finished floor levels of all buildings and hard landscaped surfaces.

The development shall be carried out in accordance with the approved details.
- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) Identification of routes for construction/demolition traffic
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;

- v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities;
- vii) measures to control the emission of dust and dirt during construction;
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.
- 9) The development hereby permitted, shall be designed and constructed to meet a water efficiency standard of 110 litres per head per day.
- 10) Detailed design of the site must be informed by:
 - the recommendations of an updated ecological appraisal (of the site and potentially sensitive surrounding habitats) and follow up by protected species surveys where necessary
 - a biodiversity impact assessment carried out using the Warwickshire Metric and the need to ensure that a biodiversity net gain is achieved.
 - The use of the Canopy Calculator and the production of supporting documents in line with the Council's Canopy Cover SPD to ensure the site maximises canopy cover.

All documents which inform the design process must be submitted to and approved in writing by the local planning authority

- 11) Prior to commencement an ecological mitigation, compensation and enhancement strategy must be submitted to and approved in writing by

the local planning authority. It must thereafter be implemented as permitted prior to occupation.

- 12) Prior to commencement a Landscape and Ecology Management Plan (LEMP) must be submitted to and approved in writing by the local planning authority. It must thereafter be implemented as permitted.
- 13) Prior to occupation, a tree, green infrastructure and ecological monitoring and supervision report (including photographs of the process of installation of trees) including underground soil volumes, green infrastructure and ecological features, must be submitted to and approved in writing by the local planning authority
- 14) No other part of the development shall be occupied until the altered means of access has been sited and laid out in accordance with the details subsequently approved pursuant to Condition 2 and constructed in accordance with Buckinghamshire Council guide note, 'Commercial Vehicular Access within the Public Highway'.
- 15) The details to be submitted for approval of the local planning authority within Reserved Matters application seeking to determine matters of 'Layout' shall include a scheme for parking and manoeuvring in accordance with the Council's, 'Buckinghamshire Countywide Parking Guidance policy document. The approved scheme shall be implemented and made available for use before the development hereby permitted is occupied and that area shall not be used for any other purpose.
- 16) The development shall be served by means of a private access way terminating in a turning area in accordance with details to be first approved in writing by the local planning authority in consultation with the Highway Authority and no part of the development shall be occupied until the access way has been laid out in accordance with the details subsequently approved pursuant to condition 14.
- 17) No works, other than demolition shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles have been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:

- Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to the two above ground SuDS components
- Infiltration in accordance with BRE 365
- Subject infiltration being unviable, the applicant shall demonstrate that an alternative means of surface water disposal is practicable subject to the drainage hierarchy as outlined in paragraph 080 of the Planning Practice Guidance
- Drainage layout, detailing the connectivity between the dwellings and the drainage components, showing pipe numbers, gradients and sizes, complete together with storage volumes of all SuDS components

- Calculations to demonstrate the proposed drainage system can contain the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site
- Construction details of all SuDS drainage components
- Details of how and when the full drainage system will be maintained; this should also include details of who will be responsible for the maintenance
- Details of proposed over land flood flow routes in the event of system exceedance or failure with demonstration of flow direction.