



Appeal Decision

Site Visit made on 3 December 2020

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

Appeal Ref: APP/F0114/W/20/3259044

Land to the South of Bath Road, Keynsham, BS31 1TB

- 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 Churnmead Ltd against the decision of Bath and North East Somerset Council.
 - The application Ref 19/04542/FUL, dated 11 October 2019, was refused by notice dated 14 April 2020.
 - The development proposed is Erection of 9no. dwellings with access from Bath Road (via access approved under outline permission 16/00850/OUT) and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. During the course of the appeal, the appellant submitted a signed Unilateral Undertaking dated 15 November 2020, in an attempt to address the Council's reasons for refusal with respect to primary school accommodation, parks and open spaces provision and replacement tree planting. The Council have had the opportunity to comment on the submitted Unilateral Undertaking and I am therefore satisfied no party would be prejudiced by me taking this document into account. I have dealt with the appeal on this basis.

Main Issue

3. The main issue is whether the proposed development is acceptable with regard to affordable housing provision.

Reasons

4. The site forms part of the 'Land adjoining East Keynsham Strategic Site Allocation' designated under Policy KE3a of the Bath and North East Somerset Core Strategy and Placemaking Plan (Core Strategy adopted 2014 and Placemaking Plan adopted 2017) (CSPP). Under the Placemaking principles within the policy it requires residential development (to include 30% affordable housing) of around 220-250 dwellings. The permitted development as part of the adjacent Hygge Park amounts to 261 dwellings and therefore this proposal would take development of the site up to 270 dwellings. In this regard, the appellant states that 30% affordable housing has already been secured on the 250 site allocation through the existing permissions.

5. Paragraph 63 of the National Planning Policy Framework (the Framework) states that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. However, whilst this proposal is only for 9 dwellings it forms part of a wider strategic allocation. It is clear that the policy does not prescribe an upper limit on affordable housing numbers and in my judgement 30% affordable housing provision should be secured on the total numbers delivered across the site.
6. To my mind, it would seem perverse if through the subdivision of a larger site to smaller parcels would obviate the need to contribute to overall affordable housing requirements. Indeed Policy CP9 of the CSPP is clear that in relation to the sub division of sites, where any part of a site is subject to a planning application, the Council will take account of the whole of the site when determining whether an affordable housing contribution should be sought.
7. Whilst the appeal site is in separate ownership, it is accessed from the existing development forming part of the major development delivered by the Strategic Site Allocation. In this regard, given the circumstances of the site I do not consider that Paragraph 63 of the National Planning Policy Framework provides justification for no affordable housing contribution from the appeal site. In light of the Framework, whilst the element of Policy CP9 relating to the provision of affordable housing on small sites maybe out of date the rest of the policy is not and the affordable housing requirements for large sites remains up to date. In summary, whilst the scheme is for only 9 dwellings it forms part of a larger major strategic allocation for which 30% affordable housing should be sought.
8. Although the need for a viability appraisal is not specifically sought within the Framework, the proposal as it stands is clearly in conflict with the adopted development plan. I note that the appellant indicates that the lack of inclusion of the site as part of the wider Hygge Park development has caused viability constraints to development, notably the need for it to be served by independent drainage infrastructure. Whilst this maybe the case, there is no evidence before me that demonstrates that this would render the necessary affordable housing contribution unviable.
9. Therefore, having regard to Paragraph 57 of the Framework, in the absence of a viability assessment to demonstrate that 30% affordable housing contribution would render the development unviable, the scheme would be in clear conflict with the adopted development plan and would therefore be unacceptable.
10. I have had regard to the appeal decisions¹ referred by the appellant. Whilst in these cases the appeal Inspectors found the schemes to be separate from previous permissions and did not justify affordable housing contributions, I give these limited weight as they are in different areas and were assessed under a different policy context which pre dates the adopted policies of the development plan in respect of the appeal proposal. In any event, I have determined this appeal on the particular merits of the case and the evidence before me.
11. For the above reasons, the proposal would not be acceptable with regard to the provision of affordable housing. Accordingly, it would be in conflict with Policy CP9 and KE3a of the CSPP and the Planning Obligations Supplementary

¹ APP/P0810/A/07/2044108 & APP/J3530/A/12/2191364

Planning Document (2015) (SPD). Together these seek amongst other matters that large residential sites within Keynsham deliver 30% affordable housing.

Other Matters

12. The Councils reason for refusal included the failure of the appellant to provide financial contributions for primary education provision, parks and open spaces provision and compensatory replacement tree planting. Further to the submission of the signed UU, the Council has clarified the submitted obligation adequately responds to these matters and therefore these reasons for refusal have been overcome. Given I am dismissing the appeal on the lack of affordable housing provision, it has not been necessary to consider the adequacy of the Education Capital contribution, Education land contribution, Education Costs contribution, Nature Reserve contribution, Play Space contribution and Replacement Tree contribution in any further detail.

Conclusion

13. For the above reasons, the appeal does not succeed.

S Thomas

INSPECTOR