



Appeal Decision

Site visit made on 11 December 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2021

Appeal Ref: APP/J0405/W/20/3258499

Land adjacent to Tesco Superstores, London Road, Buckingham, MK18 1AB

- 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 GADA Property Investments against the decision of Buckinghamshire Council.
 - The application Ref 19/04481/PIP, dated 23 December 2019, was refused by notice dated 28 February 2020.
 - The development proposed is erection of 9 no. dwellinghouses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 1 April 2020, Aylesbury Vale District Council (AVDC) merged, along with other Councils, into a new single Unitary Authority called Buckinghamshire Council. Whilst the decision notice was issued by AVDC, the authority's new name has been referred to in the banner heading above.
3. In its evidence the Council has referred to policies within the emerging Vale of Aylesbury Local Plan, 2013-2033 (VALP). This plan has completed Examination in Public, though I understand further modifications are required. Nevertheless, having regard to the advanced stage of preparation of the emerging plan and in light of paragraph 48 of the National Planning Policy Framework (the Framework), I attach moderate weight to these policies.
4. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
5. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

¹ PPG Paragraph: 012 Reference ID:58-012-20180615

Main Issues

6. The main issue is whether the site is suitable for residential development, having regard to its location and land use.

Reasons

7. The site is located within Buckingham, close to the urban fringe. There is a distinct settlement pattern to the surrounding area with the site being within an area predominated by commercial and industrial uses. This area is bounded by the London Road and A421. There is substantial mature landscaping lining these main routes. As such, there is clear physical and visual separation between this industrial area and the concentrated areas of existing residential development situated to the north and east. This is an important characteristic of the settlement.
8. The site is wholly and closely surrounded by commercial and industrial uses, being visually and physically detached from any nearby residential development. The proposal would introduce an island of low-density residential development into an area which has a distinctly commercial and industrial character and appearance. It would appear as an isolated and incongruous form of development, directly at odds with the prevailing pattern of development in the vicinity and the overall settlement pattern.
9. The site is currently allocated within Policy BU3 of the Aylesbury Vale District Local Plan, 2004 (AVDLP) as employment land. AVDLP Policy GP17 seeks to retain existing employment sites and states that proposals for changes of use or redevelopment of employment sites will only be permitted where certain criteria are met. Given the allocation within the AVDLP I consider this policy is applicable to the appeal site. The appellant has not sought to demonstrate that any of the relevant criteria are met, and I therefore have nothing before me to show that the proposed loss of employment land would comply with that policy.
10. The appellant contends that AVLDLP Policy BU3 is out of date, as it pre-dates the Framework and the evidence which supported it is no longer relevant or up to date. However, Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework.
11. AVDLP Policies BU3 and GP17, through the identification, allocation and protection of employment sites, form part of an overall strategy to ensure there is sufficient provision of employment land. An approach which is wholly consistent with the Framework.
12. There is no detail to demonstrate that the evidence these policies were based on is no longer relevant. I note the site allocation is not reflected within the Buckingham Neighbourhood Development Plan, 2015 (NDP) or VALP, though from the detail submitted it seems clear that further site assessment or allocation were deemed not necessary as the site was considered to be a committed employment site.
13. Nevertheless, in identifying the character areas of Buckingham the NDP does clearly show the site to be within an industrial area. The proposal would not consolidate the existing settlement pattern, and as such would conflict with VALP Policy D3. Considering this, and my assessment of the site, as detailed above, the absence of a specific allocation in the local plan would, in any event

not change the close, incompatible, relationship of the site to existing commercial and industrial uses, or its location with regards to the established settlement pattern.

14. The appellant has stated that a previous scheme for the site is no longer capable of being implemented due to a unilateral undertaking. Be that as it may, there is nothing to suggest this would preclude another scheme for employment use coming forward on the site, or that the site is considered as being no longer suitable for employment use. There is also no evidence to demonstrate the site has been marketed or that there is no prospect of it coming forward for other employment uses which would accord with the development plan in the future.
15. Furthermore, the development would be surrounded by commercial and industrial uses. The site itself is bounded to three sides by an access road and to the north by the car park for the adjacent supermarket. The access to the east of the site serves as the main customer entrance to the supermarket and a petrol filling station which sits opposite the site. Within the existing supermarket car park, in close proximity to the northern site boundary there is also a hand car wash facility.
16. There was construction work underway at the time of my visit, in relation to the provision of a fast-food outlet, which whilst it would sit further away from the appeal site would also utilise the existing supermarket access.
17. To the south of the access road there is an industrial site which comprises of two detached buildings, both of which have vehicular accesses from the road, directly opposite the appeal site. One of these serves a large area of frontage car parking. The other serves as a delivery access accommodating large vehicles, with manoeuvring space and outdoor storage provided to the site frontage.
18. The access road sweeps around the western boundary of the appeal site, providing access to the service yard of the supermarket which, I saw on my site visit, is utilised by heavy goods vehicles, in addition to smaller home delivery vehicles.
19. There is a mature landscaping strip to the west of the access road beyond which is a large industrial estate. Within the industrial estate there are buildings, car parking and manoeuvring areas which sit directly adjacent to this landscaped buffer. Whilst the landscaping provides some screening, from the site, there is still an awareness of the built form and activity within the industrial estate.
20. Therefore, any future occupants would be exposed to significant levels of activity from a variety of sources. Considering the nature and range of existing uses in the vicinity, there would likely be consistent activity around the site, throughout the day, across the week and at weekends.
21. In addition, there would also be potential for early morning activity, such as deliveries, and a certain level of activity would also likely continue into the evenings, periods when potential future occupants could reasonably expect some respite. They would also have a reasonable expectation that they would be able to enjoy private outdoor amenity space with only minor disturbances. However, considering the relatively small size of the site, and that it is so

closely surrounded by commercial and industrial uses there would, overall, be little relief from nearby noise and disturbances.

22. A noise survey has been submitted, though this relates to a different quantum of development and does not appear to have considered all sources of potential noise. Furthermore, whilst noise is a matter that might be addressed at technical details stage, it is clear from my observations of the site and its surrounding that the level of noise and activity would be incompatible with a residential environment.
23. I conclude that the location of the site would provide poor living conditions for future occupiers and the proposal would therefore conflict with AVDLP Policy GP8, NDP Policy DHE6 and VALP policies BE3 and NE5, which seek to ensure that a suitable living environment, including good quality outdoor amenity space, can be achieved for all future occupants. For the same reason the proposal would also conflict with Paragraph 127(f) of the Framework which also seeks to ensure that developments achieve a high standard of amenity for future users.
24. Furthermore, the proposal would result in the loss of an employment site and introduce a use which would be at direct odds with the established prevailing land uses in the vicinity and settlement pattern, having an unacceptable harmful impact to the character and appearance of the area. It would therefore also conflict with AVDLP Policies BU3, GP17 and GP35 and emerging VALP Policies D3 and BE2 which, amongst other things, seek to ensure the provision and retention of existing employment sites, and that development respects and complements local distinctiveness, and the characteristics of the site and its surrounds.

Other matters

25. The appellant has stated that the Officer report for the application was not initially available to view online. The Council have clarified this was due to a technical issue and has now been resolved. The appellant has also had the opportunity to comment on the officer report.
26. I note that pre-application discussions took place, though these related to a different scheme. It is the scheme before me and the decision of the Council I must have regard to, and these other matters do not, therefore, lead me to a different conclusion.
27. The Council can demonstrate a 5-year housing land supply though the provision of additional dwellings, close to local services, facilities and transport links, would still be a benefit of the appeal scheme. I recognise the important contribution small sites can make to meeting the housing requirements of an area. However, the provision of 9 dwellings would only have a limited benefit in relation to boosting the mix and supply of housing. There would be some economic benefits during construction and from future occupants use of local services. Taken together these benefits would, however, be modest.
28. The appellant has stated that one of the proposed dwellings would be provided as affordable housing. It is not however possible to secure this at the permission in principle stage. Therefore, whilst this would be a positive matter it can only be attributed limited weight.

29. The site is not within a conservation area, listed or subject to any other designations and not in an area at high risk of flooding. However, those are essentially neutral findings, which do not outweigh the harm that would result.
30. The site is within Buckingham, a strategic settlement identified as a focus for growth. However, the proposal would be at odds with the established settlement pattern, result in the loss of an existing employment site, fail to provide suitable living environment for future occupiers and result in unacceptable harm to the character and appearance of the area. These other matters would not outweigh this harm.

Conclusion

31. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

A Denby

INSPECTOR