



Appeal Decision

Inquiry Held on 9 – 12 and 16 September 2019

Site visit made on 17 September 2019

by C Sherratt DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11th November 2021

Appeal Ref: APP/X0415/W/21/3274200

Global Infusion Court, Preston Hill, Chesham, HP5 3FE

- 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 Hightown Housing Association against the decision of Chiltern District Council (now Buckinghamshire Council).
 - The application Ref PL/20/2614/FA, dated 8 August 2020, was refused by notice dated 4 December 2020.
 - The development proposed is "Demolition of existing buildings and the erection of 63 no. dwellings comprising 13 no. 3 bedroom houses and 50 no. 1 and 2 bedroom apartments, associated car parking, open space, landscaping and ancillary works."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In April 2020 Buckinghamshire Council was created and became the local planning authority for the areas that were previously covered by four local planning authorities, including Chiltern District Council.
3. Amended plans and additional documents that were submitted after the submission of the application were not accepted or considered by the Council at application stage. This updated information is however included in the appeal documentation. The specifics of the amended plans and additional information essentially take the form of amendments to the layout of the site including widening of footpaths, increase in open space, addition of windows and an updated surface water disposal scheme and additional technical information to address flooding concerns. An update to the Marketing Report was also submitted.
4. The main parties agree that the inclusion of this information does not materially alter the nature of the application proposal nor would its consideration prejudice the Council, or any third party interested in the appeal. I shall therefore determine the appeal on the basis of the amended plans¹.

Reasons

5. The proposal is seeking full planning permission for the proposed demolition of the existing buildings and the erection of 63 no. dwellings. These would comprise of 5 no. pairs of semi-detached units and 1 no. row of three terraced

¹ Details of the submitted and additional/revised information is also set out in Appendix 1.

- dwellings all of which would be 3-beds, and 50 no. apartments made up of 29 no. 1-bed and 21 no. 2-bed units together with associated car parking, open space, landscaping and ancillary works. The apartments would be situated in two separate blocks of accommodation, one of four storeys (B2) and one of five storeys (B1) linked to form an L-shaped block.
6. The scheme is intended to provide 100% affordable dwellings which would be maintained and operated by the appellant, Hightown Housing Association (a Registered Provider (RP)). It would, the appellant explains, comprise a mix of rented and shared ownership products, with the precise tenure mix being 60% affordable rented and 40% shared ownership properties.
 7. The planning application was refused on a number of grounds. However, following the submission of the additional information, the Council is satisfied that its concerns in respect of some issues have been overcome. A s106 agreement has been provided to ensure that the entire development would remain as affordable housing. The Council is also now satisfied that sufficient car parking is proposed within the site and measurable net gains for biodiversity will be achieved in accordance with relevant policies.
 8. The appeal site is situated in a Critical Drainage Area. The Council's concern related to the effect of any drainage solution on the site, for flooding elsewhere. Based on the updated scheme and both the written and oral evidence put to the Inquiry, I agree with the Council that subject to appropriately worded conditions, the appellant has now demonstrated that surface water drainage can be appropriately managed through the site to ensure that the development is unlikely to increase the likelihood of flooding elsewhere.
 9. It is considered that the remaining main issues are the effect of the development on:
 - (a) the availability of employment land and floorspace;
 - (b) the character and appearance of the area;
 - (c) the living conditions of the future occupiers of the development by reason of outlook and the provision of outdoor public and private amenity space.
 10. The appeal site, known as Global Infusion Court, is located at the northern edge of Chesham to the south of Nashleigh Hill (A416). The site comprises a vacant warehouse and three-storey office building. A Statement of Common Ground (SoCG) confirms the office building on the site is approximately 10m high and the warehouse ranges from 8–10m.
 11. The site is bordered on its western edge by Preston Hill from which vehicular access is gained. There is a mature hedgerow along Preston Hill. Mature trees along the southern boundary of the site provide some screening from residential properties on Cherry Tree Walk to the south and there are also a group of trees protected by a Tree Preservation Order in the north-east corner. On the A416 boundary that faces the countryside (which is designated as the Chilterns Area of Outstanding Natural Beauty (AONB) and which is also Green Belt) is a mature hedgerow and trees.
 12. The residential properties surrounding the site are a mix of two and three storey properties. The land slopes upwards away from the site along Preston Hill which in turn serves residential streets which are very much aligned parallel to Nashleigh Hill, including Cherry Tree Walk.

Policy context

13. The development plan includes the saved policies of the Chiltern District Local Plan, originally adopted in 1997 (with alterations adopted in May 2001) (LP) and the Core Strategy for Chiltern District (adopted November 2011) (CS). Chiltern District Council and South Bucks Council were in the process of jointly preparing the Chiltern and South Bucks Local Plan 2036 (JLP). However, in October 2020 Buckinghamshire Council resolved to withdraw this plan.
14. A Memorandum of Understanding (MoU) between Aylesbury Vale DC, Wycombe DC, Chiltern DC, South Bucks DC and Buckinghamshire Thames Valley Local Enterprise Partnership was signed in July 2017. This confirms the relevant FEMA is a 'best fit' for the four local authority areas that are now part of the new Buckinghamshire Council area.
15. Much of the evidence that relates to the withdrawn JLP and new Buckinghamshire authority area also informed the recently adopted Vale of Aylesbury LP 2013 – 2033 and the draft Wycombe District Council LP, which is at very advanced stage of examination with the Inspector's report having been published. The VALP makes provision for employment land not only to meet the District's own needs but also to meet the needs of the wider economic area too due to the very significant level of constraints that exist in the south of Buckinghamshire, notably the Green Belt and the AONB. There is currently no set timetable for the preparation of a new Buckinghamshire-wide LP although the Council has stated its intention to have one in place by April 2025.
16. Chesham is the largest settlement within the former Chiltern District. It is identified in CS Policy CS1 as one of the 'most accessible settlements' in the District and, along with some other identified settlements is one of the main focuses for development.

Loss of employment land

17. The reason for refusal explains that employment sites such as this are important not just because they provide space for local businesses, but also because the sites location relative to the built-up area of Chesham, affords the opportunity for sustainable and locally based employment. The Council does not therefore contend that the appeal site is important to the overall supply of employment land in the Buckinghamshire Functional Economic Market Area (FEMA) as a whole. Nor does the Council argue that the loss of the appeal site would result in an inadequate supply of employment land within the FEMA as a whole. Rather, the Council's objection lies with the loss of the local site in close proximity to the built-up area of Chesham that is capable of providing an opportunity for sustainable, locally based employment.
18. CS Policy CS3 sets out the spatial strategy for non-residential development. It anticipates the provision of any additional employment floorspace to be primarily on existing employment sites. The CS concluded that there is insufficient evidence to justify allocating additional employment land.
19. Policies E1 and E4 of the Chiltern District Local Plan, (originally adopted in 1997) were revoked upon adoption of Policy CS16 of the Core Strategy (2011). The LP does not allocate land for new employment floorspace. Policies E2 and E3 distinguish between areas which are suitable for general industrial development (defined in Policy E2) and those which are not, having regard to the likely incompatibility of these uses with residential uses (Policy E3). The appeal site is covered by Policy E3.
20. CS Policy CS16 seeks to secure the long-term retention of a portfolio of employment sites and premises within Chiltern District that are attractive to the market and which will provide a range of jobs to meet local needs. The

loss of employment land as a result of redevelopment for other uses, including residential use, will be acceptable where there is no reasonable prospect of the site being used for employment. The supporting text to Policy CS16 states that *"To establish that there is no reasonable prospect of continuing commercial use, the Council will require appropriate evidence."*

21. CS Policy CS16 is not specific about what evidence should be provided. The evidence advanced by the appellant to support the loss of the site consists of details of a marketing exercise that has been carried out and an assessment of the importance of the site for employment purposes in the context of the evidence base that the appellant considers to be relevant.
22. The buildings on the site were last occupied in the summer of 2020. The marketing exercise was carried out by Braiser Freeth who specialise in commercial property services. The Council accepted that the marketing campaign has been of sufficient duration, that the particulars are appropriate and that the exposure to the employment market has been sufficient. It was however particularly concerned that interest may have waived in the knowledge that the site had already been purchased by the appellant for housing development and the purchase price.
23. At the time that the application was determined, no interest or offer had been made following that marketing exercise by Braiser Freeth. Some enquiries had been made. A previous marketing exercise by Savills generated what were described as substantial enquiries but only one offer around 2 years ago. Notwithstanding the outcome of the marketing exercise the Council maintained its position on the importance of the site locally. That position, the appellant contends is not supported by the most up to date evidence of employment need. Policy CS16 carried forward existing designations of employment sites (including the appeal site) from the 1997 LP. It anticipated a review to be undertaken of those designated sites through a 'Delivery Development Plan Document'. That reflected concerns at the time that in parts of Chiltern, especially Chesham, some smaller buildings and sites had been vacant for an unreasonably long time. However, no such review has been undertaken.
24. Policy DM EP3 of the now withdrawn draft JLP was subject to outstanding objections. The evidence base that was prepared to underpin the JLP, shows a net oversupply of employment floorspace in the wider Buckinghamshire Functional Economic Market Area (FEMA). The agreed economic strategy for the FEMA anticipates the loss of around 202,000m² of existing employment floorspace in the former districts of Chiltern and South Bucks. It did not identify which floorspace should be lost. A MoU between the four authorities also notes that the overall approach across the Buckinghamshire FEMA broadly delivers sufficient land for economic growth taking into account a range of factors including an element of redistribution of growth from the southern districts into Aylesbury Vale to take account of their shortfalls due to their constrained nature.
25. It was demonstrated by Mr Goodall at the Inquiry that whilst the withdrawal of the JLP resulted in an estimated 56,000 square metres of proposed Class B employment space no longer being able to contribute towards meeting the identified employment needs set out in the 2016 HEDNA and 2017 Update Addendum, a surplus in the wider FEMA nevertheless remained². Planning Practice Guidance makes it clear that the stock of employment land should be assessed at the FEMA level³. This is consistent with the approach set out in the MoU that has materialised through the VALP.

² That is irrespective of whether the appeal site is already accounted for in losses or not.

³ Paragraphs 025 (Reference ID:2a-025-20190220) and 026 (Reference ID:2a-026-20190220).

26. Furthermore, of particular note is that the 2020 Housing and Employment Land Availability Assessment (HELAA), produced as part of an evidence update, after the JLP was submitted, considered the appeal site to be suitable, available and deliverable as part of the potential housing trajectory with an estimated delivery in 2025/26. This presents a contradictory view on the importance of the site to be retained as part of a portfolio of sites that remain attractive to the market for employment purposes.
27. There are also shortcomings associated with the current warehouse building including its configuration and layout, circulation space and access for larger vehicles that will not be attractive to many businesses. That is particularly so as new purpose built sites and units are coming forward in the Buckinghamshire FEMA that will provide more attractive functional space than that which currently exists on this site. Indeed, the previous occupier, Global Infusion Group, consolidated its existing operations into a new purpose built facility on one such site within an Enterprise Zone in Aylesbury. Aerial Park employment development is currently coming forward, has availability and is reasonably located to Chesham. Again, this tends to support a view that the site would no longer be attractive to the market.
28. Since the application was determined, an offer has been made by a long-established business based in Chesham, Silverson Machines, wishing to expand locally⁴. The reasons that Silverson Machines would wish to specifically expand in Chesham are compelling. The company would, I heard, use the existing buildings rather than seek to re-develop. The offer by Silverson Machines is to purchase the site for the (raised) asking price and I heard that the offer remained on the table at the time of the Inquiry albeit with a caveat that if the appeal were to proceed, the offer may be reduced. That, Silverson Machines explained, is part of normal negotiations. It does however also indicate that uncertainty remains.
29. A great deal of reliance is being put on this single offer over an 18 month period by the Council and the possibility that Silverson Machines could potentially occupy the site. However, should it fall away for any reason then there is, in my view, a very high possibility that the site could sit vacant for a long time without further interest.
30. When considered in the round, taking account of all the considerations above, it is considered that the offer and other low levels of interest generated are not sufficient to justify the retention of the site in commercial use. It is appropriate to consider the position on need and supply in the context of the FEMA and the available more up-to-date evidence, particularly in the absence of any review of employment sites at a more local level since the adoption of the LP in 1997. The test set out in Policy CS16 is one of 'no reasonable prospect'. What is a reasonable prospect, requires a judgement to be made. In my view, the evidence shows that the site is no longer attractive to the market and that there is no reasonable prospect that the site will remain in use for employment purposes. Accordingly, it is considered that the proposal accords with Policy CS16.
31. The Framework also clarifies that where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan that, in an interim period, prior to updating the plan, then applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area. One of the agreed benefits of the scheme is that it will contribute to the current unmet need for affordable housing in the area.

⁴ Two other offers were made but for retail purposes.

32. To conclude on this issue, it is not considered that the site is one that remains attractive to the market for employment purposes and no conflict with relevant policies of the development plan or Framework is found in this respect.

Character and Appearance of area

33. LP Policy GC1 confirms that throughout the District the Council will permit development which is designed to a high standard. Design includes both the appearance of the development and its relationship to its surroundings. Criteria are set out relating to, amongst others, scale, relationship of development to its site, appearance of car parking and servicing areas and design against crime.
34. Policy GC4 requires existing established trees and hedgerows in sound condition and of good amenity and wildlife value to be retained and for landscaping proposals suitable for the development proposed and the characteristics of the site.
35. LP Policy H3 supports proposals for new dwellings in the built-up areas excluded from the Green Belt. Proposals should be compatible with the character of those areas.
36. As set out in CS Policy CS20, the Council will require that new development is of a high standard of design which reflects and respects the character of the surrounding area and those features which contribute to local distinctiveness. Policy CS30 encourages the design of development to minimise criminal activity.
37. The updated Framework places increased emphasis on good design and in Section 12 confirms that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 of the Framework sets out what decisions should ensure developments achieve, including being sympathetic to local character and the surrounding built environment and landscape setting. Increased densities are not discouraged where the site can accommodate and sustain an appropriate amount and mix of development (including green and other public space) and create places that are safe, with a high standard of amenity for users. The Framework at paragraph 134 states that development that is not well designed should be refused specially where it fails to reflect local design policies and government guidance on design.
38. I was referred by the appellant to other bespoke developments undertaken by Hightown Housing Association including Hatter's Place, winner of the LABC's Best High Volume New Housing Development in 2019. The appeal scheme is also bespoke, responding the appellant submits to the existing character of the site taking advantage of the existing boundary setting of trees and hedgerows and the topography of the site.
39. The surrounding area is predominantly residential in character. The residential properties surrounding the site at Russell Court, Cherry Tree Walk and Birch Way are comprised of a mix of mid to late 20th century two and three storey properties. The pattern of residential development surrounding the site is generally aligned parallel to Nashleigh Hill to reflect the topography of the surrounding land which slopes upwards to the south, away from Nashleigh Hill.
40. Having visited the site, the significance of the banking and woodland to three of the site boundaries is very apparent as referred to in the Design and Access Statement. It is therefore surprising, that having acknowledged this in the Design Evolution process, that the proposed scheme actually pushes the

buildings and amenity space closer to the boundaries than previous iterations from which the scheme has evolved. Limited space is therefore available to the rear of the buildings generally, but particularly in respect of blocks B1 and B2 where the buildings compete with the bank and trees for space, rather than taking advantage of the feature of the site. Its value as amenity space is therefore diminished such that the proposal does not relate well to the characteristics of the site. This is further emphasised as high specification translucent glazing and larger window apertures are needed for some units facing Cherry Tree Walk to ensure adequate daylight.

41. In addition, if only the proposed seating area set within the woodland is included in the public amenity space calculation for the site, then insufficient amenity space is provided to meet the policy requirement for the number of flats proposed. This approach to the calculation is considered appropriate given the limited function that the woodland will provide for future occupiers, particularly with the apartment blocks being pushed so close to the bank. The remaining area within the site to the front of the buildings would be dominated by the access and parking. Again, these factors when considered together all support a finding that the scheme would result in an over-development of the site.
42. Furthermore, to address the proximity of the development to Nashleigh Hill and limit traffic noise, a 3.5m acoustic fence would be erected along the boundary with Nashleigh Hill and turn the corner for a short distance along Preston Hill. Notwithstanding the intention to retain the hedge estimated to be approximately 3m in height, the acoustic fencing would still have an imposing presence as a result of its overall height and length. It would be particularly noticeable in the street scene along this part of Nashleigh Hill as the transition from the built-up area into countryside designated as Green Belt and AONB is evident by the increased amount of vegetation and softer frontages when travelling out of Chesham, past the site. The fence would appear incongruous and visually obtrusive.
43. To conclude, it is considered that the fencing and overall design, particularly by reason of its layout would result in a development that fails to have adequate regard to constraints of the site, contrary to LP Policies GC1, H3 and CS Policy CS20 and the emphasis on good design running through the Framework and that would unacceptably harm the character and appearance of the area.

Living conditions of future occupiers

44. LP Policy GC2 seeks to ensure that sufficient sunlight and daylight reaches into, between and around proposed buildings. Policy GC3 seeks to achieve good standards of amenity for the future occupiers of development. It requires that where amenities are impaired to a significant degree, planning permission will be refused.
45. LP Policy H12 sets out the criteria proposals should meet for private gardens. The general standard to be achieved is a garden depth of 15 metres. Communal amenity areas are to be provided within the curtilage of the new development adequate for the number of flats proposed.
46. Many of the apartment units would have a single aspect facing towards Cherry Tree Walk in close proximity to the canopies of the trees along the boundaries of the site. As well as viewing from the existing office building, some appreciation of the impact of the trees on outlook could also be gleaned from viewing the site from Cherry Tree Walk. It is considered, based on the site visit in particular and having carefully considered the effect of the removal of trees identified to be felled, that on balance, the proximity to trees would not be so overbearing or 'impenetrable' to individual outlook from the flats, that occupiers would feel unduly hemmed in. It would not therefore result in unsatisfactory

living conditions. This is further reinforced as it is accepted that the flats would receive adequate daylight provided that high specification translucent glazing and larger window apertures are provided in some units facing Cherry Tree Walk. Given adequate daylight would be provided, I consider concerns that there might be pressure to fell the trees from future occupiers is not substantiated.

47. Some of the units would have an outlook towards the retaining wall to the rear of the apartment blocks. Some further amendments were made to reduce the height of the wall which it is agreed would ensure that outlook from first floor units is not unacceptably diminished.
48. The Council is concerned that not only the quantity, but the quality and usability of shared open space is sub-standard. The exclusion of the wooded area from the calculation, with the exception of the proposed seated area, would be appropriate since it would have little functional value and due to the layout of the scheme would offer little visual appreciation other than in views from windows.
49. The larger area of proposed public open space is adjacent to Nashleigh Hill. It is accepted that the pedestrian link running through the site provides easy and legible access to the amenity area and would provide opportunities for interaction. Whilst part on a slope, it was agreed that this does not detract from its functionality as open space. It provides an area that would provide a visually attractive area of amenity space within the development and it is not considered that road noise would detract from its practical use and visual enjoyment.
50. The smaller area of open space to Preston Hill is designed such that it sits back from the street and car parking area (bounded by a hedgerow) and is detached from the residential properties through the inclusion of both defined front garden areas and the intervening footpath. The footpath serves to create a degree of separation from the properties and in addition, creates a corridor of movement giving opportunity for social interaction around and on the open space. The area of public amenity space here would provide some pleasant visual relief to users of the footpath although I consider its value as a useable space will be relatively limited being most appreciable to the occupiers of houses C1-C7, irrespective of the intervening footpath.
51. It is considered that the provision of open space would fall short of the policy requirement in terms of quantity. In addition, the quality and useability of the open space is limited such that any shortfall in quantity could not be said to be off-set in any way.
52. Although the appeal site is within easy walking distance of a recreation ground this does not counter the harm found as a result of the amount and quality of amenity space provided within the site. The proposal would fail to provide adequate amenity space contrary to LP policies GC3 and H12.
53. The proposed rear private gardens to the houses are all less than the 15m minimum garden depth required by Policy H12. Houses C1 – C7 have rear gardens approximately 13m deep. Proposed house A1 would have a rear garden depth of 6-8 metres and houses A2-A6, between 10-13 metres approximately.
54. There are a number of circumstances set out in Policy H12 where exceptions are made. One of these, as set out in sub-section H12(i)(b), is where the average garden lengths in the immediate vicinity of the site are less than 15m. In these circumstances the garden length of the proposed development can be similar and still be policy compliant. The appellant has demonstrated that the average garden length in the immediate vicinity of the site is less than 15m.

55. However, in this case, the trees adjacent to Cherry Tree Walk would have the effect of over-shadowing at least part of some of the gardens of those of proposed properties C1-C7 such that the quality of the private amenity space is already compromised. Furthermore, the private gardens to the rear of properties A1-A6 would not only be shallow but would also be bounded by the 3.5m acoustic fence. This would result in a poor outdoor environment for the occupiers of those properties. A reduction in the requirement to achieve 15 m in these circumstances would not be appropriate.
56. Another exception facilitating a reduced garden length is contained in sub-section H12(ii). This is where a high density development with a "satisfactory" layout, orientation and disposition of buildings is contained within an attractive landscape setting. That is not applicable in this case given the concerns set out above in relation to the unsatisfactory layout of the development. The provision of gardens of sub-standard depths conflicts with Policy H12. That occupiers of the three bed family dwellings would also have access to the public amenity space to be provided as part of the overall proposal would be of little compensation since that too is inadequate.
57. The ground floor of Blocks B1 and B2 do not contain any living accommodation. Rather under-croft parking areas are provided. This the Council contends, creates inactive frontages at ground level creating potential areas for crime and anti-social behaviour. It is accepted that the incorporation of glazing between the lobby areas to the blocks of apartments and under-croft parking areas will assist by providing additional surveillance and safety will be increased through the introduction of a gated access to the rear of the flats and the use of CCTV. Some natural surveillance would also be provided from upper floors of Blocks B1 and B2 towards the larger public amenity space. Overall, it is not considered that the proposed development would create potential areas for crime and anti-social behaviour to take place. There is no conflict with policy in this regard.
58. To conclude on this issue, the living conditions of future occupiers of the site would be unduly compromised by reason of inadequate public amenity space provision within the site, and sub-standard private garden space, contrary to LP policies GC3, H12 and CS Policy CS20.

Other Matters

59. As set out in the Chiltern and South Bucks Interim Five-year Housing Land Supply Calculation (calculated at 1 April 2020), the Council is unable to demonstrate a 5 year housing land supply. The development would therefore contribute towards the Council's overall housing supply, a consideration of significant weight in favour of the development.
60. It is also accepted in the SoCG that Chiltern district has some of the highest housing costs across the south east of England. The proposal would provide up to 63 affordable dwellings (100% of the scheme) in circumstances where there is a long standing shortfall of affordable housing and no current plan in place to address the overall housing shortfall at present. A new LP is unlikely to be adopted until 2025. The Council accepts that the present need for affordable housing is acute and that the weight that can be afforded to this consideration is at least significant. The appellant suggests it is a consideration of substantial weight. The latter would, it is considered, be appropriate given the level of need for affordable housing and the lack of any LP being adopted to address it for some time.
61. As the appellant owns the site and has vacant possession, the dwellings could potentially be delivered in a relatively short space of time if permission is forthcoming, a matter that can be afforded substantial weight.

62. The re-use of brownfield land is also a benefit to be weighed in favour of the development a consideration which is afforded great weight bearing in mind concerns that the site could potentially lie vacant given the lack of interest in the site for employment use. It is agreed that the scheme will afford a bio-diversity net gain which can be afforded limited weight. The economic benefits that a housing development scheme would bring as a result of jobs and associated spending is a benefit although one that I only afford modest weight.
63. The proposed upgrades to the bus stops on Nashleigh Hill, which are very close to the site and the provision of a crossing over the road to access the stop on the opposite side will be of benefit not only to future occupiers of the development but also to those already living in area. It was agreed by the main parties that this should be given moderate weight.
64. Policy CS5 requires development in excess of 10 dwellings to provide at least 10% of their energy requirements from de-centralised and renewable or low carbon sources. The Energy Statement that was submitted with the application demonstrates that 81% of the scheme's energy demand will be met by low/zero carbon technologies securing a 40.5% reduction in CO2 emissions. This significantly exceeds the minimum requirements of the policy and as such, can be afforded some weight in favour of the development.

The Planning Balance

65. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The re-development of the site to meet an unmet need for housing, is supported in principle. However, aspects of the scheme conflict with policies of the development plan by reason of those design elements found to be unacceptable, the shortfall in the provision of public amenity space, and the unsatisfactory living conditions that the occupiers of some units of accommodation would experience as a result of limited private amenity space. It is therefore considered that the development would be contrary to the development plan overall.
66. The Framework is a material consideration. In circumstances where the Council is unable to demonstrate a five year supply of housing land, as is the case in this appeal, the tilted balance set out in the Framework is engaged. The Framework directs that planning permission should be approved "unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole".
67. The development of the site for affordable housing would meet an unmet need for not only housing but affordable housing in the area too, an important consideration in the determination of this appeal. Added to this are the other benefits set out above, and the respective weights to be attributed to them all of which weigh in favour of the development.
68. However, to my mind, those benefits should not be secured to the detriment of the living conditions of future occupiers and the character and appearance of the area. Thus, whilst the scheme would deliver new homes it would not be in accordance with the design objectives of the Framework. So even applying the tilted balance, the adverse impacts that would flow in terms of compromised living conditions and the harm to the character and appearance of the area would significantly and demonstrably outweigh the benefits derived from the scheme.
69. I therefore conclude that the conflict with the development plan is not outweighed by other material considerations in this case.

Conclusion

70. For the reasons set out above, the appeal is dismissed.

C Sherratt

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Richard Moules of Counsel	Instructed by Buckinghamshire Council.
He called	
Vicky Keeble BA (Hons)	Sustainable Drainage Team Leader for Buckinghamshire Council - Drainage matters.
Nathan Hall BSc (Hons)	Of Kempton Croft Chartered Surveyors -
MRICS	Employment Land Marketing.
John Fannon MA RUP	Planning Consultant for Buckinghamshire Council
MSc MRTPI	on Design and Planning Balance matters.

FOR THE APPELLANT:

Christian Hawley of Counsel	Instructed by Andrew Parry of DLP Planning
He called	
Mr Andrew Parry BA	Director of DLP Planning on Planning Policy and
(Hons) MSc MRTPI	the Planning Balance.
Mr John Goodall	Director of DLP Planning on Employment Land
MA(Cantab) MSc MRTPI	Need and Supply.
Mr Mark Powney	Director, Economic Team, Savills on Market
	Demand & Viability Evidence.
Mr Collin Pullan	Urban Design Director at Lambert Smith
BA(Hons) Dip UD	Hampton on Urban Design.

INTERESTED PERSONS:

Mr Rothman	For Silverson Machines
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DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Opening Statement for the Appellant.
- 2 Opening Statement for the Council.
- 3 Updated Plans submitted by the appellant to rectify inaccuracies in respect of the retaining / cribblock wall.
- 4 Corrected plan 8355-VGA-ZZ-ZZ DR-A0041 Site Sections to remove erroneous dashed line.
- 5 Suggested Conditions
- 6 Draft 106 agreement
- 7 Closing Submissions for the Council.
- 8 Closing Submissions for the appellant.
- 9 Signed s106 agreement.