



Appeal Decision

Site visit made on 21 March 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Appeal Ref: APP/Q3115/W/22/3306138

Tanners Close, Sandy Lane, Horspath, Oxford OX33 1TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for permission in principle
 - The appeal is made by Mr Richard Robinson (RBW Robinson) against South Oxfordshire District Council.
 - The application Ref P22/S0711/PIP, is dated 18 February 2022.
 - The development proposed is conversion and change of use of a barn to residential use.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made against South Oxfordshire District Council by the appellant. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council failed to determine the application within the prescribed period. Following the submission of the appeal, the Council have prepared an appeal statement which advises that, had the Council determined the application, permission in principle would have been refused. Indicative reasons for refusal are given.
4. The Planning Practice Guidance (PPG) advises that The Town and Country Planning (Permission in Principle) Order 2017 (as amended) is an alternative way of obtaining planning permission for housing-led development, which separates the consideration of matters of principle from the technical detail. This consent route has 2 stages: the first 'permission in principle' (PiP) stage establishes whether a site is suitable in principle, and the second 'technical details consent' (TDC) stage, assesses the detailed development proposals. This appeal relates to an application under the first (PiP) stage.
5. An applicant can apply for PiP for residential development by expressing a minimum and maximum number of dwellings. In this case, PiP has been sought for the change of use of a barn to form one dwelling. The scope of the considerations is limited to location, land use and the amount of development¹. All other matters would be considered as part of a subsequent TDC application if PiP is granted. I have determined the appeal accordingly.

¹ PPG Permission in Principle Paragraph: 012 Reference ID: 58-012-20180615

Main Issue

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

Reasons

Location

7. The main parties agree that the location is acceptable for the proposed development. I see no reason to take a different view.

Land use

8. The appeal site is a barn which was constructed as a storage building for plant and machinery. The proposal seeks to convert the barn to residential use.
9. The appellant claims that the Council cannot demonstrate a deliverable five-year supply of housing land. A previous appeal decision² in the same district is referred to in support of this. In this decision, dated 25 June 2021, the Inspector found that there was no deliverable 5 year housing land supply in the district and therefore the most important policies for determining the appeal were out of date. However, I note that this appeal decision is now almost 2 years old, and I have been supplied with the latest housing land supply statement, dated July 2022, which confirms that the Council can demonstrate a 5.58 years' supply of deliverable housing land. I have not been presented with any compelling reason to take a different view. Thus, based on current evidence, the Council is able to demonstrate a deliverable 5-year housing land supply and the relevant development plan policies for the determination of the application are not considered to be out-of-date.
10. Policy EMP3 of the South Oxfordshire Local Plan (2020) (LP) relates to the retention of employment land. Part 1 of this policy sets out 3 criteria in which the redevelopment or change of use of employment land to non-employment uses will be permitted and both parties have drawn it to my attention.
11. The Council state that, given the site's consented use, any application for a non-employment use must satisfy all 3 criteria of LP policy EMP3 part 1. In support of this view, they reference the policy supporting text which states that "before any planning permission for alternative, non-employment uses is granted, the Council will require evidence that the site has been marketed reasonably at a realistic price for at least one year". Thus, it is stated that the criteria are intrinsically linked and therefore, in the absence of any particular evidence of marketing, the requirements of this policy have not been met.
12. Whilst the policy supporting text is a material consideration and is relevant to the determination of this proposal, it does not have the force of policy. The wording to part 1 of the policy qualifies that it is necessary to meet one of the criteria and does not specify that all 3 criteria must be satisfied. Therefore, the policy itself does not require evidence of marketing for all proposals subject to one of the other 2 criteria (i or iii) being satisfied.

² Appeal Ref: APP/Q3115/W/20/3265861

13. The appellant states that the site has been vacant since April 2016 and so meets the requirements of LP Policy EMP3 criterion i). However, criterion i) does not concern vacancy, it concerns demonstrating that an employment use is no longer viable. I have not been presented with any compelling evidence regarding the occupation of the site or that an employment use of the site is no longer viable. Whilst not a matter of dispute between the parties, this is something that I need to consider given this appeal concerns the failure of the Council to determine the application within the prescribed time period and given the wording of Part 1 of Policy EMP3 of the LP.
14. Additionally, the appellant states that the requirements of LP Policy EMP3 criterion iii) would be satisfied as it is stated that the use of the site for the permitted storage and distribution use would be inappropriate in this countryside location. Furthermore, it is stated that the residential use of the site would be less intrusive than the open storage and commercial traffic movements generated by HGVs and that the proposal would enhance its surroundings. Nonetheless, I have not been presented with any compelling evidence that the permitted use of the site is harmful or that the living conditions of nearby residents or the local environment would be significantly improved as a result of the proposal. Thus, the requirements of LP Policy EMP3 have not been satisfied.

Amount

15. The main parties agree that the amount of dwellings proposed is acceptable. I see no reason to take a different view.

Site suitability

16. Drawing together the above, it has not been evidenced that the site is no longer viable for employment use and thus there is conflict with Policy EMP3 of the Local Plan, which seeks, amongst other things, to ensure that employment land will be retained in order to promote and grow a balanced, sustainable economy and local services. Consequently, whilst I have identified that there would be no conflict in relation to the location and amount of development proposed, I am not satisfied that the Land Use implications would be acceptable.

Conclusion

17. For the reasons given above, I conclude that the appeal is dismissed.

Nichola Robinson

INSPECTOR