
Appeal Decision

Site visit made on 27 June 2023

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/J0405/W/22/3308962

Willow Farm, Ivinghoe Aston, Ivinghoe, Buckinghamshire LU7 9DF

- 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 Mr A Hayes against the decision of Buckinghamshire Council.
 - The application Ref 22/01640/APP, dated 17 May 2022, was refused by notice dated 16 September 2022.
 - The development proposed is the removal of existing industrial structures and paraphernalia and the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The appellant submitted an additional marketing report with his final comments on the appeal. The Government's *Procedural Guide: Planning Appeals – England* confirms that no new evidence is allowed at the final comments stage of the appeals process. In this case, however, the marketing report covers a period subsequent to the submission of the appeal so amounts to a changed circumstance. I have used my discretion to consider this late evidence. For reasons that will become clear I have not felt it necessary to delay the appeal decision by giving the Council an opportunity to review the marketing report.

Main issues

3. The main issues are the effects of the proposal on:
 - i) The supply of sites for employment use and development; and
 - ii) The integrity of the Chiltern Beechwoods Special Area of Conservation (SCA).

Reasons

Employment

4. The appeal site is an area of land with an industrial shed, sitting to the rear of properties on the edge of this small village and accessed via a long drive. The general industrial use¹ of the site was confirmed as lawful a few years ago by

¹ Class B2 within the Town and County (Use Classes) Order 1987 (as amended)

the issue of a Lawful Development Certificate. The proposal is to demolish the shed and replace it with a sizeable, single storey bungalow.

5. Policy E2 of the Vale of Aylesbury Local Plan 2013 – 2033 (LP) values the employment opportunities provided by employment sites but allows that alternative uses may be considered where there is no reasonable prospect of a site being used for employment purposes. In order to establish this lack of prospect, the policy requires amongst other things that the site must have been marketed for an employment use suitable to the site and location, at a suitable price and by appropriate means, for at least 2 years with no viable interest. The supporting text to the policy provides a detailed list of marketing requirements. As this site has a lawful use as an industrial site, it is an employment site to which policy E2 applies.
6. It is common ground that the marketing and marketing information provided does not fully accord with the requirements of Policy E2. I agree with the appellant, however, that this policy should be applied proportionately to this site, in consideration of its relatively small size, rural location and lack of existing facilities. I understand that the site has been marketed since 2018 and is still being marketed.
7. The submitted marketing information is, however, less than convincing. A July 2022 letter from the original agent confirms that they were instructed to keep the marketing very low key with no sign boards and no on-line advertising. The letter further confirms that interest from one firm was discouraged because the site owner considered the level of traffic would not be conducive so close to his home and surrounding grounds.
8. The late submission of the marketing report from a second agent updates the situation to May 2023. This agent has marketed the site from late September 2022, in a more comprehensive way including internet postings and a sign board near to the site. The sign was, however, tucked into a hedge and located away from the site so that it is not obvious to passing traffic. Crucially, the agent advises that an hours of operation restriction imposed by the appellant (Mondays to Fridays 08:00 to 17:00 only) is considered to be a major obstacle. The submitted Schedule of Enquiries confirms that several firms were put off by the restrictions. All of these points, in relation to both phases of marketing, indicate that the appellant has not been fully committed to marketing the site, and that this has discouraged potential interest.
9. I recognise that the market value and attractiveness of the site must be somewhat limited by its location and the poor state of the existing building. Lower value properties can, however, sometimes be useful parts of the overall mix of employment sites. I note that the appellant has provided employment development elsewhere in the District, but this proposal must be decided on its own particular merits and circumstances. I also note that the site has been vacant for some years, though this could be partly due to the marketing strategy adopted. Taking all these factors into consideration and taking a proportionate approach, I find that it has not been adequately demonstrated that there is no reasonable prospect of the site being used for employment purposes.
10. The Council has not raised any other conflict with LP policy E2's criteria. Nevertheless, the lack of adequate marketing is sufficient reason for me to

conclude that the proposal would unjustifiably reduce the supply of sites for employment use and development, in conflict with LP Policy E2 and the National Planning Policy Framework's (the Framework's) support for a prosperous rural economy.

Biodiversity

11. The site is within the 12.6km zone of influence of the Chiltern Beechwoods SAC which was designated due to the importance of its habitats. These include the beech forests and grasslands of the Ashridge Commons and Woods Site of Special Scientific Interest (SSSI), in the closest section of the SAC to the appeal site. All public bodies have a duty to take reasonable steps to further the conservation and enhancement of SACs under the Conservation of Habitats and Species Regulations 2017 (the Regulations). Natural England advises that research shows that there is the potential for significant impacts on the SAC as a result of net increases in residential development within the zone of influence, due to recreational pressures. Potential impacts include soil compaction, erosion, contamination, litter and fire.
12. Mitigation measures would be needed to avoid adverse impacts on the integrity of the SAC. I understand that the Council is preparing a mitigation strategy in conjunction with other bodies including Natural England, but that this is not yet complete. In particular, further work is still needed to identify areas for provision of 'Suitable Alternative Natural Greenspace', which is a key component of the emerging strategy. Without the mitigation strategy, developments cannot be required to support specific measures to mitigate the effects of developments in the zone of influence. There is, furthermore, no legal agreement or unilateral undertaking in front of me that would provide mitigation measures or secure contributions to such measures. In the absence of an adopted strategy and any specific mitigation, I have to find that the adverse impacts of the proposal would not be adequately mitigated.
13. I can well understand the frustration of this position for the appellant, as the progress of the mitigation strategy is slow and is not within his control. Nevertheless, as a competent authority under the Regulations, I need to be clear that the proposal would not adversely affect the integrity of the SAC. I acknowledge that the effect of one additional dwelling would be limited, but this is still significant, both in itself and in conjunction with other potential small scale developments within the zone of influence.
14. I conclude that the proposal would harm the integrity of the SAC, in conflict with the aims of both LP policy NE1 and the Framework, to conserve and enhance biodiversity, including in SACs and SSSIs, and with the Regulations.
15. I have assessed this aspect of the proposal on its own merits. My findings on this issue are nevertheless generally consistent with the findings of other Inspectors in the following cases brought to my attention by the Council and Natural England: APP/X0415/W/22/3290584, APP/X0415/W/22/3291033, APP/X0415/W/22/3290156, APP/X0415/W/21/3283384, APP/X0415/W/22/3293513 and APP/X0415/W/21/3278072.

Other matters

16. This proposal would, in a small way help to boost the supply of housing in line with objectives set out in the Framework. The Parish Council raises no

objection and there is support from Ivinghoe Parish Neighbourhood Plan 2013-2033 policy HSG1 which encourages development on previously developed (brownfield) sites like this. I note that Buckinghamshire Council raises no other objection to the principal of building a dwelling in this location or to the design of the new bungalow. These factors do not, however, override or outweigh my concerns in regard to the 2 main issues.

Conclusion

17. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR