



Appeal Decision

Site visit made on 11 June 2024

by O S Woodward MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th September 2024

Appeal Ref: APP/K0235/W/24/3341977

Stanley Works, 3 Ampthill Road, Kempston Hardwick, MK45 3JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Par Pension and Death Benefits Scheme against the decision of Bedford Borough Council.
 - The application Ref is 23/01708/MAF.
 - The development proposed is the construction of a new office building (Class E) and associated works including demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The second reason for refusal is partly in relation to the ability of waste collection vehicles to be able to safely access and egress the appeal site. However, the Council has since confirmed that this could be controlled by condition to ensure that all proposed turning areas are kept free at all times. The Council did not, therefore, pursue this element of this reason for refusal.
3. The fourth reason for refusal is partly in relation to flood risk. However, the Council has since confirmed that because the appeal site is in Flood Zone 1 and is less than 1 ha an up-to-date Flood Risk Assessment is not required, as set out in Policy 92 of the Bedford Borough Local Plan 2030, January 2020 (the LP). The Council did not, therefore, pursue this element of this reason for refusal.

Main Issues

4. The main issues are:
 - whether or not the appeal site is an appropriate location for development of this type having regard to local and national planning policy and guidance, and with particular regard to accessibility, highway safety and the free-flow of traffic, and the character and appearance of the area;
 - whether or not adequate arrangements are made for the disposal of foul and surface water from the site; and,
 - the effect of the proposed development on the Forest of Marston Vale, with particular regard to tree provision.

Reasons

Appropriate location

Principle

5. The proposal is for a new office building in use class E. It is common ground, and I agree, that the appeal site lies in the countryside as defined by the LP. Policy 77S of the LP states that main town centre uses, such as office use, should be located in town centres or edge-of-centre locations if no suitable sites are available. Irrespective of the guidance set out at Paragraphs 91 to 93 of the National Planning Policy Framework (the Framework), there is no minimum size of office building that would not be subject to this requirement in local policy.
6. The appellant's Sequential Assessment finds that there is existing office floorspace available within Bedford town centre. There is no substantiated evidence provided that the town centre is not a suitable location for office development, and any issues raised regarding traffic congestion are anecdotal. There is a large new development under construction relatively near to the appeal site, called Wixams. This will eventually, but does not yet, contain a train station. However, the appeal site would still be relatively distant and inaccessible to the train station and to the development itself. I do not view it, therefore, as an edge-of-centre site in relation to the emerging Wixams development.
7. It has not therefore been adequately demonstrated that there are no suitable alternative sites for a similar scale and type of office building either within a town centre or edge-of-centre location. There is no requirement to undertake an impact assessment in this regard, because Policy 78 only requires such assessments for retail and leisure uses. This is common ground. Nevertheless, Policy 78 also states that office development should be located in accordance with Policy 77S. The proposal therefore fails to comply with both these policies.
8. There are two further policies in the LP which relate to employment development in the countryside, ie Policy 75 and Policy 7S. The inter-relationship between the policies is unclear, particularly because Policy 75 does not cross-reference to Policy 7S as opposed to Policies 65 to 68. However, they both explicitly relate, at least in part, to office development in the countryside. Both policies are therefore relevant to the appeal proposal, but only as they relate to office development, ie all of Policy 75 but only criteria xi. to xiii. of Policy 7S. In this regard, Policy 75 states that such development will only be supported in one of four specific circumstances. The proposal is not for the expansion of an existing business or for agricultural development and nor is it in a defined employment area. It therefore fails to meet these three circumstances.
9. The final circumstance is in relation to the re-use of land last used for employment purposes. The appeal site is in use as a used car dealership, including shed like structures where repairs and other works to cars are undertaken and a large amount of open land for car storage. The planning history of the site does not include specific approval for this use. There is no certificate of lawfulness to confirm the planning use of the site. However, nor does the planning history of the appeal site contradict such a use. There is nothing before me to suggest the appeal site has been used for anything other

than commercial use for a long time. It is certainly in use as such now. It is therefore currently in use for employment purposes and thus complies one of the first four criteria of Policy 75.

10. In such circumstances, Policy 75 also contains a second strand which sets out further requirements, all of which must be met for a proposal to comply with the policy. Two of these overlap with the relevant criteria in Policy 75. It is common ground, and I agree, that the criteria relating to existing buildings, open storage, living conditions, biodiversity, and the use and enjoyment of the countryside have been met. There are, however, other criteria which are in dispute, as set out below.

Rural area

11. It has not demonstrated that the proposed office building needs to be located in a rural area or that it cannot be located in a designated settlement boundary or policy area. Although the policy specifically states that the reuse of land last used for employment purposes is acceptable in-principle, the sub-criteria that even then it must be demonstrated that the proposed use needs to be in a rural area is not contradictory. If an alternative employment use to that currently on a given site is being proposed, then it is rational for the policy to require that it be separately assessed to see if it could not alternatively be located within a settlement.
12. Emerging Policy DM8 in the emerging Local Plan 2040 (the eLP) does not contain the same criteria. I have not been provided with any evidence of the latest position of the eLP, other than that it was at examination stage when the Council's Statement of Case was submitted. I have also not been provided with detail on any modifications that are likely to come forward. Nevertheless, given the stage of the eLP, it is likely that there will be further modifications. I therefore place limited weight on the eLP and emerging Policy DM8, and this policy does not materially lessen the weight that I apply to the adopted policy.

Highway safety and the free-flow of traffic

13. The proposed office building would likely be 1,024 sq m gross external area. 46 car parking spaces are proposed. Policies 29 and 31 of the LP require that suitable car parking provision is provided. The Council's Parking Standards for Sustainable Communities: Design & Good Practice SPD, adopted September 2014 (the SPD) sets out the car parking standards¹. The maximum parking standard is 1 space per 20 sq m, which equates to 51 spaces. The appeal site is in Zone 3, where 90 to 100% of this standard is expected to be provided. 46 spaces is 90% of the policy maximum standards and the proposal therefore meets them.
14. There is dispute regarding the measurement of the proposed building, and it is possible that it might be larger than 1,024 sq m and therefore would give rise to a higher parking standard. However, even if that were the case, the only option for on-street parking is along Ampthill Road, which would significantly discourage on-street car parking by its nature because it is a relatively fast, despite the recent reduction in the speed limit to 40 mph, and narrow through road with no pavements. I do not, therefore, see it as likely that there would be a material increase in the demand for on-street car parking. The proposal

¹ See Table 2 of the SPD

would not, therefore, likely to lead to additional demand for on-street parking and there would be no corresponding harm to either highway safety or the free-flow of traffic from such parking.

Character and appearance

15. The appeal site contains a car workshop and associated car storage land. The buildings on the site are of relatively poor quality and of light industrial character and appearance, including corrugated steel structures and temporary shed like accommodation. There are large, relatively unsightly metal gates to the entrance to the site. The verge with the road is thickly vegetated with a metal fence. To other boundaries, there are relatively tall, metal fences. The buildings and other structures on the site are relatively small scale and low which, coupled with the screening from the vegetation to the road, means that the site is not particularly visible from public vantage points.
16. Behind, and clearly perceived as being part of the character and appearance of the surroundings to the appeal site, is a large concrete works, with some tall structures, and of a heavy industrial nature. Directly to the north is a vacant, former church, in a nondescript brick building. The slightly wider area does contain agricultural land, and bodies of water. However, to the east is a substantial distribution centre and other commercial development and the large under-construction Wixams development, and to the north the town of Bedford. Although mitigated to some extent by the hedge providing screening from the road, the overall character and appearance of the site and its surroundings is therefore strongly industrial and commercial in nature, and it does not have a rural feel.
17. The proposal would create a relatively substantial, 3-storey office building of modern design, including fairly substantial glazed elements. The surrounding landscaping to the building would include tree planting. Even where it would be hard standing for the access roads and car parking, this would still represent an improvement on the current, relatively dilapidated site. The building would be more prominent than the existing structure due to its height. However, it would be relatively attractive. The proposed building and associated works would also be seen in the context of the surrounding industrial and commercial land and buildings.
18. Full details of the treatment of the boundary wall and how this would relate to the existing and any proposed screening to the boundary with the road has not been provided. However, the built form of the proposal is set back from the road and the verge and it would be possible to control this area by condition to ensure that suitably soft screening to the road would be maintained.
19. Overall, whilst being more prominent than the existing built form on the site due to its height, the overall effect of the proposal would be to enhance the character and appearance of the area, by tidying up a currently unattractive site.

Accessibility

20. Although cycle parking spaces are proposed, the appeal site is located on a busy and relatively narrow road, which would be intimidating for cycling and would likely mean that relatively few journeys to and from the site would be by bike. The appeal site is relatively close to the nearest services and facilities of

Bedford or other surrounding villages, and the train station at Kempston Hardwick and potential future train station at Wixams. However, it is also far enough, coupled with the intimidating road with no pavements, that I view it as unlikely that many people would walk or cycle to those services and facilities.

21. The appellant has suggested that a bus stop could be provided outside the site on Ampthill Road. However, this has not been secured. In addition, because of the narrowness of the road, it has not been demonstrated that a bus stop could be formed in that location without unacceptably disrupting the free-flow of traffic. Overall, the appeal site is relatively isolated and inaccessible, and it is likely that the vast majority of journeys to and from the appeal site would be by car.

Conclusion

22. The proposal complies with Policies 29 and 31 of the LP, which require proposals to demonstrate safe and suitable access and that there be no significant adverse impact on the highway. It complies with Paragraph 115 of the Framework, which states that development should only be refused if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposal also represents high quality design that is appropriate for the area, and it therefore complies with Policies 28S, 29 and 30 of the LP, and Chapter 12 of the Framework.
23. However, it would not be located in an accessible location, and it would fail to comply with Policy 53 of the LP which states that wherever possible development should be located and designed to provide convenient access to local services by foot, cycle and public transport, and Policy 29 which promotes accessibility for all. It has also not been demonstrated that the proposed office building needs to be located in a rural area, and the proposal therefore fails to comply with Policy 75 of the LP. The proposal is not, therefore, an appropriate location for development of this type having regard to local and national planning policy and guidance.

Drainage and foul water

24. Foul water would be disposed of through a private system. I have seen no substantiated evidence that a suitable foul water disposal system could not be achieved, the detail of which could be suitably controlled either by condition(s) or the statutory requirements for such works outside of the planning system.
25. With regard to surface water drainage, there are some discrepancies in the submitted information and it has not been demonstrated that the proposed surface water attenuation measures would keep stored water free from contaminants before discharging into the watercourse. However, I have been provided with no substantiated evidence that there would be technical or environmental constraints that could not be overcome at the detailed design stage. In addition, a relatively large part of the appeal site would not contain buildings and there is no reason to believe that such systems and measures could not be accommodated within the wider landscaping strategy. The Local Lead Flood Authority has also confirmed that it has no objection to the proposal. The detailed design of the drainage strategy could, therefore, be controlled by condition.

Conclusion

26. Overall, therefore, and subject to control by condition(s) as set out above, the proposal would make adequate arrangements for the disposal of foul and surface water from the site. It therefore complies with Policy 92 of the LP which requires that proposed development assesses and mitigates its impact on surface water flood risk, and Policy 93 which requires surface water drainage systems appropriate to the nature of the site.

The Forest of Marston Vale

27. The appeal site lies within the Forest of Marston Vale (FoMV) area. Criteria ix. of Policy 28S of the LP requires proposals to contribute to the creation of the FoMV when within this area. Policy 35S of the LP states that the Council will work with developers to deliver the three strategic green infrastructure projects, one of which is the FoMV. It also expects existing green infrastructure in the Borough to be protected, enhanced and managed. Policy 36S of the LP requires proposals within the FoMV area to deliver 30% tree cover across the development site. The supporting text to the policy directly references the future production of a SPD to provide guidance on how to achieve the policy requirements, and the policy itself expects proposals to reflect the design guidance in the SPD.
28. The future SPD has now been produced and adopted, namely the Developing in the Forest of Marston Vale: Design Guidance SPD, December 2022 (the FoV SPD). The SPD sets out that the FoMV is a Community Forest. The primary aim of the forest is to increase tree cover from 3% when it was designated in 1991 to 30% by 2031. Table 1 sets out the requirements for new developments, which are a minimum of 30% tree cover for commercial schemes. This is defined, for proposals such as for the appeal, as a percentage of the red line boundary. It is additionally stated² that on-site planting is the default requirement and expectation, and that this should have been accounted for in the initial development design process. Off-site provision can only be considered where meeting the on-site requirement is not possible. Off-site provision secured through a s106 Agreement is seen as an exceptional circumstance.
29. A landscaping scheme is included with the appeal documentation. This would achieve tree cover over approximately 15% of the appeal site. This could be secured by condition. Within the parameters of the proposal, ie with an office building of the size proposed, any material increase in tree cover would not be possible because of the requirement to provide suitable car parking, access roads, and other ancillary hard standing and structures. However, the policy requirement is for 30% to be provided on-site, and it is specifically set out that this is the default expectation that should inform the initial design process. Within the FoMV area, the 30% tree cover should be used to inform density and design, not the other way around.
30. The appellant has submitted a Unilateral Undertaking, dated 30 May 2024 (the UU), which secures a contribution towards the provision of off-site new tree planting. This is so that the combined tree planting both on and off-site would be the same as if 30% coverage were provided on-site. However, as set out above off-site provision should only be used if it has been demonstrated

² Paragraph 4.1.6

that on-site provision is not possible. That is not the case for the appeal, because a smaller office building could be provided, which would have a reduced footprint and lower car parking requirements, and would therefore allow for the 30% tree cover to be provided.

Conclusion

31. The proposal would comply with Policy 35S of the LP because there would be a net gain in green infrastructure. It would also comply with Policy 28S which requires a net gain in biodiversity. However, within the FoMV area, the policy requirements go beyond the general policy criteria. As set out above, 30% tree cover is not proposed on the appeal site. The proposed development would therefore have an unacceptable effect of the FoMV and it fails to comply with Policy 36S of the LP, which requires 30% tree cover in the FoMV area, and with the FoV SPD. It also fails to comply with Paragraph 151 of the Framework, which highlights the valuable opportunities that Community Forests provide for improving the environment around towns and cities.

Other Matters

32. The Stewartby & Kempston Parish Council support the development as an enhancement of the area. I agree that the proposal would enhance the character and appearance of the area. However, the proposal also conflicts with the spatial strategy of the Council and with regard to its policies in relation to the FoMV.
33. Planning permission was granted in January 2017³ for the demolition of the existing structures on the appeal site, one of which has since been removed in any event, and the erection of four commercial buildings in a mixture of office, industrial and storage use. Whilst a material planning consideration, this permission was not implemented and has since expired, and it was granted permission under the old Local Plan. It therefore has limited weight and I have determined the appeal proposal on its own merits.

Planning Balance

34. The proposal would have short term economic benefits from job creation during construction. It would have long term economic benefits from the proposed office floorspace, and the expenditure on local goods and services by the future occupants. The office building is relatively small and the economic benefits are therefore also relatively small. I place moderate positive weight on these factors. There would be an improvement to the character and appearance of the area, as set out above. Given the relatively poor character and appearance of the existing site, I place moderate positive weight on this factor. Subject to control by condition, the proposal would result in a net gain in biodiversity. It has not been demonstrated that this would be more than a net gain and I therefore place limited positive weight on this factor.
35. Subject to condition, the proposal would be able to demonstrate compliance with the relevant technical standards, such as regarding surface water drainage, foul water and building efficiency. The proposal does not go beyond policy and regulatory requirements in these respects, and these weigh neutrally in the planning balance.

³ Application Ref 16/02591/FUL

36. The proposal would be unacceptable in-principle because it is in an inaccessible location and because it has not been demonstrated that the proposed office building needs to be located in a rural area. This factor is part of the adopted spatial strategy of the Council and I place significant negative weight on it. In addition, the proposal has not provided 30% tree coverage, against the specific policy requirements for development in the FoMV area. This means that it would not sufficiently contribute to one of just three strategic green infrastructure projects in the Borough, and would fail to take the opportunity to enhance a Community Forest. I place significant negative weight on this factor.
37. The proposal therefore fails to comply with the Development Plan and there are no material considerations that indicate I should make a decision otherwise.

Conclusion

38. For the reasons above, the appeal is dismissed.

O S Woodward
INSPECTOR