
Appeal Decision

Site visit made on 29 March 2016

by Les Greenwood MRTPI

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

Decision date: 06 June 2016

Appeal Ref: APP/J0405/W/15/3137870

Horwood Mill, Spring Lane, Great Horwood, Buckinghamshire MK17 0NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Peter Dean against the decision of Aylesbury Vale District Council.
 - The application Ref 15/00774/AOP, dated 2 March 2015, was refused by notice dated 18 May 2015.
 - The development proposed is the redevelopment of a redundant industrial site with a residential development to provide 7 dwellings and associated parking.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of a redundant industrial site with a residential development to provide 7 dwellings and associated parking in accordance with the terms of the application Ref 15/00774/AOP, dated 2 March 2015, subject to the conditions set out in the attached Schedule.

Preliminary matter

2. The appeal application is in outline with all matters of detail reserved for later consideration. I have therefore treated the details shown on the submitted plans as being indicative.

Main issue

3. The Council agrees that sufficient information has now been submitted regarding the proposal's ecological impact, so that it is no longer pursuing the second reason for refusal of the appeal application. The main remaining issue is whether the proposal would be sustainable development bearing in mind local and national policies.

Reasons

4. Horwood Mill is a vacant industrial site containing substantial, disused industrial buildings. It clearly amounts to previously developed land, also known as brownfield land, in accordance with the definition set out in the National Planning Policy Framework. The appeal site sits to the south of the village of Great Horwood, separated from the built-up area of the village by open fields and a recreation area with a children's playground. The proposal is to demolish
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the range of existing buildings, replacing them with 7 new dwellings. Although there is an existing road access to the site via Spring Lane, the application indicates that vehicular access would be via a private drive that leads away from the village, through an industrial estate further to the south.

5. The Framework emphasises the Government's intention to significantly boost the supply of housing (paragraph 47) and sets out a presumption in favour of sustainable housing development (in particular at paragraphs 14 and 49). Framework paragraph 6 confirms the Government's view that the policies in Framework paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development means in practice for the planning system. Paragraph 7 adds that there are 3 dimensions to sustainable development: economic, social and environmental.
6. The Council advises that it currently has only about a 3 year supply of deliverable housing sites, well short of the 5 year supply required by Framework paragraph 47. In these circumstances Framework paragraph 49 advises that relevant policies for the supply of housing should not be considered up to date. Framework paragraph 14 further states that where relevant development plan policies are out of date, planning permission should be granted unless: (a) any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or (b) specific policies in the Framework indicate that development should be restricted.
7. The interpretation of the phrase 'relevant policies for the supply of housing' has been the subject of several court decisions. Most recently, in its decision on the cases of (i) *Suffolk Coastal District Council v Hopkins Homes Limited and SSCLG* and (ii) *Richborough Estates Partnership LLP v Cheshire East Borough Council and SSCLG*, the Court of Appeal ruled that this phrase should be interpreted as 'relevant policies affecting the supply of housing'. Therefore the meaning is not restricted merely to policies that provide positively for the delivery of new housing, but extends to policies whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed.
8. This Appeal Court decision confirms that it is for the decision-maker to assess whether specific policies are out of date in the terms of the Framework. It furthermore states that the policies in paragraphs 14 and 49 of the Framework do not make out of date policies irrelevant or prescribe how much weight should be given to them. Just because a policy is out of date does not mean that it should be ignored or disapplied. The weight to be given to out of date policies is also a matter for planning judgement, in the context of the presumption in favour of sustainable development.
9. In this case, the Development Plan is made up of saved policies from the Aylesbury Vale District Local Plan (LP), adopted in 2004, and the Great Horwood Parish Neighbourhood Plan (NP), dated March 2015. Both sides agree that LP Policies RA13 and RA14, which relate to the district-wide supply of housing, are out of date. The Council does not cite these policies against the proposal.

10. The Council's refusal refers only to NP Policy 1 and the Framework. NP Policy 1 restricts development outside of the settlement boundary set out in the NP - unless the proposed development falls within a set of exceptions, none of which apply to the appeal proposal. The proposal therefore conflicts with NP Policy 1.
11. Clearly the NP settlement boundary and Policy 1 restrict the supply of housing and are therefore out of date in current circumstances. The NP has, however, only recently been adopted with a high degree of local support. I give it substantial weight bearing in mind the Framework's strong support for neighbourhood plans, which give communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need (paragraph 183). Framework paragraph 185 advises that neighbourhood plans will be able to shape and direct sustainable development. In regard to decision-making, Framework paragraph 198 states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.
12. The NP provides a clear view of the development preferences of the local community in regard to this site. The potential for redevelopment of the appeal site was considered in the NP Examination, both in terms of its potential inclusion within the settlement boundary and in terms of the application of NP Policy 1 to previously developed land. In both matters, the site was not favoured.
13. The site is well outside of the built form of the village, separated by agricultural and recreational land. The presence of the recreation area and playground next to the site does not significantly affect this assessment. I agree that the settlement boundary set out in the NP is a reasonable reflection of the situation on the ground and that the proposed development would be in the countryside, outside of the village.
14. Paragraph 55 of the Framework advises that in order to promote sustainable development, housing should be located where it will enhance or maintain the vitality of rural communities. In this case, the site would, with some improvements to footways, have good pedestrian and bicycle access to the village and its services. Although vehicles would take a longer route, I do not see this as an overriding problem. New residents here could be expected to use local village services and contribute to community life.
15. Paragraph 55 also advises that isolated new houses in the countryside should be avoided unless there are special circumstances, none of which apply here. Although the site is outside the built form of the village, I do not consider it to be particularly isolated. As above, the site is easily accessible to and from the village. Spring Lane is well used as a pedestrian route, including by children walking to the playground next to the site.
16. The NP Examination report confirms that the village has a very restricted range of local services. Nevertheless, the NP does seek to support sustainable development at Great Horwood, by striking an appropriate balance between meeting housing need and accepting the lack of social, employment and commercial supporting infrastructure to sustain a larger population. The Council considers that the village is a sustainable location for new housing

development, with a limit on the scale of growth in terms of both site specific impacts and the capacity of the village to accept further population growth.

17. The appeal proposal for 7 dwellings is small in scale, well below the 15 house limit for developments set out in NP Policy 1. I see no evidence or strong argument that this number of additional houses would be beyond the reasonable capacity of the village. The proposal would bring distinct benefits in terms of the clearance of poor quality, disused buildings and their replacement with much needed new homes. Redevelopment would, with appropriate attention to design and landscaping, enhance the countryside. It would also deal with any safety concerns about the disused site and would accord with the Framework's encouragement for the reuse of previously developed land where this is not of high environmental value (paragraph 111). Taken together, these positive points weigh heavily in favour of the proposal.
18. A few other appeal decisions dealing with the issue of housing land supply and out of date policies have been brought to my attention. None replicate the circumstances here and all pre-date the Appeal Court decision referenced above. I have assessed this case on its own merits in light of the current legal and policy context.
19. In balancing the various factors, I give substantial weight to the conflict of the proposal with the NP despite the shortage in the supply of housing sites, in line with Framework paragraphs 183 to 185 and 198¹. I find it to be of great importance that the site has so recently been endorsed by the local community in the NP process. I do not, however, find any significant prejudice to the aims or strategy of the NP. The site is already built up, so there would be no encroachment into open countryside and no loss of open land contributing to the form and character of the village. I see no reason why the small scale of development proposed cannot be reasonably accommodated without overdeveloping the village.
20. I furthermore find that the proposal would create substantial benefits. In terms of the 3 dimensions of sustainable development identified by Framework paragraph 7, it would bring:
 - short term economic benefits in terms of construction employment, with no significant loss of longer term employment given that the site has been vacant for some years with no readily apparent prospect of redevelopment for an economic use;
 - important social benefits in the form of the provision of new housing and the support of local services; and
 - clear environmental benefits in terms of the improvement of a poor quality, disused site in the countryside setting of the village.
21. I conclude that when tested against the Framework as a whole, the proposal would be for sustainable development and that this material consideration is sufficient to override the conflict with the development plan. The proposal's

¹ In coming to this finding, I also take into account the High Court decisions in *Ivan Crane v SSCLG and Harborough District Council* and *Woodcock Holdings v SSCLG and Mid Sussex District Council*

conflict with the development plan and the Framework policies on neighbourhood planning would not significantly and demonstrably outweigh the benefits that would be provided.

Other matters

22. Although not listed as a reason for refusal of the application, the Council states a requirement for a contribution towards the provision of additional play equipment and any associated works at Horwood Piece (Great Horwood Recreation Ground), which is the recreation area next to the appeal site on Spring Lane. The need for such contributions is backed up by LP Policy GP88. Such a contribution can only be secured through a legal agreement and no such agreement has been completed.
23. The proposal would, however, bring significant benefits to this playground in the form of an improved footway access along the single track road (see condition no. 4 below) and through the improved security that could be achieved by natural surveillance of the playground from new houses within a well-designed housing development. Given these benefits I consider that a financial contribution is not necessary and does not meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations.
24. Having come to this conclusion, I do not need to consider the implications of the recent Court of Appeal ruling in the case of *SSCLG v West Berkshire District Council and Reading Borough Council*, which affirmed the legality of the Government's policy as set out in a Written Ministerial Statement dated 28 November 2014, that tariff-style contributions) should not be sought in connection with housing developments of 10 or fewer units. It has therefore not been necessary to ask the various parties for their views on the effect of that decision.

Conditions

25. I impose the standard conditions regarding the submission of reserved matters details and the commencement of the development. The Council asks for the normal time periods to be cut, in order to ensure that development is brought forward in a timely fashion to meet housing need. I do not, however, find sufficient justification for this approach, particularly given the potential complexities of redeveloping an industrial site. I also see no good reason for a condition requiring the development to be broadly in accordance with the submitted illustrative plans. I am content that the Council can negotiate a satisfactory scheme without the need for such a limiting requirement.
26. Some other matters listed in the Council's suggested conditions relate to reserved matters, so that separate conditions are not required. I note for example that the term 'layout' includes routes within the site, 'appearance' includes external materials and 'landscaping' includes site enclosures.
27. A Grampian-style condition for off-site works to improve the footway connection to the village is necessary in the interest of public safety and sustainable transport. A condition regarding vehicle and bicycle parking is needed for a similar reason. Conditions requiring tree protection and ecological mitigation/enhancements are necessary in order to avoid harm to trees, the

landscape and the local ecology. These cannot be tied to the details of the submitted Ecological report and Landscape Strategy because those documents relate to an illustrative site layout that may change.

28. Conditions regarding external lighting, floor levels and the storage of waste and recycling are necessary in order to protect the character and appearance of the area. A condition regarding surface water drainage is needed in the interest of promoting sustainable drainage. Finally, a condition requiring a scheme to prevent construction traffic depositing mud and debris on the public highway is necessary in order to minimise the impact on the public use of the road.

Conclusion

29. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Les Greenwood

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall not commence until a scheme for the improvement of the footway along Spring Lane from the appeal site pedestrian access north to the bridge over the stream has been submitted to and approved in writing by the local planning authority. None of the dwellings hereby permitted shall be occupied until the footway improvements have been completed and made available for public use in accordance with the approved details.
- 5) No site clearance or other works forming part of the development hereby permitted shall commence until a scheme for the protection of retained trees for the duration of the development has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme.
- 6) No site clearance or other works forming part of the development hereby permitted shall commence until a scheme for the mitigation of harm to and enhancement of local ecology has been submitted to and approved in writing

by the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme.

- 7) No works forming part of the development hereby permitted shall commence until a scheme for the prevention of the deposit of mud and other debris onto the adjacent public highway has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme.
- 8) No ground works or construction works forming part of the development hereby permitted shall commence until details of the proposed finished floor levels of the new buildings have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 9) No ground works or construction works forming part of the development hereby permitted shall commence until a scheme for surface water drainage from the site based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme.
- 10) None of the dwellings hereby permitted shall be occupied until details of any external lighting for the site have been submitted to and approved in writing by the local planning authority and lighting has been installed in accordance with the approved details.
- 11) Each of the dwellings hereby permitted shall not be occupied until vehicle and bicycle parking for that dwelling has been provided in accordance with details submitted to and approved in writing by the local planning authority.
- 12) Each of the dwellings hereby permitted shall not be occupied until provision has been made for waste and recycling storage for that dwelling in accordance with details submitted to and approved in writing by the local planning authority.