



Appeal Decision

Site visit made on 11 February 2016

by **Jim Metcalf BSc DipTP MRTPI**

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

Decision date: 03 March 2016

Appeal Ref: APP/J0405/W/15/3136320

Brunel Road, Aylesbury, Buckinghamshire, HP19 8SS

- 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 Matt Sutton, Brunel Securities LLP against the decision of Aylesbury Vale District Council.
 - The application Ref 15/01030/AOP, dated 24 March 2015, was refused by notice dated 9 September 2015.
 - The development proposed is a residential development of 24 apartments with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development of 24 apartments with associated access, parking and landscaping at Brunel Road, Aylesbury, Buckinghamshire, HP19 8SS in accordance with the terms of the application, Ref 15/01030/AOP, dated 24 March 2015, and the plans submitted with it, subject to conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Matt Sutton, Brunel Securities LLP against Aylesbury Vale District Council. This application is the subject of a separate decision.

Procedural Matter

3. The application subject of this appeal is in outline, with access submitted for consideration at this stage. Details of appearance, landscaping, layout, and scale are reserved for consideration at a subsequent stage.

Main Issues

4. The main issues are whether the living conditions of residents of the apartments would be satisfactory, with regard to noise and nuisance, the effect of the development on the character and appearance of the area around Brunel Road, whether there is a suitable supply of land for housing and for employment in Aylesbury Vale, and if not, whether the need for housing land outweighs any harm arising from the development.
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Reasons

5. The site, known as 'Paragon', is an open area of grassland, awaiting development, at the corner of Brunel Road and Smeaton Close in the Rabans Lane employment area. Planning permissions were granted for office development on the site in 1999, as an unimplemented part of the adjoining Bell Business Park, and in 2008, renewed in 2012 and again, for an alternative scheme, in 2009, renewed in 2012. The site is surrounded by a variety of buildings occupied by office, industrial and storage uses.
6. Indicative plans for the apartments show a row of linked three storey blocks running along the frontage to Brunel Road, and turning the corner into Smeaton Close, with an open area, with a residents' car park, behind. The neighbours would be Brunel House, a modern industrial building, a large industrial unit across Smeaton Close, and offices on the Bell Business Park behind. There are other industrial units opposite across Brunel Road. Generally the buildings are relatively modern and well maintained.

Access

7. Access to the site would be taken from Smeaton Close in the same position as the access proposed to serve the previously approved office development. Apartments would most likely generate less traffic than a commercial scheme and, subject to the approval of details, the Highway Authority consider the access would be satisfactory. I accept this conclusion.

The living conditions of residents of the apartments and the character and appearance of the area around Brunel Road

8. Some of the nearby commercial operations fall within Class B1 of the Use Classes Order and would, by definition, be appropriate neighbours for new apartments. Others operate Class B2 or B8 uses that potentially may be environmentally less benign. The Council have not submitted specific information about any current environmental problems that industrial neighbours create. There are residential areas in relatively close proximity to similar industrial buildings around the edges of the Rabans Lane area.
9. The apartments would be somewhat isolated in an otherwise commercial and industrial area but there is no specific evidence to demonstrate that they would be harmfully incompatible with their neighbours. Indeed, some of these buildings may, in future be adapted for residential use without the need for planning permission under the provisions of the Town and Country Planning (General Permitted Development) Order 2015.
10. Fairford Leys, a new suburb would be relatively close with a centre giving convenient access to local facilities for residents. The site is self-contained and reasonably separated from neighbours. Apart from suggesting that a condition be imposed to insulate the apartments against external noise the Environmental Health Officer has no objection to the development. Similarly the Thames Valley Crime Prevention Design Adviser does not object to the development but has made suggestions about boundary treatment and lighting. These could be incorporated in plans submitted at reserved matters stage. In this context and subject to a condition that would ensure that the apartments are suitably

insulated against external noise, the living conditions of residents of the apartments would be satisfactory, with regard to noise and nuisance.

11. The indicative layout plan and elevations show that the scale and height of the apartments would be generally similar to other buildings along Brunel Road. The elevations would reflect their residential use, in contrast to the more monolithic, generally non-descript appearance of the industrial buildings, albeit relieved to a degree by trees in landscaped strips along the road, and that in some cases turn their backs to the street. Details of the appearance of the flats would need to be approved by the council prior to construction. This would ensure that they have an attractive design. There is every opportunity to ensure that the apartment buildings are a positive feature of the currently somewhat uninspiring street scene and, subject to the approval of the details, they would enhance the character and appearance of the area around Brunel Road.
12. In summary on these issues I find that the development would add to the quality of the streetscene along Brunel Road, provide a satisfactory place to live, make positive use of a vacant site in an accessible location and generally comply with relevant paragraphs in NPPF. In so far as it has relevance I find that the development, subject to the approval of satisfactory details at the reserved matters stage, would not conflict with Policy GP35 of the Aylesbury Vale District Local Plan (LP). I find LP Policy GP8 of little assistance in considering the scheme as it is concerned specifically with assessing developments that may harm amenity of nearby residents.

The supply of land for housing and employment

13. The Council acknowledges that a five-year supply of deliverable housing sites is not available in Aylesbury Vale. Indeed, as calculated in July 2015, only 3.1 year supply of such sites was available. In these circumstances paragraphs 49 and 14 of the National Planning Policy Framework (NPPF) explain that relevant policies for the supply of housing should be considered out-of-date and that consequently planning permission should be granted for relevant development proposals unless any adverse impacts would significantly and demonstrably outweigh the benefits.
14. In preparing a new Local Plan the Council have carried out the Central Buckinghamshire Housing and Economic Development Needs Assessment (HEDNA). This concluded there is an objectively assessed need for 21300 new houses between 2013 and 2033, with a possibility that a further 10000 may be accommodated to meet need arising in surrounding districts.
15. Although the Paragon site was allocated for employment use in earlier plans it was not subject of any specific designation in the LP, that covered the period from 2004-2011 and is now therefore time expired. LP Policy GP17 sought to retain existing employment sites and uses. More recently NPPF has stated that planning policies should avoid the long term protection of sites for employment use where there is no reasonable prospect of a site being used for that purpose. This approach conflicts with the one pursued in LP Policy GP17 and consequently I give GP17 little weight.
16. The appellants have explained that the site has been marketed for over six years without any interest being shown in developing the land. Their report on the local market for offices explains that in general, as a traditional market

town, Aylesbury, has seen development channelled away to larger towns, in this case including Milton Keynes and Oxford. This has led to falling office rental levels and a situation where speculative office development is no longer viable. The report further explains that there is increasing reliance on reusing existing buildings and that there is a considerable supply of suitable office space in the town.

17. HEDNA generally acknowledged these points and produced forecasts for jobs and the associated need for employment floorspace and land. This exercise identified a need for an additional 22h of employment land, including sites for offices, industrial and storage use, in the years up to 2033. This is significantly less than the 73h of consented land identified as available in the pipeline. HEDNA suggests that surplus sites earmarked for employment use that are not fit for purpose should be considered for release for other use.
18. The combination of information about the state of the market and the marketing exercise for the Paragon site leads me to conclude that there is an adequate supply of land for employment in Aylesbury Vale, and that there is no reasonable prospect of the site being developed for employment related use.

Conclusions

19. For the above reasons I conclude that the living conditions of residents of the apartments would be satisfactory, with regard to noise and nuisance and that, subject to the approval of the details, the development would enhance the character and appearance of the area around Brunel Road.
20. The Council acknowledge that there is a shortage of land for housing in Aylesbury Vale and NPPF makes it clear that boosting the supply of housing sites where they are insufficient is a very important policy aim. HEDNA reports that there is a surfeit of land for employment use and consideration should be given to using some sites for other uses. The site is recognised by the Council as one of the most sustainable locations in Aylesbury for new development. In this context the need for housing land justifies the use of the site as proposed, even though it has previously been earmarked for employment use. Overall, I conclude that the scheme would be a sustainable development in the terms set out in NPPF.

Other Matters

21. The appellant has submitted a signed and dated Section 106 Unilateral Undertaking that establishes an agreement to contribute £22551 to be spent on the provision of a bulge class at St Louis Primary School, £59400 to be spent on improvements to the main play area at Swallow Lane, Fairford Leys and monitoring fees of £1400, in the event that planning permission is granted. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and NPPF require any obligations to be sought by such an undertaking to be necessary, directly related, and fairly and reasonably related in scale and kind to the development proposed.
22. The education contribution has been calculated in accordance with a formula set down in a guidance note adopted by the County Council, in the context of LP Policy GP94 which provides for planning obligations to be sought towards necessary community facilities. The contribution would increase capacity at a

local primary school and is calculated on the basis of 1.5 children of primary school age living in the apartments. The contribution is necessary to ensure that school places needed as a result of the new apartments are available and the amount involved is reasonably related in scale and kind to the scheme.

23. The contribution to improve the play area at Fairford Leys has been calculated according to a formula based on the numbers and size of apartments to be built, as set down in Supplementary Planning Guidance and a 'Ready Reckoner' that reflect LP Policies GP86-88, which require the provision of play areas, in some circumstances through off-site contributions. In this context I find that the work to improve the play area at Fairford Leys is needed because the new apartments would bring more residents into the area, and that the amount involved is related in scale and kind to the proposal and has regard to the viability of the scheme.
24. I am satisfied that the education and sport and leisure contributions meet the relevant tests in NPPF and the CIL Regulations. However, no information has been provided to justify contributions to the Council as fees to administer and monitor the undertaking. Some costs would be incurred in this work but with no explanation of how these costs have been calculated I cannot conclude that the obligation in this respect is proportionate or necessary to make the development acceptable, and this aspect fails to comply with the relevant tests.

Conditions

25. I have considered the conditions suggested by the Council in the light of Planning Practice Guidance and NPPF paragraph 206. Conditions 1-3 incorporate the standard requirements for outline permissions and the need to seek approval for reserved matters. I have amended some of the suggested wording for clarity.
26. Conditions 4-5 relate to landscaping. Condition 4 clarifies the landscaping details required as reserved matters, and ensures implementation. Condition 5 provides for replacement planting if necessary. These conditions are needed to ensure the development sits satisfactorily in the street scene and has attractive outdoor space for residents. Other conditions specify the submission and implementation of details to ensure the access is safe and otherwise satisfactory and that the apartments are insulated against external noise, to secure satisfactory living conditions for residents.
27. Details of the layout of the site would be submitted as a reserved matter and so there is no reason for a condition relating to car parking layout as this will be dealt with at that stage. Similarly, matters relating to samples of materials and levels are details that can reasonably be left to the reserved matters stage. No evidence has been submitted by the Council to suggest that the site could be contaminated. Without any reason to suppose this would be the case a condition to deal with the issue is not needed to make the development acceptable in planning terms.

Jim Metcalf

INSPECTOR

Schedule of Conditions

1. Details of the 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 landscape scheme to be approved under Condition 1 shall include full details of hard and soft landscaping works. These details shall include proposed finished levels, means of enclosure and boundary treatment, bin store, hard surfacing materials, planting plans and schedules of trees and plants, noting species, sizes and numbers/densities. The landscaping work thus approved shall be carried out in accordance with the approved details, prior to the first occupation of the apartments with regard to hard landscaping and within the first planting season following the first occupation of the apartments or the completion of the building, whichever is the sooner.
5. Any tree or plant forming part of the approved landscaping scheme which dies, becomes seriously damaged or diseased, or is removed for any reason, within a period of five years after planting shall be replaced during the next planting season with others of a similar size and species.
6. No development shall take place until there has been submitted to and approved in writing by the local planning authority plans of the access road and footway and the area for the turning and unloading of vehicles. The development shall be carried out in accordance with the approved details.
7. No development shall take place until there has been submitted to and approved in writing by the local planning authority a sound insulation scheme for protecting occupiers of the apartments from external noise. The scheme shall achieve internal noise design criteria as set out in the Code of Practice BS8233:2014. The development shall be carried out in accordance with the approved details.