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## Appeal Decision

Site visit made on 22 March 2016

**by Michael Boniface MSc MRTPI**

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

Decision date: 24 March 2016

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**Appeal Ref: APP/B1740/W/15/3140710**

**Land Opposite Chevron Business Park, Lime Kiln Lane, Holbury, Hampshire, SO45 2QL**

- 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 London & Regional Developments (Dollis Hill) Limited against the decision of New Forest District Council.
  - The application Ref 15/10276, dated 2 March 2015, was refused by notice dated 9 September 2015.
  - The development proposed is 24 two and three bedroom houses, office and open space.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application suggests that the proposal is submitted in outline form with all matters reserved for subsequent consideration. However, the Council has clearly considered matters of layout and access and both parties' cases address these points. Therefore, I have considered the appeal on the same basis.
3. Refusal reason 7 of the Council's decision refers to the potential effect on a gas pipeline close to the site. The Council has since confirmed that the development would not adversely affect the pipeline or public safety provided the developer has regard to it, in consultation with the operator. As such, the Council is not pursuing this reason for refusal.

### Main Issues

4. The main issues are:
    - (a) The effect on local employment land availability;
    - (b) The effect on the character and appearance of the area;
    - (c) The effect on ecology, with particular regard to reptiles;
    - (d) The effect on highway safety, with particular regard to the site access;
    - (e) Whether future residents would be unduly reliant on unsustainable modes of travel, with particular regard to cycle parking provision;
    - (f) The effect on neighbours' living conditions, with particular regard to overlooking 20 Harrier Green;
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- (g) Whether suitable living conditions would be created for future occupants of the development, with particular regard to noise;

## **Reasons**

### *Employment land availability*

5. Policy CS17 of the Core Strategy, New Forest District outside the National Park (CS) (2009) seeks to keep all existing employment sites and allocations, such as the appeal site, for employment use. This is identified as key to the overall strategy and to ensure appropriate levels of employment to meet local needs. Policy HAR1 of the Local Plan Part 2: Sites and Development Management (LP) (2014) specifically allocates the appeal site for industrial/office/business development. The proposed development would clearly be at odds with these policies, notwithstanding that it includes a small employment element.
6. The Council accept that this site is no longer the only site available in the area for employment purposes, noting that a further site is available at Unit 8 Hardley Industrial Estate, which it owns. However, occupants are currently being sought and the Council suggests that it has had success in finding an occupier for part of the site. This indicates at least a degree of interest for employment premises in the area.
7. Although the site is accepted to have been vacant for many years, I note that there have been planning applications for employment uses on the site during this period. Again, this suggests a degree of commercial interest. Whilst I have had regard to the appellant's assertion that the site has been heavily marketed for employment purposes by both the previous and current owner, no evidence of any such marketing has been provided and I therefore attach this little weight. Furthermore, I find the submitted Market and Financial Justification report (22 May 2015) to be vague and generalised, with little site specific consideration or marketing appraisal. I am not persuaded that this justifies a departure from the development plan or that the market has been adequately tested.
8. Paragraph 22 of the Framework states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. For the reasons I have set out above, this position has not been demonstrated. The site has been recently allocated within the LP and this recent policy has been found sound at examination. Therefore, I attach significant weight to it. The development would result in an unacceptable loss of employment land in conflict with the development plan.

### *Character and appearance*

9. The proposed site layout demonstrates how the proposed dwellings, office and open space would be accommodated within the site. A three storey office building would be located close to the site frontage which would not in itself appear intrusive given the scale and design of surrounding commercial buildings. However, the parking area associated with the office would be prominent on entering the site, as would the large parking areas associated with residential properties. This, coupled with the dense layout with flank walls opposing one another on each side of the road would create a cluttered, oppressive and over intensive form of development. Whilst I note the

incorporation of small landscape buffers to the front and side of properties, this would not be sufficient to overcome these issues, notwithstanding the reasonable rear garden sizes proposed which are reflective of nearby residential properties.

10. I note some parallels between the proposed design and the adjacent development, Harrier Green/Harrier Way, but overall the proposed development appears more intensive and would not achieve the good standard of development expected by the National Planning Policy Framework (the Framework). Furthermore, it would be in conflict with Policy CS2 of the CS which requires new development to be well designed and to respect the character, identity and context of the area.

#### *Ecology*

11. The submitted Phase 1 Ecological Assessment (27 April 2015) identifies relatively low ecological importance within the site. However, it notes that the rough grassland and scrub within the site offers value for birds and reptiles and specifically recommends further survey work in respect of reptiles. This survey work has not been carried out and it is therefore impossible to establish the presence and likely impacts on this species. A precautionary approach should be taken to the protection of protected species and unacceptable impact cannot be ruled out at the current time. As the outcome of any further survey work is unknown and could influence the acceptability of the proposals, including its layout, it would not be appropriate to deal with this matter by condition. Therefore, the development is in conflict with Policies CS3 of the CS and DM2 of the LP, both of which seek to protect and enhance biodiversity of recognised value.

#### *Highway safety*

12. The proposed vehicular access to the site involves a sharp bend close to Lime Kiln Lane which vehicles would need to negotiate, potentially whilst passing one another. No swept path analysis has been undertaken and it is unclear whether vehicles, including delivery vans, refuse lorries and emergency vehicles could access the site without meeting conflict, having to mount the pavement or manoeuvre back into Lime Kiln Lane. Clearly, this could represent a significant highway safety concern which is raised by the Local Highway Authority. I am not satisfied that the development would be served by a safe and usable access and the proposal is, therefore, in conflict with Policy CS24 of the CS which seeks to ensure road safety.

#### *Sustainable travel*

13. The proposal makes provision for cycle storage in respect of the office use and the Council is satisfied that the private rear gardens associated with residential properties would provide appropriate long-term storage space for residential occupiers, subject to a condition securing formal storage facilities.
14. Although provision is not made specifically for short stay cycle provision that might be used by visitors to individual properties, the Council's Parking Standards Supplementary Planning Document (SPD) (October 2012) recognises that alternatives to the loop/hoop units encouraged will be considered in respect of dwelling houses. In this case, each property is served by a secure private rear garden which could readily accommodate a visitor's bicycle for a

short period. I do not consider that the absence of a secure facility to the front of the property would be likely to dissuade cycle use or encourage unsustainable modes of travel. As such, I find no conflict with Policies CS2 and CS24 of the CS, which seek to secure cycle facilities and promote sustainable modes of travel; or the objectives contained in the Council's Parking Standards SPD.

15. This is notwithstanding the conclusions reached in another appeal in 2008<sup>1</sup>, where specific short stay cycle provision at the front of properties was deemed to be necessary. I do not know the full circumstances of this case or the evidence put to the Inspector but it does not alter my own conclusions in respect of this appeal.

#### *Neighbours' living conditions*

16. The rear elevation of properties within the development would directly oppose the rear elevation of 20 Harrier Green with a separation distance of about 22m according to the Council, the existing conservatory excepted. Whilst some mutual overlooking of rear gardens would be likely to result from the development, this is a typical relationship between residential properties and I do not consider that this would be harmful to the neighbour's living conditions. Furthermore, the separation distance involved is such that no harmful overlooking would result between habitable room windows. As such, I find no conflict with Policy CS2 of the CS which requires that new development consider its relationship with surrounding buildings and, amongst other things, avoid overlooking.

#### *Living conditions for future occupants'*

17. The site is located between an industrial and residential area, with industrial uses surrounding to the west, north and east. During my visit I noted noise emanating from these premises and the close proximity of a builder's yard and car repair business. It seems to me that the potential for noise and disturbance from these surrounding uses is high, notwithstanding any mitigation offered by the intervening trees. In the absence of a site specific noise assessment it is unclear what the noise context is at present and whether it could be suitably mitigated to ensure acceptable residential living conditions for future occupants'. The development is, therefore, in conflict with Policy CS2 of the CS as it is not clear that an acceptable relationship between buildings/uses could be achieved.

#### **Other Matters**

18. Refusal reasons 8 & 9 refer to the failure to secure the proposed dwellings as affordable housing or to make provision for public open space, as well as its future maintenance. The Council confirm that these matters could be dealt with by way of a legal agreement/undertaking and the appellant agrees to the obligations sought. That said, a completed Planning Obligation has not been provided and this further weighs against the development, being in conflict with the objectives of the CS and Policies CS7, CS15 and CS25 which require that the impacts of development be mitigated by relevant planning obligations.
19. I have had regard to the potential benefits of the proposal, including an improvement to its currently unkempt appearance, the provision of housing in

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<sup>1</sup> APP/B1740/A/08/2077212

the context of the need to boost significantly supply and the potential for securing affordable housing, for which there is an identified need in the area. However, even cumulatively these benefits are not sufficient to outweigh the significant harm identified and the proposal cannot be considered to constitute sustainable development in the terms of the Framework. Whilst I note the support offered by some local people, who would prefer to see housing on the site than employment, this does not alter my conclusions.

**Conclusion**

20. Although I have not identified harm with respect to sustainable travel or living conditions for neighbours', I have found significant harm in respect of the remaining main issues.
21. In light of the above, and having considered all other matters, the appeal is dismissed.

*Michael Boniface*

INSPECTOR

Richborough Estates