



Appeal Decision

Hearing held on 11 July 2018

Site visit made on 11 July 2018

by Jameson Bridgwater PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st September 2018

Appeal Ref: APP/Y3940/W/18/3195518

Land at Methuen Park, Chippenham

- 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 GreenSquare Group Limited & Ashville Calne Ltd against the decision of Wiltshire Council.
 - The application Ref 16/06790/FUL, dated 12 July 2016, was refused by notice dated 9 August 2017.
 - The development proposed is described as 'Erection of 66 dwellings, formation of access road, open space, landscaping and associated works'
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Decision

1. The appeal is dismissed.

Preliminary matters

2. A Unilateral Undertaking relating to the provision of affordable housing, public art, primary education, waste/recycling, public open space and play space was submitted as part of their appeal under section 106 of the Town and Country Planning Act 1990. I deal with the contents of these below.
3. Since the submission of the appellants' appeal, the Revised National Planning Policy Framework (the Framework) was published and came into force on the 24 July 2018. In light of this I have sought the views of the main parties in writing and I have taken their subsequent responses into account in reaching my decision.
4. The Hearing sat for 1 day. I carried out unaccompanied site visits on 10 and 11 July 2018.
5. A Statement of Common Ground was submitted which sets out the matters of agreement and those in dispute.

Main issue

6. The main issue in the appeal is whether or not the loss of employment land would affect the role and function of economy to provide a range of jobs in Wiltshire, with particular regard to Chippenham.
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Reasons

7. The appeal site is a generally level, undeveloped rectangular plot approximately 1.3ha in area within the Methuen Park Business Park. The site is located within the south-west boundary of Chippenham. The site benefits from outline planning permission granted in September 2000 for employment use (incorporating B1 and B8 uses) as a component part of the overall Methuen Park Business Park development. Based on my on-site observations, Methuen Park Business Park appeared vibrant with high levels of occupancy. This was further evidenced by the service roads and car park being heavily used for parking. As such, I am not persuaded by the appellants' arguments that the business park is in decline.
8. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises the Wiltshire Core Strategy (2006-2026) (WCS), the Chippenham Site Allocations Plan and the saved policies of the North Wiltshire Local Plan (2011) (NWLP).
9. The WCS strategy for Chippenham is based on delivering significant job growth, to help to improve the self-containment of the town by providing more jobs for local people. To achieve this it seeks to ensure employment is accessible to the local population, through sustainable distribution and choice of employment sites in the town.
10. Core Policy 35 of the WCS seeks to ensure that Wiltshire's Principal Employment Areas should be retained for employment purposes within use classes B1, B2 and B8 to safeguard their contribution to the Wiltshire economy and the role and function of individual towns. The policy also sets out criteria for the redevelopment of land or buildings currently or last used for activities falling within use classes B1, B2 and B8.
11. The appellants' have argued that the appeal proposal should not be assessed against Core Policy 35 of the WCS stating that the site has never been developed or occupied for employment use. Whilst I accept that the appeal site in isolation has not been developed or occupied for employment use; it is, a component part of the business park with its land use defined by the original outline planning permission granted for the site in September 2000. Furthermore, it is common ground¹ that the site is located within a Principal Employment Area and as such the overriding purpose of Core Policy 35 is clear in stating that "*Principal Employment Areas are considered to be critical to the economic role of these settlements and Wiltshire as a whole. In order to maintain a reasonable balance between jobs and homes to encourage self containment these Principal Employment Areas should be protected from alternative uses with their continued use and intensification for employment purposes (use classes B1, B2 and B8) encouraged*". It is therefore necessary based on the evidence before me and what I heard at the Hearing, to assess the appeal proposal against Core Policy 35 of the WCS. In reaching this conclusion I have taken account of the previous decisions of the Council cited by the appellants' in support of their appeal in relation to Core Policy 35.

¹ SoCG Paragraphs 2.1 to 2.3

However, I have limited information about their histories, but inevitably their contexts would differ to that of the scheme before me, and so they do not lead me to a different view in this case.

12. I have carefully considered the appellants' representations in particular what they considered to be the main reasons preventing the appeal site being taken up for employment use in their 8 years of ownership. They argued that the size and rectangular shape of the site along with an approximate 4m level difference (across the site) made it difficult to configure the site to meet the needs of potential end users. It was also stated that potential occupiers considered that the site's location was convoluted and difficult to find and lacked a visual presence. This was attributed to access only being gained by travelling through the rest of the business park. In support of this they submitted evidence of the marketing of the site (December 2017). This included copies of sales details, adverts placed in the local press, on-site agency boards, press releases, particulars and copies of adverts placed on promotional websites are included within the report.
13. In addition to the evidence I heard at the hearing, I carried out 2 unaccompanied site visits to assess the physical characteristics (shape, size and levels) and location (visibility and prominence) of the site. However, based on my observations the regular shape, developable size and modest change in levels would be unlikely to prevent the site from being configured to respond to a variety of market demands. As such, I am of the view that there is no technical reason why the site could not be developed for employment purposes within the plan period.
14. With regard to the location of the appeal site, Methuen Park is readily accessible with direct access from a major roundabout on Bath Road and is highly visible from the A350. Therefore, whilst it is necessary to drive through the business park to reach the site, in terms of accessibility this would not be materially different to other occupied employment buildings that are located towards the rear of the business park. Additionally, the on-site marketing boards erected by the appellants' demonstrate that the appeal site is clearly visible from the A350. Moreover it is highly likely that the prominence of the appeal site will further increase with the development of the adjacent Hunters Moon mixed use development. Consequently, I am not persuaded that the location of the site would prevent the site from being developed for employment use.
15. It is clear from the appellants' evidence that marketing of the site has taken place, however, limited information has been provided in respect of the number of people directly mailed or otherwise approached, or the detail of any feedback given other than the broad reasons outlined above. The report nonetheless identifies a substantial range of enquiries that were received in respect of potential business and employment uses. Furthermore, evidence from the Council's Economic Regeneration Service demonstrates that there is demand for employment space within Chippenham to facilitate business expansion and growth. The Council further stated that a lack of available employment land is a contributory factor in businesses relocating away from Chippenham. As such, whilst I accept that the site has not yet been taken forward for employment use to date, based on the evidence before me and

what I heard during the hearing I consider that there is sufficient evidence of demand to utilise the site for employment purposes². I therefore consider that the proposal falls short of a persuasive case to demonstrate that the appeal site is no longer required, or that there is no reasonable prospect of it being used for its intended purpose within the plan period.

16. Finally it was argued by the appellant's that the Chippenham Site Allocations Plan plus employment land at Hunters Moon makes provision for the range of demands and expectations for high quality employment land in the area and that the loss of the appeal site for employment would be sufficiently offset. However, based on the evidence before me and what I heard at the hearing I consider the appeal site to be a component part of that overall employment land provision for Chippenham for the plan period. As such, the site provides opportunities for economic growth, supporting both inward investment and the expansion and creation of local businesses. Therefore, because the WCS seeks to boost the delivery of homes in Chippenham within the plan period, it is necessary to ensure that land suitable for employment purposes is retained to support balanced and sustainable economic growth to improve self-containment consistent with the WCS. Consequently, I do not consider that the loss of the appeal site for employment purposes would be adequately offset by other employment sites or allocations.
17. Therefore, having reached the conclusions above, the loss of the appeal site which is located within the Principal Employment Area would materially reduce opportunities for businesses to locate or expand in Chippenham, undermining the WCS strategy of seeking to improve the self-containment of the town. The proposal would therefore conflict with Core Policy 35 of the WCS. In reaching this conclusion I have had regard to Paragraphs 22 and 120 of the Framework.

The benefits of the scheme

18. It was common ground between the parties that there was no current shortfall in housing supply in Wiltshire at the time of the Hearing. Therefore, under these circumstances, the decision-taking criterion contained in paragraph 11 of the Framework is not engaged. That said, it is also a fundamental aim of the Government's approach to boost significantly the supply of housing in order to assist in the delivery of a wide choice of high quality homes.
19. The proposed 66 homes would therefore make a limited contribution to the supply of housing both locally and at a national level and this would be a benefit derived from the proposal. With regard to affordable housing, the proposed 36 units (40%) would make a policy compliant contribution to meet the acute Wiltshire wide shortage that is both acknowledged and addressed in the WCS. Therefore, I afford some weight to the delivery of both market and affordable housing to meet both national and local requirements.

Planning obligations

20. At the time the Council made their decision the appellant had not provided planning obligations in relation to affordable housing, public art, primary

² Appellants' Appendix 13.28 Agents Enquiries List

education, waste/recycling, public open space and play space. However, the appellant has as part of their appeal submitted a unilateral undertaking pursuant to Section 106 of the Act, which addresses the issues outlined above.

21. None of the planning obligations contained within the agreement appear to be in dispute and the Council provided a statement of CIL regulation compliance. However, I have considered the obligations against the tests in Regulation 122 of the CIL Regulations 2010 and the Framework nonetheless.
22. The Council has identified a need for affordable homes in the area. The 40% affordable housing provided in the appeal scheme would amount to 36 of the 66 units proposed on the site. The obligation also establishes residential nomination rights and specified property mix. Therefore, the provision for affordable housing as set out in the unilateral undertaking is consistent with the requirements of Core Policy 43 and Core Policy 45 of the WCS.
23. The unilateral undertaking addresses the need to make contributions towards public art, primary education, waste/recycling, public open space and play space to address the demand generated from the proposed residential development. Based on evidence before me I consider that provisions contained within the unilateral undertaking are reasonably related in scale and kind to the needs generated by the proposed development. Furthermore, they are consistent with the requirements of Core Policy 3 and Core Policy 57 of the WCS and Policy CF3 of the North Wiltshire Local Plan.
24. I therefore consider that the obligations meet the necessary tests in law and I have taken account of them in reaching my decision.

Other considerations

25. There was local concern that the proposal would generate increased traffic movements, with the potential to conflict with pedestrian and vehicular traffic in the area. I accept that the use of the site for residential purposes would be likely to increase in traffic generated from the site when compared to a commercial use. However, there was no substantive or technical evidence presented by the interested parties that demonstrated that such an increase would result in material harm to vehicular and pedestrian traffic. Consequently, there is no evidence before me that would contradict the conclusions of the Highways Authority who raised no objection in relation to highway safety subject to their suggested conditions. As such it has not been demonstrated that the proposed development would result in severe harm to highway safety. Therefore the proposal would not conflict with Paragraph 109 of the Framework.
26. I have been referred to a number of other appeal decisions by the appellants' and these have been cited as setting a precedent for the appeal proposal. However, whilst I have limited information about their histories, in each case five year housing land supply could not be demonstrated by the Council. As such, their contexts would differ to that of the scheme before me, in that, and so they do not lead me to a different view in this case.

Planning Balance and Conclusion

27. In conclusion, a number of benefits would flow from this development. The proposed 66 homes, including a policy compliant 40% affordable housing provision would make a limited contribution to the overall supply of housing. Moreover, the proposal would be likely to result in a limited increase to economic activity in Chippenham and contribute towards public art. However, the provision of off-site infrastructure to support the provision of primary education, waste/recycling, public open space and play space are neutral matters.
28. In acknowledging these benefits, I do not consider that they would outweigh the harm identified with regard to the loss of employment land, nor do they provide an adequate justification for reducing the weight that should be given to Core Policy 35 of the WCS. To do so would allow residential development without regard to the quantified need for it and would be in direct conflict with the core planning principle of the Framework that planning should genuinely be plan-led (paragraph 15).
29. For the above reasons, and having regard to all other matters raised I conclude that the appeal should be dismissed.

Jameson Bridgwater

INSPECTOR

DOCUMENT SUBMITTED AT THE HEARING

1. Ariel photograph of the site and surroundings (annotated)

APPEARANCES

FOR THE APPELLANT:

| | |
|------------------|---------------------------|
| Jonathan Adams | Tetlow King Planning |
| Rosie Dinnan | Tetlow King Planning |
| Tim Davies | Colliers |
| Spencer Crowder | Ashville Group |
| John Owen | GreenSquare Group Limited |
| Richard Stephens | GreenSquare Group Limited |
| Barry Wood | GreenSquare Group Limited |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|----------------------|-------------------|
| Charmian Eyre-Walker | Wiltshire Council |
| Matthew Croston | Wiltshire Council |
| Louise Tilsed | Wiltshire Council |
| Mary Noyce | Wiltshire Council |

INTERESTED PERSONS:

| | |
|---------------|----------------|
| Michael Merry | Local resident |
|---------------|----------------|

Richborough Estates