



Appeal Decision

Hearing held on 12 June 2014

by Geoff Salter BA MRTPI

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

Decision date: 9 July 2014

Appeal Ref: APP/J3530/Q/14/2217963

Land off Station Road, Framlingham, IP13 9EE.

- The appeal is made under Section 106BC of the Town and Country Planning Act 1990 against the refusal by Suffolk Coastal District Council to determine that a planning obligation should be modified.
 - The appeal is made by Hopkins Homes Ltd
 - The development to which the planning obligation relates is mixed use development with commercial floorspace (Class B1 Business and/or Class B2 General Industry), 140 dwellings (including affordable housing), together with associated highway access, car parking, landscaping and public open space following demolition of existing buildings and site decontamination works.
 - The planning obligation, in the form of an undertaking dated 10 April 2010, was made between Suffolk Coastal District Council, Suffolk County Council, AB Agri Ltd and Hopkins Homes Ltd.
 - The application Ref: C14/0435/VLA is dated 16 January 2014.
 - The application sought to have the planning obligation modified in order to remove the provision of all the affordable housing.
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Decision

1. The appeal is allowed and the planning obligation, dated 10 April 2012 and made between Suffolk Coastal District Council, Suffolk County Council, AB Agri Ltd and Hopkins Homes Ltd, is modified by the deletion of part 4 of the third schedule – Affordable Housing, for a period of three years from the date of this decision.

Main Issue

2. The main issue is whether the existing planning obligation requirement in relation to the provision of affordable housing results in the proposed development being unviable and, if so, whether the discharge of the affordable housing requirement would be reasonable.

Background

3. The development the subject of the appeal relates to an outline planning permission for the construction of 140 dwellings, commercial development and associated works on previously developed land at the former Framlingham railway station, to the south of the town centre. The permission was granted in 2010, two years after submission of the planning application, and was subject to an extension of time granted in December 2013. The permission is subject

to Section 106 obligation which provided for the following: 47 affordable dwellings; indexed contributions for education (£244,989), adult sport (£68,755) and transport (£30,000), together with one LEAP, three LAPs and a land transfer for a wildlife habitat.

4. The appellants submitted an informal request to the Council to vary the terms of the obligation, including deleting the affordable housing requirement, supported by a valuation report dated March 2013. This was based on a standard residual valuation approach and showed that the scheme subject to the provisions of the obligation would not be viable. The report was assessed on behalf of the Council by the District Valuer (DVS Services) who came to the same conclusion. Both reports indicated that the scheme was only marginally viable even without any affordable housing. Although recommended for approval, this request was refused by Councillors in February 2014.
5. A formal application to delete the affordable housing from the obligation was made in January 2014, accompanied by an updated valuation report dated January 2014. This was refused by the Council but was not the subject of any rebuttal of the valuation evidence.

Reasons

6. At no stage of the above processes did the Council query the methodology of the valuation reports or any of the inputs regarding costs, including site clearance and preparation works, external works, fees, or interest rates. The costs of purchasing the site were included at just under £4m, significantly discounted from the actual purchase price (the outcome of a competitive tender in process in 2007/08). As a former railway yard and industrial premises, the site was known to present some additional costs to deal with contamination and some significant changes in levels necessitating substantial earth works and retaining walls. In summary, the approved scheme was shown to make a substantial loss of about £1.7m, equating to a return on capital outlay of minus 7.3%; if the affordable housing were to be omitted, the developers could expect to reach a profit level of 1.7%.
7. The Council raised issues about potential sales prices and put forward some schedules on the morning of the hearing which, it was argued, indicated that in a rising market higher sales values per sq m were likely to be achieved in Framlingham than those shown in the appellants' appraisals. The appellants disputed the use of a partial approach to update just one of a number of inputs to an appraisal and argued that the projected additional revenue of £3.7 m was not realistic.
8. A number of factors lead me to treat the prospect of increased sales revenues at this site with caution. First, the sale prices achieved at Castle Brooks, another scheme developed by the appellants in Framlingham which is now complete and for the most part sold, were less than the company expected. Secondly, the sale prices being obtained by the appellants' scheme at Saxmundham are underpinned by a good quality construction incorporating an attractive riverside park on a site close to the town centre and a new Waitrose store. The setting of the appeal site, overlooking a petrol filling station and sizeable car dealership with garage, is less attractive and could well suppress sales values, despite the attractions of Framlingham itself, including a school with a good reputation. The location of the Castle Brooks site within the school catchment did not prove to have a significant beneficial effect on sales

- prices, although market conditions were different as that site was being developed. Third, the nature of the relatively high density development of 140 dwellings, which is likely to contain a number of flats and smaller houses, could depress the value per sq m of the private sale units. Fourth, the information about values at another site in Saxmundham was based on asking prices, not realised sale prices.
9. The updated appraisal of January 2014 used increased estimates of the value of sales, broadly reflecting the rate of change of house prices since March 2013. The original values used were accepted by DVS as being broadly accurate in their assessment of the scheme. The updated expected values were higher than those achieved in more recent sales at Castle Brooks. On balance I consider that although the figures for private house sales used in the January appraisal might be cautious, they are reasonable in the circumstances.
 10. The Council also questioned the likely returns from the sale of the affordable housing component of the approved scheme, pointing to changes in the ability of local registered providers to fund new developments since the date of the appellants' revised appraisal. This might add some £500,000 to the value of 47 units. Although the appellants agreed that circumstances had changed, most of the other schemes quoted by the Council were not comparable with the appeal scheme in size and a smaller uplift of £5,000 per unit, about £250,000 would be appropriate. Given the somewhat sketchy nature of the very recent comparable evidence, I consider this latter estimate to be more realistic, but the additional potential income would not materially affect my overall findings on the viability of the scheme.
 11. I appreciate that sales values are generally the most sensitive variable in financial assessments such as this. However, it would not be consistent to undertake an appraisal using more recent sales values than costs, which also may well have increased since January. In any event even the Council's estimate that the scheme could fund 30 affordable homes was predicated on the same very low profit rate of 1.7%, which is well below what any developer would reasonably expect from a brownfield scheme of this type. Bearing in mind the location and setting of the site, the unsatisfactory nature of the Council's partial updating of potential viability and the appellants' evidence about known values in Framlingham, I have concluded that the proposed provision of affordable housing would make the scheme unviable. A variation of the Section 106 obligation would be reasonable and is necessary in this particular case to enable the development to move towards viability.

Geoff Salter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr S Bryan	Development Director, Hopkins Homes
Mr R Eburne	Land and Planning Director, Hopkins Homes

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Ridley	Head of Planning, Suffolk Coastal DC
Mr P Perkin	Principal Planning Officer, Suffolk Coastal DC
Mr M Aust	Valuation consultant for Suffolk Coastal DC

NEW DOCUMENTS

1	Critique of gross development value submitted by Mr Aust
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Richborough Estates