
Appeal Decision

Site visit made on 17 March 2014

by Susan Ashworth BA (Hons) BPI MRTPI

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

Decision date: 16 April 2014

Appeal Ref: APP/W4705/A/14/2211750

Land between No's 3 and 13 Burnham Avenue, Bradford, West Yorkshire BD4 6JH

- 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 Naeem Khan against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 13/03318/OUT, dated 18 June 2012, was refused by notice dated 5 December 2013.
 - The development proposed is the erection of 6 semi-detached properties.
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Decision

1. The appeal is allowed and outline planning permission is granted for 6 semi-detached dwellings on land between No's 3 and 13 Burnham Avenue, Bradford, West Yorkshire BD4 6JH in accordance with the terms of the application, Ref. 13/03318/OUT dated 18 June 2012, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The application was submitted in outline with only access, layout and scale to be determined at this stage. I have dealt with the appeal on this basis.
3. I have considered the Planning Practice Guidance published on 6 March 2014. However, in the light of the facts of this case its content does not alter my conclusions on the main issues in this case.
4. The appellant has no objection to the description used by the Council, namely '6 semi-detached dwellings' which more accurately describes the proposal and I have therefore used this in my formal decision.
5. The site address on the application form differs from that used by the Council and in the appeal form. The original address appears to correctly identify the application site which is in any case defined by the application plans. I have therefore used the address originally stated on the application form in the banner heading and in my formal decision above.

Main Issues

6. The main issue in this case is the effect of the proposal on the provision of employment land in the Borough.

Reasons

7. The appeal site comprises a vacant area of land between two pairs of semi-detached houses located close to the entrance to Burnham Avenue. The site was previously occupied by similar semi-detached houses which were demolished some time ago. The site is an allocated Employment Site in an Employment Zone in the City of Bradford Metropolitan District Council Replacement Unitary Development Plan (RUDP) 2005, and forms part of a larger employment site.
8. Policies E1 and E6 of the RUDP resist the loss of allocated employment land other than in certain specified circumstances. Such circumstances include the size of the site, the need to support the function of the employment zone and any change in circumstances since the adoption of the Plan.
9. Whilst the local area has a mixed use character, with employment uses evident, Burnham Avenue itself is primarily residential. I noted at my site visit that there is considerable new residential development under construction or recently completed further along the road on another part of the same employment site and indeed planning permission has already been granted on a significant proportion of the allocated site for either industrial or residential development. It seems to me that this amounts to a change in circumstances since the adoption of the Plan.
10. The proposal would result in the loss of a further 0.1 hectare of industrial land. However, there is no evidence to suggest that this land is significant in terms of the overall employment land availability. The site has not been marketed for sale as industrial land, however marketing did take place on the larger adjacent site prior to permission being granted, with no demand having been indicated. Given that this site is considerably smaller, and is positioned between existing housing, it seems reasonable to conclude that had marketing taken place it would not have produced a different result. Moreover, I have taken account of evidence submitted by the appellant which indicates a significant level of vacant industrial premises in the vicinity and the Employment Land Review Update 2011 which indicates a good supply of allocated employment land in the Bradford South area across 19 sites.
11. Paragraph 22 of the Framework suggests that, where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable communities. In this respect, the evidence indicates to me that the appeal site would not have a reasonable prospect of being used for employment use.
12. Furthermore, the Council does not dispute the appellant's claim that there is a need for housing within Bradford, based on a shortfall in the delivery of housing. Figures in the 2013 Strategic Housing Land Availability Assessment show only a 2.3 year housing supply.
13. Taking account of the above, I find that while the proposal would reduce the amount of available employment land, albeit by a small amount, it would make efficient use of land to provide a development that would be compatible with the neighbouring housing. The proposal would be sustainable and moreover would help meet an identified need for new housing.

14. I have considered the Council's concern, expressed in the second reason for refusal that the development of this frontage site would effectively 'land-lock' part of the remaining industrial land allocation to the north-east of the site. It seems to me however, on the evidence before me, that there would be opportunities for creating an access to this land should the appeal site be developed. In particular I noted on site that there is an access leading to the site along Kaycell Street, which although currently unadopted is unusually wide. The appellant has outlined two other possible access points, via Rooley Lane and Rook Lane. In the absence of any evidence as to why these routes would not be suitable it seems to me that it is unlikely the land become sterilised as a result of this development.
15. As such I conclude on the main issue that the proposal would not have a significant harmful effect on the provision of employment land in the Borough. It would not conflict with the underlying aims of Policies E1 and E6 and would accord with paragraph 22 of the Framework. Furthermore the proposal would not result in neighbouring land becoming land-locked and therefore the proposal would accord with Policy UR3 of the RUDP which seeks to avoid development having an adverse effect on the surrounding environment.

Other Matters

16. I note that in respect of the matters for which permission is sought, namely, access, layout and scale, no objections have been raised by the Council. From all that I have seen, I have no reason to disagree with this view.

Conclusion and Conditions

17. For the reasons given above, and taking into account all other matters raised, including representations by local Councillors, I conclude that the appeal should be allowed subject to conditions.
18. I have taken into account those conditions suggested by the Council and the appellant's comments on them. As landscaping and appearance form the reserved matters it is not necessary to impose conditions that relate to those matters at this stage, including hard surfacing, materials and the positioning of windows.
19. I have however, imposed the standard outline, timing of reserved matters and commencement conditions and a condition specifying the approved plans in the interests of proper planning and for the avoidance of doubt. In addition, I have specified conditions regarding the timing of the provision of the vehicular and pedestrian access, and the provision of parking spaces in the interests of highway safety.
20. I have specified a condition requiring ground investigations as suggested by the Coal Authority to confirm the need for remedial works in order that the scheme is carried out to a satisfactory standard. While foul and surface water drainage are dealt with under other legislation it is in the interests of sustainability that there should be an investigation as to whether sustainable drainage techniques could apply in this instance and I have imposed such a condition for this reason. A Traffic Regulation Order is required to deal with off-site highway works including the continuation of parking restrictions outside the site and I have therefore imposed a Grampian condition requiring the implementation of the off-site highway works in the interests of highway

safety. I have noted the appellant's agreement to pay the costs of the Order although it would be inappropriate to require such a payment as part of a planning condition.

S. Ashworth

INSPECTOR

Schedule of Conditions attached to the Planning Permission

- 1) Details of the appearance and landscaping (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 be carried out in accordance with approved plan: B/12/852/01D but only in respect of those matters not reserved for later approval.
- 5) Before any part of the development is brought into use, the proposed means of vehicular and pedestrian access hereby approved shall be laid out, hardsurfaced, sealed and drained within the site in accordance with the approved plan. The means of access shall thereafter be retained throughout the life of the development.
- 6) The dwellings hereby approved shall not be occupied until the car parking spaces shown on the approved plan have been constructed with a solid bound material in accordance with a specification to be submitted to and approved in writing by the Local Planning Authority. The parking spaces shall thereafter be retained for that purpose.
- 7) Prior to the commencement of development, the intrusive investigation works recommended within the Coal Authority Coal Mining Risk Assessment shall be undertaken. In the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings and/or other mitigation measures (eg gas protection) to ensure the safety or stability of the proposed development these remedial works shall be undertaken prior to the commencement of development.
- 8) Prior to the commencement of development, the site shall be investigated to establish whether sustainable drainage techniques may be employed for disposal of surface water run-off generated by the development hereby permitted and the findings of that investigation and details of the drainage works proposed shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be

occupied until the approved drainage works relating to that dwelling have been carried out.

- 9) No development shall take place until a scheme for the off-site highway works indicated on the approved plan, including the provision of yellow lines along the site frontage and the relocation of the bus stop, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of the dwellings.