
Appeal Decision

Site visit made on 15 December 2014

by G D Jones BSc(Hons) DMS DipTP MRTPI

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

Decision date: 31 December 2014

Appeal Ref: APP/K2420/A/14/2227397

Former Manchester Hosiery Works, Queens Road, Hinckley, Leicestershire LE10 1EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Evans Bros Ltd against Hinckley & Bosworth Borough Council.
 - The application Ref 14/00281/FUL, is dated 21 March 2014.
 - The development proposed is to erect 14No. two bedroom houses with associated car parking.
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Decision

1. The appeal is allowed and planning permission is granted to erect 14No. two bedroom houses with associated car parking at Former Manchester Hosiery Works, Queens Road, Hinckley, Leicestershire LE10 1EE in accordance with the terms of the application, Ref 14/00281/FUL, dated 21 March 2014, subject to the conditions set out in the Appendix.

Main Issues

2. The main issues are whether the development can be regarded as sustainable and whether any potential adverse effects of the appeal proposals, including on the character and appearance of the area, on safety and security and on highway safety, would significantly and demonstrably outweigh the benefits.

Reasons

3. Following the submission of the appeal the Council resolved that, had the appeal not been made, it would have granted planning permission subject to a number of conditions. Five of the conditions, Nos 12 to 16, are in essence intended to address aspects of the appeal proposals that the Council considers require revision/enhancement. In summary the suggested conditions concern the following matters:
 - 12 and 13 - the appearance of the gables of the proposed rows of houses and of the boundary treatment, respectively;
 - 14 - the security of the proposed parking area;
 - 15 - car parking; and
 - 16 - bin storage.
4. These suggested conditions raise issues regarding the effect of the proposed development on the character and appearance of the area, on safety and security and on highway safety.

5. The evidence indicates that a five-year supply of deliverable housing land cannot be identified in the area. In these circumstances the National Planning Policy Framework (the Framework) states that local policies on housing supply should be considered to be out of date. Although it is for only 14 dwellings, the proposed development would make a valuable contribution to identified housing need. Paragraph 14 of the Framework establishes a presumption in favour of sustainable development. For decision-taking, when relevant policies are out of date, this means applying the test of whether any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
6. When I visited the area I observed a number of the gables to the ends of terraced rows of houses that are visible from the public realm. Although some have windows and architectural detailing, many do not. Consequently, I find the simple design of the proposed gables to be in keeping with the surrounding area. I also observed a mix of boundary treatment in the area, including close boarded fencing to the back of the pavement. While it may be thought to be preferable to have a brick wall to the Queens Road frontage, the proposed timber fence would not be out of keeping with the area. The proposed car parking courtyard would be reasonably narrow and is proposed to be broken-up through the use of the boundary treatment and planting such that it would not have a significant influence on the existing street scene. Bin storage arrangements could be controlled via a suitably worded planning condition.
7. For the foregoing reasons and subject to appropriate conditions, the proposed development would not, therefore, have a harmful effect on the character and appearance of the area. Consequently, in this regard it would accord with the relevant provisions of Policy BE1 (Design and Sitting of Development) of the Hinckley and Bosworth Local Plan 2001 (the Local Plan).
8. Although the proposed parking area would have no significant influence on the character and appearance of the area, it would be overlooked by the rear facing first floor bedrooms of the proposed development as well as by the houses that face the proposed site access on Queens Road. Consequently, it would benefit from reasonable levels of natural surveillance. I also note that it is proposed to provide lighting in this area. Therefore, as proposed, the development would provide an appropriate level of safety and security in accordance with the relevant requirements of Policy BE1 of the Local Plan.
9. The Highway Authority has raised no objection to the proposed development including in respect to the proposed parking provisions. Although when I visited the area I noted that many of the houses in the surrounding streets do not have off-street parking spaces, there appeared to be some remaining on-street parking capacity. The Council has not submitted any substantive evidence to indicate why the proposed parking arrangements are unacceptable or how they should be amended, for instance the number of additional car parking spaces that might be required. For these reasons and in the absence of any clear evidence to the contrary, I conclude that the proposed development would provide adequate off-street parking and would not have a harmful effect on highway safety. Consequently, in this regard it would accord with the relevant provisions of Policy T5 (Highway Design and Vehicle Parking Standards) of the Local Plan.
10. Overall, therefore, I have not found that the proposed development would have any adverse effects that would significantly and demonstrably outweigh the benefits, including the supply of additional housing, when assessed against the policies in the Framework when taken as a whole. In these circumstances, planning permission should be granted.

Other Matters

11. An undertaking made pursuant to Section 106 of the Town and Country Planning Act 1990 (the Unilateral Undertaking), dated 10 October 2014, has been submitted by the appellant. In the event that planning permission is granted and implemented the Unilateral Undertaking would secure the payment of contributions towards the provision/improvement of play and open space and education services and facilities. I have considered these in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (the CIL Regulations) and government policy and guidance on the use of planning obligations.
12. The Council's Planning Committee Report considers the requests for contributions for education, libraries and civic amenities facilities from the County Council, as well as the requested play and open space contribution. It does so with reference to the CIL Regulations, relevant planning policy and guidance, and the evidence submitted by the appellant regarding the viability of the proposed development. It concludes that only the play and open space and education contributions would comply with the CIL Regulations and that only reduced contributions of £6,041.38 and £13,958.62 respectively would be viable. I have found no good reasons to disagree and find that both contributions would be directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.
13. I note that the Unilateral Undertaking would secure slightly less than the contributions sought by the Council. However, given its very limited scale, I have given this shortfall very little weight.
14. In addition to the foregoing matters, concern has been expressed locally including in respect to wider highway safety issues, noise and privacy. These matters are identified and considered in the Council's Committee Report and it has concluded that they would not amount to reasons to justify withholding planning permission. Subject to the imposition of planning conditions, I see no compelling reasons to disagree.

Conditions and Conclusion

15. In addition to the standard time limit condition the Council has requested a number of conditions which I have considered in the light of government guidance on the use of conditions in planning permissions and made adjustments accordingly.
16. For the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would be necessary. Conditions to control the details of the facing materials of the buildings and the provision of waste / recycling bin storage would also be necessary to protect the character and appearance of the area. For that reason and also to reasonably protect trees and the living conditions of neighbouring occupiers and in the interests of highway safety, conditions to control hard and soft landscaping, including levels, means of enclosure, hard surfacing materials and planting, would be necessary.
17. In the interests of pollution prevention, a condition to investigate and, where necessary, mitigate contamination would be necessary, although I would favour a single, shorter version to those suggested. To ensure that the site is adequately drained and to mitigate flooding, conditions to secure the implementation of surface and foul water drainage would be necessary.
18. For the reasons outlined in paragraphs 6 to 9, the suggested conditions 12 to 15 would be unnecessary. The objectives of suggested conditions 6 and 16 could be

achieved via the suggested landscaping condition and would, therefore, represent unnecessary duplication. Suggested condition 7 would remove certain permitted development rights. Government guidance on the use of planning conditions states that such conditions should only be imposed exceptionally and if imposed should only control what is absolutely necessary. I have found no exceptional circumstances within the evidence to justify the withdrawal of any of the permitted development rights cited and, consequently, such a condition would not be reasonable or necessary.

19. For all of the reasons given above, I conclude the appeal should, subject to the identified conditions, be allowed.

G D Jones

INSPECTOR

Appendix – Conditions

Conditions imposed in respect of Appeal Ref APP/K2420/A/14/2227397:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 14/13 01; Drawing No 14/13 03A; Drawing No 14/13 04B; Drawing No 14/13 05A; Drawing No 14/13 06; and Drawing No 14/13 07.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
 - a) Proposed levels / contours;
 - b) Means of enclosure;
 - c) Hard surfacing materials;
 - d) Existing trees and hedgerows to be retained, together with measures for their protection in the course of development;
 - e) Planting plans;
 - f) Schedules of plants, noting species, plant sizes and proposed numbers/densities; and
 - g) Implementation programme.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 6) No development shall take place until full details of waste and recycling storage for the development have been submitted to and approved in writing by the local planning authority. The approved details shall be fully completed prior to the first occupation of the dwellings to which they serve.
- 7) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority (LPA). The results of the site investigation shall be made available to the LPA before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the LPA. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the LPA. The remediation of the site shall incorporate the approved additional measures.
- 8) The development hereby permitted shall not commence until surface and foul water drainage details, incorporating sustainable drainage principles, including a timetable for their implementation, have been submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented in accordance with the approved timetable.