

APPEAL BY MR M CARDEN (CARDEN DEVELOPMENT LTD) AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT OF UP TO 65 DWELLINGS INCLUDING MEANS OF ACCESS ON LAND OFF WATERMILLS ROAD, CHESTERTON

<u>Application Number</u>	13/00974/OUT
<u>Officer recommendation</u>	Refusal
<u>LPA's Decision</u>	Refused by Planning Committee 3rd April 2014
<u>Appeal Decision</u>	Allowed – Planning permission granted subject to conditions, with a unilateral undertaking being entered into by the appellant
<u>Date of Appeal Decision</u>	20 January 2015

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 13/00974/OUT) and the following is only a brief summary.

The Inspector considers the main issue to be the effect of the proposed development on the supply of employment land in the borough and the future economic development and growth of Newcastle-under-Lyme. In allowing the appeal, the Inspector makes the following comments:-

- Although the site is covered by Policy E9 of the Local Plan (NLP), it was agreed by both parties that this policy does not allocate land for employment purposes as other policies of the NLP do..
- Notwithstanding this, the Council have indicated that the Development Brief prepared for the site in the early 1990s and the subsequent planning permissions for employment uses on the site, show that it has always been their intention that the site should be used for economic purposes. As such they consider it forms part of the employment land supply within the borough and is covered by Policy E11 of the NLP which seeks to resist the loss of good quality employment land and buildings where this would limit the range and quality of sites and premises available.
- The Council have acknowledged that the site is in a sustainable location and that in principle, the site could be developed for residential purposes without having an unacceptable impact on the character and appearance of the area, highway safety, the living conditions of existing and future occupiers, mineral extraction and protected species.
- The NPPF sets out in paragraph 47 that to boost significantly the supply of housing, local planning authorities should be able to demonstrate a 5 year supply of deliverable housing sites. There is agreement from both parties that the Council cannot demonstrate this. The Inspector is mindful in this respect that the Framework (paragraph 14) has a presumption in favour of sustainable development unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- The deficit (of housing land) is clearly a matter of significant weight. However the Council are concerned that the loss of the site for employment purposes would be detrimental to the supply of employment land in the borough and would undermine the aims and objectives of the Core Spatial Strategy (CSS) to promote economic growth. The NPPF also gives strong support to securing economic growth.
- Policy SP2 of the CSS sets out a requirement of 112ha of employment land in the borough over the plan period. The more recently produced Newcastle-under-Lyme and Stoke-on-Trent Employment Land Review (ELR) utilises two methodologies to forecast future requirements for employment land. However, following concerns raised in a previous appeal regarding the methodology and findings of these forecasts, it was accepted that the figures in the CSS were the appropriate ones to use.

- There was a lack of clarity over how much employment land had been developed to date. Whilst the ELR indicated that 68ha of employment land had been developed between 2006/7 and 2009/10, the Council indicated in its statement that between 2006 and 2014 only just over 58ha had been developed. Using the later more conservative figure which the Council considered to be more accurate leaves a requirement of 54ha over the rest of the plan period.
- The current supply of employment land in the borough was disputed but at the hearing a list of 9 sites totalling approximately 19ha was agreed as being currently available – the availability of a further 5 sites totalling 82 ha was disputed.
- The Inspector considered that from the evidence before her she has no firm basis for reaching a conclusion on the current supply of employment land in the borough. However, she is mindful of the fact that in April 2014 following an inquiry on land at Trentham Lakes in neighbouring Stoke-on-Trent, the Inspector in that case concluded that there was more than sufficient employment land available within Stoke-on-Trent, and the wider market area, to satisfy future demand in the short to medium term. The Inspector considers that no evidence has been presented to her to make her come to a different conclusion on the matter.
- Even if it is accepted that there is a shortage of employment land in the borough, it is clear that this site has been available for employment development for 20 years. During this time, despite extensive marketing and the fact that the site has had the benefit of planning permission for the development of business units the site has remained undeveloped.
- The Council raised concerns as to whether the price being asked for the site has been realistic but the Inspector noted that the price has changed over recent years to reflect market conditions. -
- It was also argued by the Council that the fact that the site no longer has planning permission would be detrimental to the ability to develop the site. However the Inspector agreed with the appellant that given that Policy E9 of the NLP makes it clear that planning permission for employment purposes is likely to be considered favourably, this (absence of a planning permission) is unlikely to be detrimental in the marketing of the site.
- Reference was made to an offer that was made for the site in October 2014 but the appellant indicated that this verbal offer was never converted into a formal written offer and furthermore that it was known that verbal offers were made on a number of sites and that negotiations on the purchase of another site (by the party concerned) are well underway.
- The appellant considered that access was the biggest constraint to the site coming forward for economic development and this corresponds to the view put forward in the ELR which classed the accessibility of the site as poor.
- Whilst the site is physically not far from the A34 or junction 15 of the M6, it is perceived to be a 'tertiary' location that is 'off-patch'. The Inspector observed that there are a number of employment parks along the route from the site to the M6, many of which had land and/or buildings available. These will be competing directly with this site and their accessibility is likely to be perceived as superior to that of this site.
- Paragraph 22 of the NPPF indicates that planning policies should avoid the long term protection of sites allocated for employment uses where there is no reasonable prospect of a site being used for that purpose. Although this site is not formally allocated for employment purposes, the Council have sought to protect it for such purposes and as such this paragraph is of relevance.
- In conclusion, the site has been available for employment purposes for a considerable period of time, including both periods of significant economic growth as well as periods of recession. During this time extensive marketing of the site has taken place but the site has remained undeveloped. Given this the Inspector was satisfied that there is no reasonable prospect of it being used for employment purposes.
- In the light of this the Framework indicates that applications for alternative uses should be treated on their merits, having regard to market signals and the relative need for different land uses. As the Council cannot demonstrate a five year supply of

housing land there is a clear need for housing land within the borough and the development of this site would make a significant contribution to the housing supply.

- Whilst the development of the site would result in the loss of just over 1ha from the employment land supply, overall, the Inspector considers that the borough and the wider market area within which it operates, would still have an adequate supply of employment land. As such, the proposal would not have a detrimental impact on the supply of employment land in the borough and the future economic development and growth of Newcastle-under-Lyme, and there is accordingly no conflict with development plan policies

With respect to the submitted Unilateral Undertaking the Inspector concludes

- A development of this size would create additional pressures on the existing local transport infrastructure and the Inspector considers that the proposed contribution of £40,079 towards NTADS is necessary to the acceptability of the development, is directly related to it and is fairly related in scale and kind. As such it would accord with the statutory tests.
- Regarding education, as the schools in the area are projected to be full or have very limited space for the foreseeable future, the proposed contribution of £154,434 would meet the statutory tests.
- Regarding affordable housing, the Council expressed concern regarding the type of affordable housing proposed within the Unilateral Undertaking, which they stated, to accord with the SPG, should be predominantly Social Rented. They were also concerned that there is inadequate regulation to ensure that the housing would be given to people with affordable housing needs. However, as the Undertaking states that they are managed by the Registered Provider, in accordance with their normal lettings policy, the dwellings would be given to people with affordable housing needs. Whilst the type of affordable housing may not be exactly what the Council would prefer, overall, she concluded, the Undertaking would ensure that the development contributes to the affordable housing needs within the borough and the obligation passes the statutory tests.
- Although the proposal will provide a variety of publically accessible open space within the site it is expected that it would also increase demand for other green space facilities in the area. Consequently, in accordance with the Green Space Strategy, a contribution of £2,943 per dwelling is sought towards improvements at a nearby playground and recreation ground. The proposed contribution within the Undertaking is directly related to the development and is fairly related in scale and kind. As such it would accord with the statutory tests.

Officer Comments

The Inspector highlighted the Council's lack of evidence relating to the supply and demand for employment land in the Borough. In particular, she gave weight to an appeal decision relating to land at Trentham Lakes in the City and stated that in the absence of any evidence to the contrary, she agreed with the conclusions reached by the Inspector in that decision, that there was more than sufficient employment land available within Stoke-on-Trent, *and the wider market area*, to satisfy future demand in the short to medium term. The Council's attempt to distinguish the Watermills Road case from the Trentham Lakes case by referring to evidence of the historical take up of employment land (over a period long enough to be persuasive) rather than the econometric projections within the ELR did not convince the Inspector as to the shortage of employment land. This is a matter of concern and likely to be a significant factor in your officers' approach to similar applications in the future elsewhere in the Borough, at least until new evidence comes forward.

The decision also illustrates the present vulnerability of employment land within the Borough to residential proposals so long as the Council is unable to demonstrate a five year supply of deliverable housing sites, although it is important to note that the Inspector finds a number of site specific features which convinces her that there is no realistic prospect of the site being used for employment purposes.

An update of the joint Newcastle-under-Lyme and Stoke-on-Trent Employment Land Review has recently been commissioned and is likely to be published in the autumn. This will assess need across the functional economic market and will help to ensure that in future the decision-maker has an up-to-date and robust position regarding supply and demand of employment land within the Borough.

Recommendation

That the decision and your officers' comments be noted