



Appeal Decision

Site visit made on 6 November 2018

by R A Exton Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2018

Appeal Ref: APP/G4240/W/18/3207882

Land off Bury Street, Mossley OL5 9HN

- 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 Mr J Reece of Jecama LLP against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 18/00318/FUL, dated 5 April 2018, was refused by notice dated 29 June 2018.
 - The development proposed is described as erection of 4 Dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The new National Planning Policy Framework ('The Framework') was introduced in July 2018. Both the Council and the appellant have been given the opportunity to comment on its relevance to this appeal. I have taken account of any comments in my reasoning below.

Main Issues

3. The main issues are the effect of the appeal proposal on:
 - The availability of employment land in the borough; and,
 - Pedestrian access for future occupiers of the proposed dwellings.

Reasons

Employment Land

4. The appeal site is located within an established employment area ('EEA') where Policy E3 of the UDP¹ restricts residential development unless, after assessment by reference to specific criteria, it is considered that the borough's housing requirements and the regeneration benefits of the development outweigh the potential of the site in its present form for further employment use.
5. I note the appellant's comments on the age of the UDP and the relevance of Policy E3 in particular. I accept that the quantities of employment land referred to in the UDP are highly likely to be out-of date due to the passage of time and change in circumstances. However, its date of adoption alone does not render Policy E3 out-of-date. Although it significantly pre-dates the

¹ The Tameside Unitary Development Plan adopted in 2004.

Framework I consider that it generally accords with the Frameworks aims of supporting economic growth whilst also allowing for flexibility to respond to changes in economic circumstances. I therefore afford it significant weight.

6. The appeal site is currently used in connection with the adjacent garage business. At the time of my site visit a significant number of vehicles were stored within the appeal site. I note the appellant's comments on the reason for this. However, it nevertheless demonstrates that the site is suitable for and has some value in connection an existing employment use. I note the proximity of residential properties on the opposite side of Bury Street. There is little evidence to suggest that the existing employment uses on Bury Street cause harm to the living conditions of occupiers of these properties. I therefore consider that an employment use of a similar nature could operate on the appeal site without detriment to the living conditions of nearby residents. Overall, there is insufficient detailed evidence before me to demonstrate that the sites characteristics, location or effect on nearby land uses would make it unsuitable for other employment uses.
7. Outline planning permission has been granted for the erection of a building for employment use. The appellant says that the marketing of the site for this use has been unsuccessful for reasons of poor commercial accessibility, conflict with surrounding residential land uses and therefore there is no reasonable prospect of the site being used for employment purposes. This statement is however supported by very limited evidence. In particular there is very limited evidence of how and for what duration the site has been marketed. Whilst I have no reason to question the appellants' status as a property developer this alone does not conclusively demonstrate that there is no demand for the appeal site for employment use. Overall, there is insufficient evidence to persuade me that there is no need for the site for either employment use or an employment use as part of a mixed use scheme.
8. The appellant states that the Council's Housing and Employment Land Availability Report identifies 22.68 hectares of immediately available employment land. This figure appears to relate to the whole borough and not just the EEA or the area of it in which the appeal site is located. It therefore does not automatically justify a non-employment use on the appeal site. The Council say that there is a recognised lack of employment land in Mossley and I have no reason to question this. The argument that the appeal site forms only a small part of a larger EEA is one that could be repeated many times. Each time it is repeated the loss of employment land becomes proportionally greater. It therefore does not justify a non-employment use on the appeal site either.
9. The Council acknowledges that it cannot currently demonstrate a 5 year housing land supply. This is a consideration in respect of the application of Policy E3, and also paragraph 11 of the Framework which I shall consider below. The appeal proposal would make a contribution, albeit limited, to the borough's housing supply. However, in doing so it would lead to the loss of employment land in an area where the Council say there is high demand. Also, allowing residential development in close proximity to existing employment uses would be likely to limit the employment sites future potential use. This is because the proposed dwellings would be situated much closer to employment uses than the existing dwellings referred to above. Any future employment

proposals would therefore have to be considered in light of their effect on occupiers of the proposed dwellings.

10. In light of the above I conclude that the limited contribution the appeal proposal would make to meeting the borough's housing requirements would not outweigh the potential of the appeal site in its present form for further employment use that would contribute to the economic growth of the borough. It would therefore conflict with the economic aims of Policy E3 of the UDP and the Framework.

Pedestrian Access

11. Whilst it appears that the majority of Bury Street is an adopted highway it has a very uneven surface with pot-holes in places, no defined footpaths, limited drainage and lighting. At the time of my site visit work was being carried out on vehicles parked along the route to the appeal site and there were also other parked vehicles lining the road. This necessitated use of the centre of the road which was in poor condition in places. In its present form Bury Street would present a challenge to less-able bodied pedestrians or people using wheelchairs or push chairs for children. This would be particularly so in the dark or bad weather.
12. I note that other residential properties further to the north use Bury Street for access. However, it appears that this is not the only means of access. The properties can also be reached from Manchester Road. Based on my observations on site this would appear to provide a more preferable route particularly in the dark or bad weather. The existing residential properties also appear to significantly pre-date the development plan and so would not have been assessed against its policies. The appeal proposal must however be assessed against these.
13. In light of the above I conclude on this issue that the appeal proposal would not make adequate provision for pedestrians to access the appeal site. It would therefore conflict with Policies T1 and H10 of the UDP. These require development schemes to be designed with suitable access arrangements in order to provide safe and convenient facilities for pedestrians.

Other Matters

14. The Council's acknowledgement that it cannot currently demonstrate a 5 year housing land supply triggers paragraph 11 of the Framework. This requires planning permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.
15. I have taken account of the appeal sites location in relation to local shops, services and public transport. I have also taken account of the contribution it would make to boosting the supply of housing in the borough on a brownfield windfall site and the consequent reduction in pressure for release of land in the Green Belt. I also note the Councils lack of objection for reasons including design and living conditions of nearby and future occupiers. These however are neutral matters that do not carry weight either way. Overall, I consider the loss of employment land and inadequate provision for pedestrians to access the appeal site significantly and demonstrably outweigh any benefits identified

above. The appeal proposal would therefore conflict with the policies of the Framework as a whole.

Conclusion

16. For the reasons given above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Richard Exton

INSPECTOR