

PINS Ref: APP/E3715/W/23/3322013

LPA Ref: R18/0186

Appeal by Brandon Estates Limited

Site Address: Coventry Stadium, Rugby Road, Coventry, CV8 3GP

Demolition of existing buildings and outline planning application (with matters of access, layout, scale, and appearance included) for residential development (Use Class C3) including means of access into the site from the Rugby Road, provision of open space and associated infrastructure and provision of sports pitch, erection of pavilion and formation of associated car park.

LPA Appearances:

Hugh Richards of Counsel, calling

Neil Allen BA (Hons)

Gary Stephens BA (Hons), MA, PGCert UD, MRTPI.

OPENING STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY

Introduction

1. This is an appeal against the refusal of an outline planning application - only landscape is a reserved matter. However, the material submitted in respect of the proposed 3G pitch and pavilion/clubhouse are apparently also to be regarded as illustrative (but location is fixed) with the submission of details required under conditions. The Council takes no 'procedural point' on this - it just wants everyone to be clear at the outset of the inquiry what is being considered in detail and what is not.
2. The site is previously developed land for the purposes of local and national planning policy. It was sold to Investin Brandon Ltd in 2015 and quickly transferred to Brandon Estates Ltd, the Appellant. It was last in use for racing in late 2016. A synopsis of the factual history since then is to be found in Mr Hooper's appx 1 (p51/208) and in the evidence / material submitted by the r6 party Save Coventry Speedway & Stox Campaign Group ("SCS"). "What occurred when" is less controversial than "why" it occurred.
3. The application was reported to Planning Committee [CD06, p31] on 9/11/22 with an officer recommendation for approval. However, the Committee, as it was entitled to do, disagreed. The application was refused by notice issued on 16/11/23 for the following reasons:

“The development would result in the loss of a sporting facility that has both local and national significance and although an alternative sporting provision is proposed there is not a clearly identified need for the alternative sporting provision and therefore it is considered that the proposed benefits of the new facility do not clearly outweigh the loss of the stadium. The proposal would therefore be contrary to Policy HS4(C) of the Local Plan (2019), Policy LF1 of the Brandon and Bretford Neighbourhood Development Plan (2019) and Paragraph 99(c) of the National Planning Policy Framework (2021).”

4. The development plan comprises the Rugby Borough Local Plan 2011-2031 [CD8.2] and the Brandon and Bretford Neighbourhood Plan [CD8.3] (both adopted / made in June 2019). Key policies in this appeal are:
 - a. LP GP2. The site is located outside the settlement boundary of Brandon and is in the Green Belt where new development is only acceptable where national Green Belt policy indicates some support. Paragraph 149 of the NPPF supports the redevelopment of previously developed land in the Green Belt which would not have a greater impact on the openness than the existing position and where it will not cause substantial harm to the openness of the Green Belt.
 - b. LP HS4(C). Like para 99 of the NPPF, this provides that sports buildings and land should not be built on unless an assessment has been undertaken to clearly show it is surplus to requirements; or the loss resulting from the development would be replaced by equivalent or better provision; or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss of the current or former use.
 - c. NP LF1. This states that proposals that would diminish or remove a community facility (such as the “presently closed” stadium) will be required to demonstrate that the facility is no longer needed or viable and that there is no realistic prospect of viability being improved with either the current or other community use(s). It goes on to state that new community uses will be supported.

5. The Plans for Approval are listed in draft condition 5 (SoCG §12). 124 dwellings are shown (not up to 137 as originally proposed). They comprise a mixture of housing types, sizes and tenures with 20% of them being affordable housing. The dwellings are to be located in the eastern section of the site and will comprise 34 two-bedroomed dwellings, 65 three-bedroomed dwellings and 25 four-bedroomed dwellings. The proposed dwellings are all two-storey and a mix of detached, semi-detached and terraced. They will feature a range of materials (brick and render) and features (canopy porches, bay windows). Some of the dwellings have integrated garages whilst others have detached single and double garages.

6. Illustrative Plans. Some plans in draft condition 5 can only be illustrative - the Landscape Masterplan and the Sports Pitch & Car Park Landscape Concept plan.
7. A SoCG with the LPA was signed 22/8/23 [CD14.1]. A SoCG with SCS was signed on 23/8/23 [CD14.2].
8. Case management of this appeal has identified a number of “main issues” around which the inquiry procedure has been structured. The Council’s position on each of them is (briefly) as follows.
9. Main Issue 1 - Whether the proposed development forms inappropriate development in the Green Belt, the effect on openness and Green Belt purposes. This is essentially a matter of planning judgment. In this instance, the Council’s officers and Mr Stephens its planning witness have reached the same judgment as the Appellant’s team. But that is not conclusive - Mr Carter for SCS reaches a contrary judgment which the inspector may or may not agree with.
10. Main Issue 2 - Whether the stadium is surplus to requirements having regard to national and local planning policies. National policy in NPPF ¶99(a) is quite clear - the stadium site should not be redeveloped unless the Appellant “clearly” shows it is “surplus to requirements”. In this context the Council’s case is that Sport England’s Assessing Needs and Opportunities Guide (“ANOG”) 2014 [CD15.1.4] is an important ‘how to do’ guide and if followed will produce “a robust and up to date assessment of need”. The Council will show it has not been followed. The Appellant also confuses the required assessment with consideration of ‘viability’ issues which are not relevant to the “surplus” issue. LP policy HS4C’s first exception mirrors NPPF ¶99(a).
11. Main Issue 3 - Whether it is financially viable to reinstate the speedway stadium. This issue goes to NP policy LF1 and is also relevant under Main Issue 5. The Council has not produced viability evidence of its own, but has had regard to that submitted by the Appellant and SCS. In that context it would appear that the focus should not be on “re-instating the speedway stadium” but rather “recommencing use of the stadium for sport and recreation”. There is plainly an issue as to what matters / works are necessary to get racing going again. Further, so far as the physical condition of the stadium / land impacts on viability, it has deteriorated as a result of the Appellant’s wilful neglect, and which caused the Council to have to take legal action to remedy. Plainly, the Appellant cannot be allowed any credit in the planning balance on this count.

12. Main Issue 4: Whether there is an identified need for the alternative sports provision proposed. This issue is relevant to NPPF ¶199(c) and LP policy HS4C, 3rd exception. What is proposed is a single, full size 3G pitch and pavilion/clubhouse of a minimum 350m² (condition 8) with parking. It is accepted that there may be a need for such facilities in the borough/sub-region, as there is in all local authority areas. The real issue is whether this the right place and scheme to meet that need. Most key stakeholders do not think so.
13. Main Issue 5: Whether the benefits of the alternative sports provision outweigh the loss of the former speedway / stadium use. This issue goes to NPPF ¶199(c) and to LP policy HS4C, 3rd exception. There is a preliminary point here - is redevelopment by housing and a 3G pitch facility “development for alternative and recreational provision”? Otherwise, it requires a planning judgment taking into account matters such as the number of people involved, the scarcity, quality and resilience (longevity) of each use and what is likely to happen if the appeal is dismissed.
14. Main Issue 6: Other benefits of the proposal including the delivery of new market and affordable housing. Both are benefits although the Council can demonstrate a 5.6 years housing land supply (SoCG ¶4.1). There is a greater need for affordable housing. There are also economic and environmental benefits to weigh in the overall planning balance.
15. Main Issue 7: Whether the proposed development makes an appropriate contribution to education is no longer a main issue in dispute.
16. In the overall planning balance, the Council accepts the site is previously development land and complies with LP policy GP3 (SoCG ¶3.1). However, the breaches of LP policy HS4C and NP policy LF1 mean that the proposed development ought to be regarded as being contrary to the development plan as a whole for the purposes of s38(6) of the 2004 Act. In the Council’s opinion the benefits of the development scheme do not collectively amount to material considerations that indicate a different outcome, so the appeal ought to be dismissed. SCS and its supporters ought to be given the opportunity to bring back racing to the stadium site.

Hugh Richards
No 5 Barristers’ Chambers
Birmingham - London - Bristol

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Tel: 0845 210 5555
Email: hr@no5.com