

## Appeal Decision

Site visit made on 11 October 2016

**by Alex Hutson MATP CMLI MArborA**

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

**Decision date: 5 December 2016**

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**Appeal Ref: APP/E2205/W/16/3145718**

**Mercers of Tenterden, Station Road, Tenterden, Kent TN30 6HE**

- 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 Pierre Edmonds – Sweet Ridge Ltd against the decision of Ashford Borough Council.
  - The application Ref 15/00490/AS, dated 9 April 2015, was refused by notice dated 18 September 2015.
  - The development proposed is demolition of existing industrial buildings and erection of 3 dwellings with car barns and parking and 2 B1 (office) units.
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### Decision

1. The appeal is dismissed.

### Preliminary matter

2. The appellant originally sought planning permission for four dwellings and one commercial unit. However, during the course of the planning application this was revised to three dwellings and two B1 (office) units. This is reflected on the submitted plans and within the description of development provided on the Council's decision notice. I have therefore used this description in the banner heading above rather than the description of development that appears on the application form and I have determined the appeal on this basis.

### Main issue

3. The main issue is whether or not the loss of employment floorspace is adequately justified, having regard to other material planning considerations and local and national planning policy requirements.

### Reasons

4. The appeal site comprises a broadly triangular shaped plot of land containing four buildings which were previously used for a wide range of vehicle related activities, including repairs and services. These buildings, which, in total, provide employment floorspace of approximately 414 square metres (sqm), are currently unoccupied and are in a poor state of repair.
  5. The proposal would demolish the existing buildings and would introduce three, two storey dwellings with car barns and two, two storey B1 (office) units onto
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the appeal site. It is the appellant's contention that the office units would provide employment for up to 12 people.

6. Policy TRS7- Retention of Existing Employment Sites and Premises, of the Council's Tenterden and Rural Sites Development Plan Document 2010 (DPD), allows for the loss of existing employment sites in Tenterden provided that one of two criteria is met. Criterion a) requires that existing employment sites are replaced with the same size or larger sites or premises. Criterion b) requires it to be shown that the site is no longer viable for the existing or an alternative employment use and that it has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to sell or let it on reasonable terms.
7. The proposed office units would provide approximately 232sqm of employment floorspace. This would be considerably below the existing level of employment floorspace on the appeal site, notwithstanding that their use could be secured through the imposition of a planning condition to prevent their change of use in the future. The proposal would therefore fail to satisfy the requirements of criterion a) of Policy TRS7, of the DPD.
8. I have considered the content of the letter from MKH Cloakes dated June 2015, including its conclusion that the industrial and office demand in Tenterden is already satisfied. I also acknowledge that the existing buildings are in an unsuitable condition to be put to any significant employment use and that the appeal site has laid predominantly vacant for the last few years providing little employment over this time. Nevertheless, the letter does not demonstrate any robust or recent marketing of the appeal site, as required by Policy TRS7 and its supporting text. Moreover, given that a considerable length of time has passed since this letter was written, its conclusions may not accurately represent the current economic climate. In addition, the letter does not provide any build costs associated with any potential redevelopment of the site for an alternative employment use that would allow me to make an informed judgement regarding its viability in this regard.
9. As such, I do not consider that this letter demonstrates that there is a lack of need for employment floorspace in the Borough, that the appeal site is no longer viable for an alternative employment use, or that any such use would be unlikely to result in the creation of a greater number of jobs than the number of jobs proposed. In addition, the letter does not demonstrate that the appellant has unsuccessfully attempted to sell the appeal site in the recent past. Consequently, I consider that the evidence is insufficient to satisfy the requirements of criterion b) of Policy TRS7, of the DPD.
10. I am aware that subsequent to the appellant lodging this appeal, planning permission<sup>1</sup> has been granted for the redevelopment of the appeal site to provide five residential units and two commercial units. This is a material planning consideration which I have given careful consideration to. However, under that consented scheme, a considerably greater level of employment floorspace was proposed which the Council considered satisfied criterion a) of Policy TRS7, of the DPD. As such, there was no requirement under that scheme to satisfy criterion b) of Policy TRS7. Consequently, the consented scheme is not helpfully comparable to the proposal I am to consider under this appeal and does not justify a planning permission in this instance.

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<sup>1</sup> Ref 16/00111/AS

11. I therefore conclude that the loss of employment floorspace has not been adequately justified and the proposal would therefore be contrary to Policy TRS7, of the DPD. The proposal would also be contrary to Policy CS1- Guiding Principles and CS7- The Economy and Employment Development, of the Ashford Borough Council Core Strategy 2008, that require, amongst other things, the protection of existing employment sites and the provision of a commercial environment that is conducive to encouraging new and existing businesses. These policies are broadly consistent with the aims and objectives of the National Planning Policy Framework which seek to support economic growth in rural areas and which recognise that the development of sites for employment use can be acceptable for alternative uses where there is no reasonable prospect of a site being used for such purposes.
12. The Council also cites conflict with Policy TRS1- Minor Residential Development or Infilling, of the DPD, that requires, amongst other things, development not to result in the displacement of other active uses such as employment. However, given that the appeal site is not currently in active use, this policy is of little relevance to this main issue.

*Other matters*

13. The appellant highlights that the appeal site would be likely to attract open storage or general industrial uses that would be detrimental to the living conditions of nearby residents if not developed as proposed. However, without any evidence of marketing or any detailed viability assessment, I cannot be certain that this would be the case. Even if such uses were to occur, there is other environmental legislation in place to control any potential harmful effects. I therefore afford limited weight to this matter.
14. Whilst I note the intentions of the Government's Planning and Housing Bill in respect of the redevelopment of brownfield land for housing, this has not yet been formerly passed and is not therefore a material planning consideration to which I can afford any significant weight.
15. The appellant acknowledges that the Council can demonstrate a five year supply of housing land but raises a concern in respect of the unrealistic delivery rates on some of its larger sites. Nevertheless, no specific sites have been referenced by the appellant in this regard and very little substantive evidence has been provided to demonstrate that this concern is warranted. As such, I afford this matter limited weight.
16. I acknowledge that the proposal would occupy previously developed land in a location with a good level of access to local services and facilities. It would also create some short term construction jobs and would increase local spending. Notwithstanding the Council's housing land supply situation, I recognise the contribution, albeit the limited contribution, that three additional dwellings would make to maintaining housing supply in the Borough. In addition, I am satisfied that the proposal would, thorough the removal of the existing dilapidated buildings and the sensitive design and use of materials of the proposed new buildings, enhance the character and appearance of the Tenterden Conservation Area in line with the statutory tests set out within Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act. These benefits, which would comply with aspects of the development plan, weigh modestly in favour of the appeal. However, they could be delivered by the scheme now permitted under Ref 16/00111/AS anyway.

17. I acknowledge a number of third party concerns, including in respect of highway safety, land stability and the living conditions of any future occupiers with regard to noise and disturbance from trains. However, these matters were not raised a concern by the Council and based on the evidence before me, I have no substantive reasons to take a different view.

**Planning balance and conclusion**

18. Notwithstanding my view that the proposal is in compliance with aspects of the development plan, having considered all the policies drawn to my attention, I find that there is conflict with the development plan as a whole. The evidence is insufficient to demonstrate a lack of need for employment floorspace at the current level and consequently, I consider the conflict that would arise with the development plan as a whole would not be outweighed by any benefits.
19. Thus, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

*Alex Hutson*

INSPECTOR