

Appeal Decision

Site visit made on 23 May 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 22 June 2017

Appeal Ref: APP/H0928/W/17/3170119
site at Moss Road, Cliburn

- 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 Larch Cottage Nursery against the decision of Eden District Council.
 - The application Ref 16/0853, dated 20 September 2016, was refused by notice dated 21 November 2016.
 - The development proposed is the provision of staff accommodation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - Whether, having regard to national and local planning policy, the proposed development represents a sustainable form of development; and
 - The effect of the proposed development on the living conditions of future occupants of the proposed dwelling, with particular regard to noise and disturbance.

Reasons

Sustainable Development

3. The site is located a short distance down a lane that leads from Moss Road and which serves the Waitings Drainage site and the two dwellings referred to above. Although a small group of dwellings and a collection of industrial units (Ling Joinery) are located on the main road near to the junction with Moss Road, the site and its surroundings are clearly rural in nature and located in open countryside.
 4. The adjacent commercial compound and buildings associated with Waitings Drainage, and the dwellings located to the west of the appeal site and to the east of the commercial compound do not confer upon the site a setting within an existing settlement. Rather, I find the Council's description of the area as being open countryside where sporadic buildings lie beyond the built up areas of established settlements to be an accurate description of the site and its surroundings.
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5. The appellant does not dispute the Council's view that the site is located in the open countryside. From my observation of the site and its surroundings, and of the nearest settlement of Cliburn, I agree.
6. Policy CS1 of the Eden District Council Core Strategy Development Plan Document 2010 (CS) sets out a broad range of principles for sustainable development including, amongst others, that development should be located to minimise the need to travel and where travel remains necessary, that it is possible by a variety of sustainable transport modes. It also sets out a sequential approach to land use, identifying the use of undeveloped land as a lowest priority, and only where it is well located in relation to services and infrastructure.
7. CS policy CS2 sets out a settlement hierarchy where development in smaller villages, hamlets and the open countryside will be limited to meeting an identified need, and cross references CS policy CS3 which seeks, amongst other matters, to support a sustainable agricultural industry. CS policy CS9 states that small scale housing will be permitted in rural settlements (outside the key and local service centres) where it is 100% affordable housing, and which also satisfies further key criteria.
8. The proposal is located beyond any identifiable settlement and would not provide affordable housing. Nor has it been argued that the proposal would meet an identified local need, notwithstanding the Council's acceptance that they are unable to demonstrate a deliverable 5 year supply of housing land across the District. However, CS policy CS3 seeks to support a sustainable agricultural industry, whilst saved policy HS7 of the Eden District Council Local Plan 1996 (LP) recognises that exceptionally, consent may be granted for a dwelling to meet a proven and demonstrable need for a farm or forestry worker, or required in association with a rural enterprise.
9. It is proposed that the dwelling would provide accommodation for staff employed at the appellant's horticultural nursery business. The Council do not dispute the scale of the appellant's business or the need of the business to attract suitably qualified staff. However, although reference has been made by the appellant to a shortage of suitably qualified horticultural staff, no evidence has been submitted regarding the nature or extent of a shortage of skilled staff or to quantify that shortage and how it impacts upon the day to day running of the business.
10. The appellant's business is located in Melkinthorpe, some 3 kilometres by road from the appeal site. Although Moss Road and the lane that leads from it to the appeal site struck me whilst visiting the site as being quiet rural lanes perfectly suitable for walking along, links beyond to Cliburn, Melkinthorpe and Penrith are more limited. From the junction of Moss Road with the main road, the volume of traffic, whilst not heavy in absolute terms, nonetheless becomes notably higher in the context of the rural surroundings. I saw that the verges are narrow and the roads unlit, and it seems to me that they are not conducive to accessing Cliburn, which itself has limited services and facilities, or Melkinthorpe, on foot.
11. In any event, the appellant's business is located in the Melkinthorpe. It has not been suggested that this settlement has any better provision of services and facilities than Cliburn and it is also further away from the appeal site than Cliburn is. I have not been provided with information regarding the local

footpath network, and I saw no evidence of off-road paths when visiting the site that would provide an alternative to walking along the road. I accept that cycling to and from the appeal site to the appellant's nursery business would be possible, and indeed perhaps attractive at certain times of the year, but that does not address the matter of wider access to services and facilities that are absent in either Cliburn or Melkinthorpe.

12. Other than that it may be desirable to be able to offer accommodation to prospective staff, no substantive evidence has been put forward to show that accommodation is not presently available closer to the business, or that the current situation has resulted in difficulties in recruiting or retaining staff. I note too that the appellant is in the process of providing manager's accommodation in Melkinthorpe itself, thus allowing matters requiring more immediate attention to potentially be dealt with more conveniently than the staff accommodation in the current instance would allow.
13. Thus, for the reasons set out, it has not been demonstrated that the circumstances of the appellant's business warrant support in the terms set out in CS policy CS3 or saved LP policy HS7. The proposal is not for affordable housing, whilst I also conclude that the site's location is neither well related to existing nearby settlements, or to settlements with a range of services and facilities. The proposal would also fail to accord with CS policies CS1, CS2 and CS9. Nor has it been demonstrated that there is an essential need for a rural worker to live permanently at or near their place of work in the countryside, for which the 1st bullet point of paragraph 55 of the Framework sets out an exception to the general provisions of that paragraph in seeking to avoid isolated new homes in the countryside.
14. I conclude that the proposal does not represent a sustainable pattern of development as it would not be located where future occupiers would be able to rely on accessible local services and facilities to serve their everyday needs without having to travel some distance and in all likelihood by car. It does not meet any of the criteria specified in Paragraph 55 of the Framework and would conflict with national planning policy in relation to the sustainable location of rural housing. It is therefore contrary to the CS and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan and the Framework.

Living Conditions

15. The appeal site directly adjoins a commercial compound and buildings from which a drainage contractor currently operates, and I am advised that it does so without direct control over its hours of operation. At the time of my visit to the appeal site, there was little evidence of significant activity within the adjacent site. However, from what I have been advised of the nature of the business carried on, out of hours operations cannot be discounted. Whilst my visit to the site only provided a snapshot of activities during the day, activities may vary and therefore be greater than I was able to observe. I also observed there to be a number of diesel generators operating at the nearby Ling Joinery site which were also audible at the site.
16. I have no evidence before me that the proposal has taken into account the nature of nearby land uses in the design of the proposed development and thus, I cannot be certain that a high quality of amenity for future occupiers, as set out as one of the Framework's core planning principles, would be achieved.

In the absence of development plan policies in this respect, I conclude that the proposal would be contrary to one of the Framework's core planning principles with regard to living conditions.

Other Matters

17. The appeal site lies close to the Cliburn Moss Site of Special Scientific Interest (SSSI) where great-crested newts are known to be present. Although not consulted at the time of the planning application, Natural England have subsequently provided comment at the appeal stage regarding the need for further investigation and survey work to adequately determine the presence (or otherwise) of these protected species.
18. The appellant has indicated that they were not aware of the proximity of the site to the SSSI or of the potential presence of protected species within the appeal site. No protected species survey has been undertaken as a consequence. Thus, I cannot be certain that the proposed development would not cause harm to species protected by legislation. Whilst I have already identified harm in respect of the main issues, on the basis of the evidence before me this matter adds weight to my conclusions.

Conclusion

19. For the reasons set out, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR