



Appeal Decision

Site visit made on 8 August 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 30th August 2017

Appeal Ref: APP/P1560/W/17/3172178

Focus Farm Buildings, Little Clacton Road, Great Holland CO13 0EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Frank Sanderson against the decision of Tendring District Council.
 - The application Ref 16/01151/OUT, dated 20 July 2016, was refused by notice dated 23 September 2016.
 - The development proposed is demolition of commercial buildings and part of outbuilding, and the residential development of 0.25ha of land to create up to 3 detached dwellings with associated garaging and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline form with all matters reserved. Although the 'Site and Location Plan' is not marked as illustrative, because all matters are reserved I have determined the appeal on the basis that the plans are indicative.
3. The emerging policies in the draft Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document have been referred to but these are at a formative stage and are still the subject of public consultation. I have therefore afforded them little weight.

Main Issues

4. The main issues are:
 - Whether the loss of employment land is acceptable.
 - Whether the proposal would provide a suitable site for housing, having regard to the adopted settlement strategy, the proximity of services and reliance on car based journeys.

Reasons

The appeal site and surroundings

5. The appeal site comprises 2 large former agricultural barns and associated hardstanding and access on land adjacent to Focus Farm, Little Clacton Road. The buildings are in use for commercial purposes by a landscaping contractor,

a fencing construction company and a skip hire business. At the time of my visit associated materials were being stored to the front of the site along with a mobile home, shipping containers and building materials.

6. There is no clear pattern of development along this part of Little Clacton Road, with residential dwellings of varying sizes and scales, set in an irregular fashion on both sides of the road. Great Holland is a small settlement with very limited services and facilities although buses are available to Clacton-On-Sea and nearby Kirby Cross which contain a much greater range of services and providing wider access to Colchester and Frinton-on-Sea.

Employment land

7. Although not an allocated employment site, saved Policy ER3 of the LP states that the Council will ensure land in employment use will normally be retained for that purpose. Non employment uses are allowed but subject to demonstration that the use is no longer viable or suitable for any form of employment use. On my reading of the policy, part B which requires a suitable alternative site, is only engaged if the loss is permitted following the assessment against a (i) and a (ii). However, there is no substantive evidence before me that a sustained but ultimately unsuccessful marketing exercise has been undertaken at a realistic price, as required by the policy.
8. The appellant's case is partially based on the lack of effects for the existing businesses because of other circumstances. The appellant refers to the existing skip hire business being relocated to Telford Road, Clacton but there is nothing to suggest that this has been secured or will take place, or that the skip hire use is a bad neighbour that needs to be relocated elsewhere or other reasons that make the site inherently unsuitable for such an employment use. I understand the fencing company operator is to retire and the landscape contracting business may have secured premises elsewhere. If this takes place then the existing businesses would continue exist in the local area but nonetheless, I am not persuaded that it has been demonstrated that the requirements of part a (i) or (ii) of Policy ER3 have been satisfied or that such circumstances justify a departure from the adopted approach.
9. For these reasons, in this particular case the loss of employment land would not be acceptable and the proposal would conflict with Policy ER3 of the LP, the requirements of which are set out above. The policy does allow for some flexibility based on market considerations and is therefore consistent with the National Planning Policy Framework ('the Framework'). It would therefore also conflict with paragraph 22 of the Framework insofar as the evidence does not demonstrate that there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

Suitable site

10. Policy QL1 of the Tendring District Local Plan 2007 ('LP') sets out a 'Spatial Strategy' for the period up to 2011. It requires that most new development be concentrated at the larger urban areas of Clacton and Harwich and development to be concentrated within the settlement development boundaries, as defined on the proposals maps. Outside these boundaries, only development which is consistent with countryside policies will be permitted.

The proposal falls outside of such boundaries and there is nothing to suggest it accords with other such policies. In this respect there would be conflict with the LP.

11. The appellant contends that the plan is out of date due to its age and in relation to consideration of development boundaries and constraints for housing within the locality. Paragraph 215 of the Framework states that due weight must be given in existing plans subject to the degree of consistency with the Framework and that simply because a plan was adopted before the Framework it should not be considered out of date.
12. On my reading, this policy seeks to promote and direct growth to the largest settlements, requires recognition to be given to the intrinsic character and beauty of the countryside and to actively manage patterns of growth to make the fullest use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. Although the blanket protection of the countryside is not supported by the Framework I find that the policy is broadly consistent with it and I afford it significant weight.
13. The Framework advises that all aspects of sustainability should be considered in planning decisions, that local circumstances should be taken into account (paragraphs 9 and 10), and that opportunities to maximise sustainable transport solutions will vary from urban to rural areas (paragraph 29).
14. Because of the limited services within Great Holland such day to day services would need to be accessed in nearby Kirby Cross. Bus services are available and whilst technically within walking distance, access to them would be via an unlit, narrow and well trafficked rural road. As such future residents would be unlikely to perceive the route as safe or convenient, especially at night or in inclement weather. Consequently, although vehicle trips may well be relatively short I am not persuaded that these would be by any other form of transport than private motor cars in order to access transport, employment and other services further afield.
15. The appellant has provided little evidence of existing vehicle movements in the form of traffic surveys but nevertheless, contends that there would be a '*significant*' net reduction in the number of trips and associated movements to and from 3 separate commercial premises. However, the number of trips associated with 3 large detached dwellings and associated servicing and deliveries would not be insignificant although I find that the evidence limits my ability to determine whether this would be such a reduction that it would weigh in favour of the proposal.
16. The appellant also suggests that the proposal would result in an enhancement in both character and appearance terms as a result of the removal of the barns and a change in character that would be more reflective of its rural setting. Notwithstanding that all matters are reserved, the existing buildings are typical of those found in such rural areas and contribute to the rural vernacular and character and appearance of the area. Whilst homes are also part of this rural character, the appeal site and its buildings did not appear to me to detract from the prevailing rural character and appearance of the area. Overall, I do not share the appellant's view that 3 new dwellings would necessarily be an enhancement in this rural location that justifies the proposal.

17. There is also no meaningful evidence to suggest that the proposal would enhance or maintain the vitality of rural communities, which I am also mindful the existing uses contribute to in economic employment terms. Despite the presence of other development the proposal would result in a new dwelling in a functionally isolated location and there is no suggestion from either of the parties that the proposal would fulfil one of the special circumstances set out in paragraph 55 of the Framework.
18. For these reasons, the site would not be a suitable site for housing having regard to the adopted settlement strategy, proximity of services and reliance on car based journeys. It would therefore conflict with Policy QL1 of the LP, the requirements of which are set out above. The proposal would also conflict with the relevant objectives of the Framework, including the principle (included in paragraph 17) of actively managing patterns of growth to make the fullest use of public transport, walking and cycling and avoiding isolated homes and locating housing where it will enhance or maintain the vitality of rural communities.

Other Matters

19. My attention has been drawn to what the appellant contends are similar proposals that have been allowed on appeal¹. In all 3 cases the appeal sites are within closer proximity to bus services and on the edge of the settlement and in those appeals loss of employment land was not an issue. The Inspector in the Lion's Den appeal only considered character and appearance and in the Manor Road appeal reached different conclusions regarding the existing effect of that site in terms of character and appearance. In all 3 cases I have also not been provided with the full details and cannot therefore be certain that the considerations are directly comparable to the proposal before me. They do not alter my view in relation to the main issue and in any event each case must be determined on its own merits
20. Whilst I accept that the appellant may wish to retire on the appeal site and that he does not wish an unrelated commercial use to operate adjacent to Focus Farm, his home, such personal circumstances do not outweigh the harm that I have identified.

Planning balance and overall conclusion

21. When the Council issued its formal decision it was unable to demonstrate a five year housing land supply. It has since stated in its submissions that it is now able to demonstrate an adequate housing supply of 5.1 years. The appellant contends that in any event, the policies are out of date but also makes reference no independent verification of this figure. Nonetheless, the limited evidence before me does not enable me to reach a definitive conclusion in relation to the housing land supply and I find the reference to appeal decisions in neighbouring authorities do little to advance the appellant's case².
22. The construction of the development on 'previously developed land' would bring some limited economic and social benefits and would also provide a very minimal contribution to the supply of housing. However, I have found that the proposal would not be in a suitable location in terms of the adopted settlement strategy, proximity to services and reliance on car based journeys. I have also

¹ APP/P1560/W/16/3145830, APP/P1560/A/13/2204470 and APP/P1560/W/14/3001151.

² 3 appeal decisions referred to in appellant's Final Comments dated 12 July 2017 within Maldon District.

found that in this particular case the loss of employment land would not be acceptable and overall, there would be conflict with the adopted development plan.

23. Even if I were to conclude there is a shortfall in 5 year supply and that the development plan is absent, silent or relevant policies are therefore out of date and the presumption in favour of sustainable development as set out in paragraph 14 of the Framework applies, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As such, the proposal would not therefore be sustainable development.
24. For the above reasons, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR