



Appeal Decision

Site visit made on 4 July 2017

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

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

Decision date: 7th September 2017

Appeal Ref: APP/J3720/W/17/3173073

Stratford Car Centre/Clunes, Bordon Hill, Stratford-upon-Avon CV37 9RY

- 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 Mr Derek Barrett against the decision of Stratford on Avon District Council.
 - The application Ref 16/03337/OUT, dated 13 October 2016, was refused by notice dated 6 December 2016.
 - The development proposed is demolition and clearance of all existing structures and buildings, construction of up to three dwellings and provision of revised access arrangements as well as all other associated works.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The proposal seeks outline planning permission, with all matters reserved for future consideration other than the point of access. Accordingly, I have treated the submitted site plan as illustrative only.
3. Part of the appeal site lies to the west and south-west of the bungalow called 'Clunes'. The appellant says this forms part of the private garden to Clunes, but the Council has raised doubts as to whether this part of the site has a domestic garden use. However, the lawful use of this part of the site is not a matter for me to determine in a section 78 appeal of the Town and Country Planning Act 1990 ('the Act'). It is open for the appellant to apply to have the matter determined under sections 191 or 192 of the Act or for the Council to take enforcement action if it considers the current use of the land to be unlawful. Any such application or enforcement action would be unaffected by my determination of this appeal.
4. The Council and appellant have briefly referred to the emerging Stratford-upon-Avon Neighbourhood Plan¹. Although at an advanced stage of preparation, this document had not been subject to an examination at the time of writing this decision. Given the uncertainties regarding the outcome of that process, I have given it limited weight in my assessment.

¹ Stratford-upon-Avon Neighbourhood Development Plan 2011-2031, Submission Version, April 2017.

Main Issues

5. Within the context of the Council's reasons for refusal and the evidence in this case, the main issues are considered to be:
- whether the development is in an appropriate location, with particular regard to the characteristics of the current commercial use of the site
 - whether the existing site is no longer appropriate for a business purpose.

Reasons

Appeal site and background

6. The appeal site is located approximately 0.5 miles to the east of Stratford-upon-Avon in an area which is characterised by its rural location and expansive views over the countryside. It lies at the western end of a standalone row of detached one and two-storey dwellings on the northern side of Evesham Road (the B439), a busy vehicular highway that leads into Stratford-upon-Avon. These dwellings are of various architectural styles and set on spacious plots with large front gardens.
7. The appeal site surrounds two bungalows (called 'Clunes' and 'The Chalet') that do not form part of the proposal. Clunes falls within the ownership of the applicant, but The Chalet does not. The overall site slopes upwards in a northerly direction and is heavily screened by mature trees/hedges, particularly to the north and west.
8. The appeal site is comprised of two different character areas. The first is that of the car sales business (the 'car sales area'), which lies between The Chalet and Evesham Road. The front part of the car sales area was originally a petrol filling station, and has an 'in and out' slip road onto Evesham Road, together with a small office building. The remaining part of the car-sales area, which contains a small workshop building, is elevated above Evesham Road, with the land secured by white retaining walls which front onto the former petrol filling station area. The second character area lies primarily to the west and south-west of Clunes and is also elevated above the road. At the time of my site inspection, this appeared to be the private garden area to Clunes (the 'Clunes amenity area'), in that it had a suburban domestic appearance and was not subdivided from the host property. The two bungalows and car sales business all share the same access point onto Evesham Road.
9. The proposed site plan illustrates two dwellings (plots 1 and 2) fronting onto Evesham Road, with a third (plot 3) to the west of Clunes. Plot 1 lies within the car sales area and plots 2 & 3 within the Clunes amenity area (although a small part of plot 2 extends into the car sales area). The existing vehicular access at the front of the site would be retained.

Whether the development is in an appropriate location, with particular regard to the characteristics of the current commercial use of the site

10. The appeal site is not identified by the Core Strategy² as falling within the built-up-area boundaries for Stratford-upon-Avon, a main rural centre or local service village. As a consequence, it falls within the countryside where the

² Stratford-on-Avon District Core Strategy 2011 to 2031, adopted 11 July 2016.

distribution of development is controlled by Policies CS.15 and AS.10 of the Core Strategy.

11. The appellant states that the proposal would comply with Policy AS.10(g) of the Core Strategy in that it would result in the redevelopment of a 'bad neighbour' site where the current use has been the source of a prolonged environmental conflict. In particular, the appellant says that this conflict has arisen because the appearance of the buildings and retaining walls, together with the display of vehicles, has been harmful to the character and appearance of the area. Although I agree that the car sales business does not make a positive contribution to the streetscene, neither do I consider it to be so harmful as to have resulted in a prolonged environmental conflict. This is because of its elevated position above the highway and it being relatively well screened by mature landscaping which has, as a consequence, restricted views of the site when approaching in both directions on Evesham Road.
12. The appellant has also referred to the existing car sales business resulting in a prolonged environmental conflict as a result of its impact on highway safety and neighbour amenity. Whilst I acknowledge that the car sales use has the potential to be unneighbourly and the existing visibility splays are shorter than traffic speeds would normally dictate, in the absence of any documented evidence relating to harm or accidents from the relevant authorities or neighbours, I have concluded that this would not be sufficient to demonstrate that such conflict has occurred over a prolonged period.
13. Although the site plan is illustrative only, it does nonetheless provide a realistic appraisal of how the dwellings might be positioned given existing constraints. Notwithstanding the appellant's justification that the appeal should be allowed because it would result in the redevelopment of a 'bad neighbour' site, 2 of the dwellings proposed are in fact shown as falling in the Clunes amenity area. This area would not constitute a 'bad neighbour' site for the purposes of Policy AS.10(g) of the Core Strategy and therefore the proposal also falls to be considered against the wider requirements of Policies AS.10 and CS.15. However, the appellant states that the redevelopment of the car sales area is dependent on the income generated by a development of 3 dwellings. Given the abnormal construction costs that would potentially arise because of differing land levels and site contamination, I do not consider this to be unrealistic. However, the marketing report and outline nature of the application does not provide a sufficient amount of information to help establish the construction costs, profit margins and sales figures necessary for a detailed viability assessment, which would be required to clarify that the proposed amount of development is needed.
14. The appellant states that Policy CS.15 does not refer to rear gardens and hence the scheme does not conflict with it. However, the objective of this policy is to establish a pattern of balanced dispersal of development, in accordance with the character and range of locations across the district. The development of gardens, whilst not specifically referred to, are satisfactorily dealt with by this policy within the context of the settlement types referred to.
15. There is no evidence that the scheme is required to meet local needs, it does not fall within an identified centre and there has not been a documented history of prolonged environmental conflict to justify the proposal on the basis of the car sales area being a 'bad neighbour' site. Furthermore, insufficient

evidence has been provided to demonstrate that 1 or more dwellings need to be provided on the Clunes amenity area to cross-subsidise the development of the car sales area. The proposal would therefore conflict with Policies CS.15 and AS.10 of the Core Strategy, which seek to distribute new development in a sustainable way and protect the countryside from inappropriate development.

16. The appellant states that Paragraph 51 of the Framework³ requires local planning authorities to approve a change to residential use from commercial buildings where there is an identified need for housing, providing there are not strong economic reasons why such development would be inappropriate. However, the Council has confirmed that it is meeting local housing needs through the provision of a 5 year housing land supply. Furthermore, Paragraph 51 specifically refers to the change of use of empty buildings from within the B use class, whereas the current proposal is for a redevelopment of the site, is occupied, and does not involve a B use class building. I have therefore concluded that Paragraph 51 is not applicable in this instance.

Whether the existing site is no longer appropriate for a business purpose

17. Policy CS.22 of the Core Strategy seeks to provide a sustainable balance between employment growth and housing provision by seeking to provide and protect a range of employment sites. The appellant states that the proposal would comply with one of the caveats of this policy in that the site is no longer appropriate for a business purpose.
18. Policy CS.22 and its accompanying Development Management Considerations state that all proposals for redevelopment to non-employment uses should be subject to a rigorous assessment. Although the appellant's marketing report illustrates how the site may no longer be appropriate for some commercial uses given its proximity to residential neighbours and other highway safety issues, it does not provide a sufficient amount of detail or evidence of actions to demonstrate that all forms of business use would no longer be appropriate. For example, I am aware that Class B1 uses are by definition a use that can be carried out in any residential area without detriment to the amenity of that area. Furthermore, there is no record of any negative pre-application advice or planning applications being refused for alternative commercial uses; no details of revenues and profits from the car sales business; no marketing of the site for a wide range of business purposes; and no detailed figures demonstrating that a redevelopment for other business purposes would be unviable. For the same reasons, I am also not satisfied that it has been demonstrated that a continued car sales use or an alternative commercial use/redevelopment of the site would be harmful to the character and appearance of the area and that no potential business uses at the site would be appropriate.
19. I have therefore concluded that the proposal would not comply with Policy CS.22 of the Core Strategy in that a rigorous assessment has not taken place to demonstrate that the car sales area is no longer appropriate for a business purpose.

Other matters

20. The appellant says the proposal is in a sustainable location and that in accordance with Paragraph 49 of the Framework housing applications should be

³ National Planning Policy Framework, Communities and Local Government, March 2012.

considered in the context of the presumption in favour of sustainable development. Although I agree that the site is in relatively close proximity to Stratford-upon-Avon, I have concluded that the proposal does not accord with the development plan and that the relevant policies referred to are not out of date or inconsistent with the Framework. In view of this, the presumption in favour of sustainable development as outlined in Paragraph 14 of the Framework is not engaged in this instance.

21. Even if it had been demonstrated that the Clunes amenity area was the lawful garden to this dwelling and therefore constitutes previously developed land, I see no conflict between the need to encourage the effective use of such land in accordance with Paragraph 17 of the Framework and the Core Strategy policies referred to above which seek to protect employment sites.
22. The appellant says that the proposed scheme would improve the character and appearance of the area and comply with Policies CS5 and CS9 of the Core Strategy relating to design and landscape quality. However, I note that the Council has not raised any objections in terms of the design and layout of the proposal or its impact upon the landscape and I see no reason to take a different view.
23. Representations have been made in support of the proposal stating that it will prevent the site becoming derelict once the existing business ceases to trade. However, the submitted evidence does not demonstrate this will occur and in any case, it has little bearing on the merits of the scheme before me.

Planning balance

24. The Council has confirmed that it has an up to date 5 year housing land supply. Although the appellant has not disputed this, they state that this is a minimum requirement and not a ceiling. However, I am satisfied that the social benefits associated with 3 additional houses would not outweigh the economic harm allied with the loss of the employment site or the strategic harm to the objectives of the development plan.
25. I acknowledge that the replacement of the car sales use with housing could improve the character and appearance of the area; clean up any contamination; result in a reduction in trips to the site; and be more compatible with the neighbouring dwellings, but this would also fail to outweigh the harm and policy conflict identified.

Conclusion

26. I have found that the proposal would undermine the Development Plan's objectives of ensuring a sustainable balance between employment and housing growth and protecting the countryside from inappropriate development. All representations have been taken into account, but no matters, including the benefits associated with the provision of 3 dwellings and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal scheme would not be a sustainable form of development and accordingly, the appeal should be dismissed.

Robert Fallon

INSPECTOR