



Appeal Decision

Site visit made on 12 March 2020

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

an Inspector appointed by the Secretary of State

Decision date: 21 May 2020

Appeal Ref: APP/X3540/W/19/3236092

Foxburrow Farm, Waldringfield Road, Brightwell, Ipswich, IP10 0BZ

- 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 P Brown (Martlesham Container Storage) against the decision of East Suffolk Council.
 - The application Ref DC/19/1231/FUL dated 21 March 2019, was refused by notice dated 13 August 2019.
 - The development proposed is described on the application form as "Change of use of land for use as self storage facility, including the siting of 272 storage containers."
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue is whether the development is in an appropriate location, with particular regard to the adopted development plan settlement hierarchy.

Reasons

Appeal site context and background

3. The Council and appellant both agree that the appeal site is in the countryside for planning purposes and does not fall within any landscape or employment land designation in the development plan. It is primarily laid to grass, with a modest proportion being hard-surfaced in connection with an adjacent wind turbine.
4. The appeal site forms part of a larger area of land under the appellant's control ('the overall site') which contains a variety of commercial uses, namely; (1) a renewable energy generation facility with 2 wind turbines and 2 solar arrays; (2) a caravan repair/salvage dealer; and (3) a waste storage and recycling facility. Although the appellant asserts that the overall site also contains areas of agricultural land, I found little indication in the evidence and from my site-visit of any specific agricultural activities taking place. For example, I could see no evidence of arable farming, agricultural storage and paddock/field boundary fencing for grazing by animals.
5. In view of the above, whilst I am satisfied that a significant portion of the overall site is comprised of commercial employment uses, I do not consider this to be the case for all of it. Neither am I able to conclude, for the reasons identified above, that an agricultural use exists on the remaining parts of the

site not engaged in commercial employment activities. However, whilst confirmation of the lawful use(s) of the overall site would have been helpful, it 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. I am nonetheless satisfied that there is sufficient information before me in terms of the current uses taking place at the site for me to assess the scheme against adopted planning policy.

6. Despite a significant part of the overall site being taken up by a solar array to the north and south of the appeal site, I nonetheless found it to have a clear countryside character, with most of it being laid to grass and enclosed by mature hedgerows and a woodland to the west.

Whether the development is in an appropriate location, with particular regard to the adopted development plan settlement hierarchy

7. Policy SP7 of the Core Strategy¹ supports opportunities to maximise the economic potential of rural areas and outlines the strategy employed by the Council to achieve this. Policy SP29 of the Core Strategy states that new development outside the physical limits of Major Centres, Towns, Key and Local Service Centres will be limited to that which of necessity is required to be located there and which accords with other policies of the Core Strategy.
8. The proposal would not result in an expansion of any existing employment use on the overall site, and there is no evidence demonstrating that it is necessary to support any small-scale farm, agricultural or forestry enterprise/diversification. Neither would it create a new employment area that accords with the settlement hierarchy outlined by Policy SP19 of the Core Strategy or expand the tourism offer in the District. There is also no evidence before me as to why the proposed storage use needs to be located on the appeal site, as opposed to an alternative location that accords with the Council's settlement hierarchy set out in the adopted development plan.
9. In view of the above, I conclude that the development would conflict with Policies SP1, SP7, SP19, SP29 and DM11 of the Core Strategy and Policy SSP2 of the Site Allocations and Area Specific Policies Development Plan², which collectively seek, amongst other things, to promote sustainable communities and ensure that employment uses have regard to the Council's settlement hierarchy and economic strategy.

Other matters

10. The appellant states that the Council has not refused the scheme on the grounds of harm to the character and appearance of the area, the wider landscape, heritage, highway impact or any other defined environmental impact. However, be that as it may, the absence of any specific harm on these matters does not in itself indicate that the scheme is acceptable or that it should be approved. Although each application and appeal must be treated on

¹ Suffolk Coastal District Local Plan, Core Strategy & Development Management Policies, Development Plan Document, July 2013, Suffolk Coastal District Local Plan.

² Site Allocations and Area Specific Policies, Development Plan Document, January 2017, Suffolk Coastal District Council.

its individual merits, to allow the scheme before me on this basis could be used too easily and often in support of other commercial employment schemes on the overall site and in the wider countryside, without any regard to the Council's settlement hierarchy which establishes a logical and sustainable approach to development in the District. This is not a generalised fear of precedent, but a realistic and specific concern which could be used by other landowners in what is predominantly a rural district to justify speculative employment proposals. Allowing the appeal would therefore make it more difficult to resist further planning applications for similar developments, particularly on the overall site, and I consider that their cumulative effect would undermine the Council's sustainable settlement strategy and harm the environmental character and appearance of the wider countryside.

11. My attention has been drawn to another planning application decision by the Council for container storage in the countryside. However, this proposal is contextually very different from the scheme before me, being for 15 containers and therefore much smaller. As such, I do not consider that it sets any kind of precedent. I have as a consequence assessed the proposal on its own merits in the light of all the evidence which is now before me.

Planning balance

12. Despite the Core Strategy being over 5 years old, Paragraph 213 of the Framework³ states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
13. Policies SP1, SP7 and DM11 of the Core Strategy are generally compliant with the Framework insofar as they relate to the main issues of this case. However, Policies SP19 and SP29 of the Core Strategy and Policy SSP2 of the Site Allocations and Area Specific Policies Development Plan adopt a restrictive approach to development in the countryside which does not fully accord with the more balanced and open position of the Framework. I have as a consequence attached only moderate weight to the scheme's conflict with these policies and consider them to be out-of-date.
14. I have concluded that the proposal does not accord with the development plan and that the most important policies for determining this scheme, namely Policies SP1 and SP7, 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 11 of the Framework is not engaged.
15. In accordance with Paragraph 80 of the Framework, I have given significant weight in my assessment to the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development. I also recognise that sites to meet local business and community needs in rural areas may have to be found beyond existing settlements not well-served by public transport in accordance with Paragraph 84 of the Framework.
16. The scheme would result in a range of public benefits, namely, local employment and economic growth. However, it is my view that when

³ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

considered collectively, these would be of modest value and outweighed by the harm I have identified in not guiding new commercial employment development towards sustainable locations in accordance with the settlement hierarchy set out in the adopted development plan. I also see no reason why the scheme would result in a more effective use of the site than other uses more appropriate to the rural area that need to be there for reasons of necessity, such as an agricultural use.

17. I recognise that a significant residential expansion has been granted planning permission close-by, but this does not justify departing from the adopted development plan settlement hierarchy. The proper course of action, should the appellant wish to pursue the appeal site for new commercial employment purposes, would be to seek its designation in the next review of the development plan, which would allow the Council to consider the matter holistically against the prevailing circumstances at the time, in accordance with Paragraph 15 of the Framework which states that the planning system should be genuinely plan-led.
18. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

Conclusion

19. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR