



Appeal Decision

Site Visit made on 20 September 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2021

Appeal Ref: APP/A1530/W/21/3270234

63 Straight Road, Boxted, Essex, CO4 5QY

- 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 M Watling (Tin Bins) against the decision of Colchester Borough Council.
 - The application Ref 201321, dated 3 June 2020, was refused by notice dated 7 September 2020.
 - The development proposed is the erection of five dwellings with associated parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Section 1 of the Council's emerging Local Plan has been adopted. Section 2 is undergoing examination, and no indication has been given of a timescale for its adoption, so its policies carry limited weight in the determination of this appeal.
3. This appeal seeks outline planning permission with all matters reserved. I have therefore treated all submitted plans as indicative.

Main Issues

4. The main issues are:
 - Whether the appeal proposal accords with relevant local policies regarding the location of new housing and the safeguarding of employment land; and,
 - Whether appropriate remediation of contaminated land could be carried out if contamination is present.

Reasons

Location and employment land

5. Policy SB1 of the Boxted Neighbourhood Plan (the NP) states that outside of the settlement boundaries only certain specified developments will be acceptable. These do not include residential development. Policies H1 and SD1 of the Colchester Core Strategy 2008 (the CS) and DP1 of the Colchester Development Policies 2010 (the DP) collectively direct growth to locations identified as the most accessible and sustainable, with only a small percentage of housing expected outside of Colchester and other named settlements.
6. The appeal site is not located in any of the named settlements and lies outside of the settlement boundaries of Boxted. It is located on a rural road with no

pavement or dedicated footpath into the settlement, which would discourage future residents from walking into Boxted. While the National Planning Policy Framework (the Framework) recognises that rural areas will not have the same transport options available as urban locations, it also supports the siting of development in sustainable locations.

7. My attention has been drawn to permissions granted by the Council for residential development on a nearby site. However, those permissions related to a listed building and conversions through the prior approval procedure. They therefore differ significantly from the appeal proposal, and so carry limited weight in the determination of this appeal. The appellant has also drawn my attention to support from the Council for an application for residential development outside of Boxted, but I have no details of that development or the considerations affecting it and therefore it carries very limited weight.
8. The site is in active employment use, and Policy DP5 of the DP states that sites currently used for employment will be safeguarded for appropriate employment uses. Policies CE1 and CE3 of the CS collectively state that development that will result in a loss of employment capacity will not normally be supported.
9. Policy DP5 sets out criteria against which proposals for the loss of employment uses will be assessed, including that alternative employment land is available to meet borough and local requirements, that no suitable or viable employment use can be found or is likely to be found in the foreseeable future, that there would be substantial planning benefit in permitting an alternative use and that there are demonstrable economic benefits to the area that would result from allowing redevelopment.
10. The existing use would continue at an alternative site and there would be a benefit to neighbouring occupiers from the cessation of the existing use. However, no evidence has been provided that any alternative use of the site has been considered or that there would be demonstrable economic benefits to the area from the proposed development. While the Framework supports the effective use of land, it also requires that sufficient provision be made for employment as part of an appropriate mix of uses across an area.
11. The proposed development would therefore fail to accord with local policies DP1 and DP5 of the DP, policies H1, SD1, CE1 and CE3 of the CS and policy SB1 of the NP, the requirements of which are set out above.

Land contamination

12. The appellant states that only dry waste is processed at the site, and the potential for contaminated land could be addressed by a condition. However, there is little information available regarding the historic use of the site prior to its current use. Given the sensitivity of the proposed residential use it is therefore reasonable in this instance to ensure that the site is capable of being appropriately remediated. In the absence of any survey of the site it is not possible to say that appropriate remediation of contaminated land could be carried out if contamination is present.
13. The proposed development consequently conflicts with Policy DP1 of the DP. This policy requires amongst other criteria that, where appropriate, development proposals undertake appropriate remediation of contaminated land.

Planning Balance

14. The appellant has suggested that the Council only has a 4.7 year supply of deliverable housing land, with reference to an appeal decision from April 2020. The Council has stated that it has an identified supply of more than five years. This is supported by an appeal decision from August 2020 in which that earlier decision's findings are referred to. In this later case the Inspector found that, based on the evidence before them, the Council could demonstrate a 5.15 year supply of deliverable housing land. While this decision is now more than a year old, there is no other more recent evidence to suggest that the Council's supply is now less than five years.
15. The development would result in the creation of five new dwellings, supporting the Government's objective of significantly boosting the supply of homes. The requirement for a five year supply of deliverable housing land is to be seen as a minimum, and does not diminish the value of housing to be provided on other sites. There would be short-term economic benefits arising from the construction of the proposed development, and long-term benefits from the occupation of the five houses. These factors weigh in favour of the proposed development.
16. The appellant states that the development would be for self-build housing. Such development has government support. However, there is no legal mechanism before me to secure this if the appeal were to be allowed. This therefore attracts very limited weight in favour of the development.
17. The site is outside of the settlement of Boxted, with no pavement or dedicated footpath linking the site to Boxted. However, it would lie within a linear row of existing residential and commercial properties and would be within 200 metres of the settlement, with Straight Road being wide and providing good visibility for pedestrians walking between the settlement and the appeal site. Boxted has shops and a primary school to meet some of the needs of occupiers of the proposed house, and the site is within walking distance of bus stops. There would therefore be limited harm arising from the site location.
18. The site is in active employment use which generates significant traffic as well as noise and disturbance to neighbouring residents which would stop with the cessation of that use. The development would involve the loss of an employment site and there is no evidence that alternative employment uses for the site have been explored. Notwithstanding this, the use currently only employs a small number of people, and the appellant has indicated that the business would continue at premises elsewhere. There would therefore be moderate harm from the loss of this existing employment site.
19. However, the absence of information relating to contamination of the site carries great weight given the sensitive nature of the proposed residential use.
20. Overall, therefore, the harm arising from the proposed development would outweigh the benefits that would result from it.
21. There are therefore no material considerations to indicate that this appeal should be determined other than in accordance with the development plan.

Other Matters

22. The site falls within the zone of influence for the Essex Coast recreational disturbance avoidance and mitigation strategy. The appellant has submitted a unilateral undertaking confirming their intention to pay the required financial contribution to mitigate the impact of the appeal proposal. Had I been minded to allow the appeal it would have been necessary to carry out an appropriate assessment to determine whether this would mitigate any significant effect on the Essex Coast. As I am dismissing the appeal on other substantive grounds, however, it is not necessary to consider this matter further.

Conclusion

23. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR