



Appeal Decision

Hearing held on 23 July 2024

Site visit made on 23 July 2024

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2024

Appeal Ref: APP/X3540/W/24/3342129

Land Adjacent to Toad Cottage, 146 Kirton Road, Trimley St Martin, Suffolk

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Last against the decision of East Suffolk Council.
 - The application Ref is DC/23/1503/FUL.
 - The development proposed is described as a local store (Class F2 - local community) and wool store/shop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the 30 July 2024, the Government published a Written Ministerial Statement and a list of proposed changes to the National Planning Policy Framework ("the Framework") for consultation. However, for the time being the exact details remain in draft and may be subject to change. They therefore carry limited weight in my consideration of this appeal.
3. While a member of Trimley St Martin Parish Council attended and spoke at the hearing, any reference to the 'Council' in my decision refers to East Suffolk Council unless expressed otherwise.

Main Issues

4. The main issues are:
 - Whether or not the development plan or national policy would support the proposed development in this location; and
 - The impact of the proposed development on trees, hedgerows, and ecology.

Reasons

Location

5. The appeal proposal is presented as a part local community shop and part retail use. The Town and Country Planning (Use Classes) Order 1987 (as amended) ("the Order") identifies local community shops as an F2(a) use class. The Order states, amongst other things, that F2(a) uses are shops (mostly) selling essential goods, including food and there is no other such facility within 1000 metres.

6. In considering the proposed uses, my attention was drawn to the Roselea Nursery Farm Shop ("the Farm Shop") which sells a range of goods and falls within 1000m of the appeal site. The Farm Shop is subject to a planning condition¹ attached to planning permission reference 88/0973. This condition restricts the sale of goods to fresh fruit, vegetables, and flowers.
7. Neither main party provided me with a policy or legal definition of 'essential goods' or other evidence to suggest the term has been formally defined. The definition of 'essential goods' is, therefore, a matter of planning judgment considering the circumstances of this case.
8. In this instance, the Farm Shop is authorised to sell a range of food items, albeit limited to fresh fruit, vegetables, and flowers, to visiting members of the public. From both my site visit and the details provided in evidence, this is a considerable range of fresh fruit, vegetables, and flowers.
9. When considered in the round, these items would qualify as essential goods given the range and quantities for sale. I therefore conclude, as a matter of fact and degree, that the Farm Shop sells mostly essential goods, including food and therefore is an existing F2(a) use class as defined under the Order.
10. I appreciate the Farm Shop and wider nursery are subject to other planning contraventions such as the sale of items beyond those prescribed within planning permission reference 88/0973. However, and as set out above, I have considered the appeal in relation to the sale of fresh fruit, vegetables, and flowers only.
11. I am also aware of another condition² associated with planning permission reference 88/0973. This condition limits the permission personally to Mr J E Coles, however, it is stated that Mr J E Coles died in 2015. At the hearing the Council advised that a planning contravention case had been opened in this respect, however, given the passage of time, the fact the Farm Shop remained in the late Mr J E Coles family, and the existing use would be seen favourably as an established F2a use class, the Council found that it was not expedient to take formal action. The planning contravention case was closed by the Council on this basis.
12. I have no compelling evidence to come to another view on this matter and therefore this personal condition to the late Mr J E Coles does not change my overall findings that the use class of the Farm Shop falls within F2(a).
13. Concluding on the proposed use, given I have found that an existing F2(a) use falls within 1000 metres of the appeal site the proposed development cannot be an F2a use class and therefore would be wholly retail.
14. The proposed development would be situated outside a defined settlement boundary and therefore falls within the countryside. It sits to the edge of a small rural community comprising approximately twenty-four dwellings³ and a primary school.
15. Policy SCLP3.3 of the Local Plan states that new employment and town centre development will not be permitted in the countryside except where specific

¹ Condition number 3

² Condition number 2

³ As specified in the Statement of Common Ground.

- policies in the Local Plan indicate otherwise. Policy SCLP3.1 of the Local Plan outlines a plan for growth which includes retail and town centre growth. This policy also supports appropriate growth in rural areas that help to support and sustain existing communities.
16. Policy SCLP4.5 of the Local Plan supports proposals which grow and diversify rural areas while securing jobs, where the scale of the enterprise accords with the settlement hierarchy. Policy SCLP3.2 of the Local Plan sets out the settlement hierarchy and Trimley St Martin is identified as a large village. Table 3.4 of the Local Plan summarises the policy approach in large villages, directing retail uses to defined district centres.
 17. Policy SCLP4.8 of the Local Plan identifies a retail hierarchy and states that priority will be given to concentrating retail development within Town Centres in the retail hierarchy. This policy also specifies that retail will only be permitted on out of centre sites where there are no suitable or available sites within a Town Centre or edge of centre location.
 18. I am mindful of the need to support economic growth and the sustainable growth and expansion of business in rural areas. However, the Framework⁴ identifies that decisions should also support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation and promoting their viability and vitality. The Council has allocated suitable sites in the local plan to meet the anticipated needs for retail uses for the plan period.
 19. Retail uses are identified in Annex 2 of the Framework as main town centre uses. Paragraph 91 of the Framework states that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
 20. There is limited documented evidence before me to suggest that no suitable or available sites within a Town Centre or edge of centre locations exist. The proposed development would be for a retail use and would not fall within either a Town Centre or edge of centre location. This would generate harm given the importance of a plan led system which identifies areas for retail development, supporting the vitality and viability of designated centres while protecting the character of the countryside.
 21. I recognise that sites to meet local needs in rural areas may have to be found outside defined centres. The appellant states that the proposal would serve the local rural community and its location has been chosen on that basis.
 22. I accept the proposed development would provide some benefit to the rural community and economy. It would be sited close to this community, allow the continued growth and expansion of an existing family run craft business, provide jobs, and provide a facility for those suffering from rural isolation in particular elderly and vulnerable members of the community.
 23. However, it has not been clearly demonstrated exactly why this retail use can only be sited in this location to sustain or support the existing community, or that there is a sufficient scale of population in the vicinity to support the proposal. The extent of rural exclusion in the community has also not been

⁴ At Paragraph 90

clearly demonstrated or how other services and facilities including the wider villages of Trimley St Martin and Kirton do not adequately address this rural exclusion.

24. Paragraph 93 of the Framework states that a sequential approach should not be applied to applications for small scale rural development. However, it has not been clearly shown that this development is small scale rural development. As set out above, it is not clear why the proposed development is required in this rural location only, or how it would meet an identified rural need which is not provided for elsewhere.
25. I note the planning permission was given for a café and retail shop in the countryside under Council reference DC/15/0699. However, this decision is dated 20 February 2015. It predates the current Local Plan, and it is not clear if the policy tests were different at that time. I have considered this appeal on its own merits against the current local and national policy context and accordingly this other decision has limited bearing on my overall findings.
26. I have also considered a condition to restrict the use of the proposed development as a community use and wool store only. However, given my overall findings above regarding the need for the proposal in this location, such a condition would not overcome the harm I have identified.
27. In conclusion, the proposed development would not be in a suitable location having regard to local and national policy. It would therefore fail to accord with the relevant provisions of Policies SCLP3.1, SCLP3.3, SCLP4.5 and SCLP4.8 of the Local Plan and the Framework. All of which, amongst other things, support appropriate growth in rural areas while balancing that with the need for new retail development to support the vitality and viability of Town Centre locations.

Trees, Hedgerows and Ecology

28. The appeal site comprises mature hedging to the flank boundary with School Lane. There is also some vegetation to the front and rear boundaries as well as a mature oak tree to the rear of the site. These soft landscaping features are important as they provide a visual softening of this sensitive area, reflect the qualities of this rural setting, and support the wider network of green infrastructure. These qualities are crucial as they are also likely to contribute toward or have potential to provide habitat, corridors, or foraging for ecology. Therefore, it is vital that such features are retained and where possible enhanced.
29. The proposed building would be near to but not adjacent to the mature oak, but it would be closer to the flank hedgerow. Surface materials are also shown to be close to both the tree and hedgerows. There is limited documented evidence that the appellant can undertake the development without harm to the viability of these trees or hedgerows.
30. There was some discussion at the hearing about foundation design, root protection areas, appropriate construction techniques and replanting and enhancement of existing screening. While these details are not formally before me, the main parties agreed that such information could be secured by a pre-commencement condition in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction. The details would need to be

agreed between the parties prior to when construction begins and would address the concerns of the Council before development commences.

31. Given the Council agreed to this approach at the hearing and both main parties also accepted a landscaping condition to strengthen and enhance the existing landscaping, I conclude that the proposed development would have an acceptable effect upon trees, hedgerows, and ecology. Subject to conditions, the proposed development would not conflict with the relevant provisions of Policies SCLP10.4, SCLP11.1 and SCLP12.34 of the Local Plan or the Framework. These, amongst other things, require development to make a positive contribution towards improving the experience and quality of the environment.

Planning Balance

32. The appellant states that the proposed development would bring several benefits which include economic benefits both through the construction phase and once the development is operational. Social and environmental benefits would also be realised as a place to meet which would be close to the rural community. However, the extent of this benefit is uncertain given the limited evidence regarding the need for the proposed development in this location and that it cannot be accommodated elsewhere. I have also found the rural community is already supported by a farm shop.
33. For these reasons and given the modest quantum of development proposed, I ascribe limited weight to these benefits when considered cumulatively. I have, however, found unacceptable harm arises from the proposed development's location for the reasons set out above. I attach significant weight to this harm.
34. Accordingly, the benefits in this case do not outweigh the harms I have identified. The appeal scheme would not, therefore, benefit from the presumption in favour of sustainable development.

Conclusion

35. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Phil Cobbold – Agent, Phil Cobbold Planning Consultancy.

Mr Stuart Last – Appellant.

Mrs Michelle Last – Appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Mr Grant Heal – Planning Officer.

INTERESTED PARTIES (denoting those persons who took part in the hearing and whose names were recorded):

Cllr Robert Parker – Councillor, Trimley St Martin Parish Council.