

Appeal Decision

Site visit made on 7 August 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2024

Appeal Ref: APP/J2210/W/23/3334065

Land at Merton Lane, Canterbury, Kent, CT4 7BA

(Easting: 615308 Northing: 155054)

- 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 A C Hulme & Sons against the decision of Canterbury City Council.
 - The application Ref is CA/23/01172.
 - The development proposed is the erection of commercial units with associated access and car parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is an appropriate location for the proposed development, having regard to local and national policies.

Reasons

3. Policy SP1 of the Canterbury District Local Plan 2017 (Local Plan) largely reiterates the presumption in favour of sustainable development in the Framework. Beyond the strategic development sites identified elsewhere in the Local Plan, Policy SP4 sets out the spatial strategy for the location of development, identifying where it should be located. The policy is clear that in open countryside, development will be permitted if required for agriculture and forestry purposes, and cross references Policy EMP13.
4. Within the context of this wider approach, Policy EMP1 identifies and protects certain sites for business uses. In tandem with this, Policy EMP4 sets out criteria against which the loss of existing or allocated employment sites will be considered. It also supports, subject to separate criteria, the expansion and extension of existing businesses onto adjoining land and the change of use of office accommodation to other uses.
5. Policy EMP14 permits new buildings and premises that support the development and expansion of rural business in suitable locations in the rural areas. However, this is subject to certain criteria, including that there is

no detrimental impact on landscape interests or their settings where appropriate.

6. Part of the site was previously used for employment purposes and could be considered previously developed land. The Framework's broad approach to sustainable development includes support for the rural economy and encourages the re-use of previously developed land.
7. However, I am also mindful that national policy does not favour utilising brownfield land wherever it is found. Rather paragraph 124 gives substantial weight to the value of using suitable brownfield land within settlements [my emphasis] but that does not apply here. Furthermore, such support is not unequivocally at the expense of the plan-led system which through Local Plans seeks to distribute development to appropriate locations and deliver growth without causing unsubstantiated harm to the countryside.
8. In this respect, the site is not within an area where development is encouraged by Policy SP4 of the Local Plan. Whilst the policy does not preclude the possibility of other sites coming forward outside of these areas, a completely restrictive policy would not accord with the Framework. Notwithstanding this, the proposal would not comply with the broad locational objectives for the District in terms of development. This counts against the scheme.
9. There is nothing to suggest that the site is allocated or identified for business purposes by the Plan. As such, Policy EMP1 would not seem to be directly applicable to the site.
10. The appellant initially appears to suggest that as the site is an existing employment site its expansion onto adjoining land is supported by Policy EMP4. However, subsequently, the appellant indicated that Policy EMP4 is not relevant to these proposals. To my mind, parts (a) and (c) of Policy EMP4 are clearly not applicable to the proposal. Similarly, although part of the site was previously used for employment purposes, the proposal is not the expansion of an existing business and so would not accord with part (b).
11. Policy EMP14 does not define what constitutes a 'rural business'. Given the reference to Policy EMP13 and agricultural and forestry developments within Policy SP4, it seems reasonable to assume that 'rural business' means something other than agriculture and forestry.
12. However, I have some doubts as to whether it could reasonably be said to extend to a proposal such as the one before me. Were it to encompass a scheme for commercial units that do not have any need or requirement to be located in a rural area, and could be occupied by any business, then this would seem to undermine the wider objectives of the Plan in seeking to direct development to preferred sites and locations. However, even if I were to assess the proposal under Policy EMP14, I would still need to consider, amongst other things, whether there were any detrimental impacts on landscape interests or their setting.
13. The site is some 200m south of the settlement boundary of Canterbury. It is within the open countryside and much of the site currently comprises part of an existing field. There is a ribbon of development running south along

Nackington Road which extends to the junction of Nackington Road and Merton Lane. There are further buildings a little further to the west of the site as well as those on the appeal site and adjacent to it.

14. However, given this sporadic pattern of development and the planting alongside Merton Lane, the character of the area in the vicinity of the appeal site is that of a predominantly verdant, spacious rural character and appearance. Whilst it is not subject to any local or national landscape designations, much of the appeal site makes a positive contribution to the landscape and scenic beauty of the area, primarily through its rural character.
15. Although there is already some built form on part of the appeal site, the proposed building would be a substantial step up in scale. It would also have a taller, more prominent roofline than the development on the adjoining site. As such, it would represent a significant increase in the size and massing of built form that would inevitably draw the eye. The site access and hard surfaced turning/parking area would contribute to the spread of development across the site and would have an urbanising effect on the locality.
16. Whilst views of the scheme from Merton Lane would be localised, it would nonetheless have an adverse effect on the area's green and spacious rural character and appearance. As such, for the reasons given above the proposed development would have a harmful effect on the wider landscape qualities of the area. As such, I do not find the proposal compliant with Policy EMP14 of the Local Plan.
17. I have not found Policies EMP1 and EMP4 directly relevant to the proposal. Nevertheless, there is not general policy support for locating commercial development in a location such as the appeal site. Furthermore, the proposal would result in development within the countryside, and whilst the site visually may make a small contribution to the overall character of the countryside, it nevertheless provides an important open area between the existing sporadic development on and around the site.
18. The scheme would not therefore be an appropriate location for the proposed development, having regard to local policies. Accordingly, the proposal is contrary to Policies SP1, SP4 and EMP14 of the Local Plan which, amongst other things seek to direct development towards preferred locations and so protect the countryside from intrusive development. For similar reasons the proposal would conflict with the national policies of the Framework which provide support for the plan led system and the protection of the countryside.

Other Matters

19. There are a number of matters such as access, parking provision and effect on neighbouring living conditions, which are said to be acceptable. However, these factors would represent a lack of harm which would accordingly be neutral in any balance.
20. It is evident from the Officer Report that there was considered to be conflict with Policy DBE3 of the Local Plan although the reason for refusal does not reference this concern. However, this omission in itself does not mean that

the current scheme is acceptable and does not in any event absolve me from making an assessment as to its effects in regard to the main issue of the case.

Conclusion

21. There would be some beneficial aspects of the proposal. It would entail the reuse of previously developed land that is some 200m from the City's settlement boundary and so would offer reasonable access to Canterbury and the wider area. It would also provide an economic boost to the area during the construction phase and provide employment opportunities once operational. However, having regard to the size of the development, these benefits to the local economy would be moderate at best.
22. Conversely, the proposal would cause harms that would conflict with the development plan when taken as a whole. I do not find that the material considerations cited in support of the proposal, including the Framework, indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR