



Appeal Decision

Inquiry held on 27 – 28 November 2014

Site visit made on 28 November 2014

by David Spencer BA (Hons) DipTP MRTPI

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

Decision date: 14 January 2015

Appeal Ref: APP/A1530/A/14/2216873

Hill Farm, Boxted Cross, Boxted, Colchester, Essex CO4 5RD

- 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 Joshua Bates of Thomas Bates and Son Limited against the decision of Colchester Borough Council.
 - The application Ref 131528, dated 29 July 2013, was refused by notice dated 11 October 2013.
 - The development proposed is residential development comprising up to 45 new homes, public open space, landscaping, new access and highways, associated and ancillary development.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form was signed but undated however the Council's decision notice refers to the application being dated 29 July 2013. This date was agreed by the parties at the Inquiry for the purposes of this decision.
3. The application was submitted in outline with all matters reserved except for access. Nevertheless it was accompanied by supporting information including, amongst other things, a design and access statement, a transport assessment, a marketing report, an ecological appraisal and a landscape character assessment. As part of the appeal process the appellant also submitted a heritage statement.
4. Whilst the description of the development remains unchanged the appellant clarified that the permission could be conditioned to limit the scale of development to not more than 43 dwellings. The appellant submitted an illustrative plan showing the internal street pattern and parking, plots for 43 dwellings and public open space. This illustrative plan¹ has been revised using a CAD system to address concerns about scaling and includes a number of small amendments. On the basis it is illustrative and not significantly different from previous plans I am satisfied that no party would be prejudiced by me taking it into consideration.
5. Two signed and dated Unilateral Undertakings providing financial contributions towards social infrastructure, including open space, CCTV coverage and secondary education, were submitted by the appellant during the Inquiry. As

¹ Doc 11

such the proposed contributions would need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.

6. The appellant indicated through the appeal paperwork that it was their intention to submit for costs. No procedural or substantive grounds for costs were submitted. Accordingly, the matter was raised at the Inquiry where it was confirmed that an application for costs would not be made.

Main Issues

7. Whilst the Council's reason for refusal does not separate the various grounds for the decision, it is nonetheless common ground² between the parties that the Council's reason for refusal, insofar as it relates to loss of employment land and the absence of the requisite planning obligations are no longer for consideration at this appeal. I therefore consider the main issues in this appeal are as follows:

- Whether the proposal would be in a sustainable location;
- The effect of the proposed development on the character and appearance of the surrounding area; and
- Whether or not the proposal would undermine the emerging Neighbourhood Plan process.

Reasons

Background and Policy Context

8. The appeal site is situated at the north-west quadrant of the cross roads after which Boxted Cross takes its name. In the southern part of the appeal site is a maturing tree belt bordering Boxted Straight Road beyond which are frontage and estate dwellings. There are further dwellings to the south-east of the appeal site along Dedham Road and at Cross Field Way. Immediately to the east of the Carter's Hill road is St Peter's Primary School, a modern building with some two storey elements. Directly to the north of the site is the Grade II listed Hill House. The western boundary of the site is clearly delineated by established vegetation beyond which there are arable fields.
9. Whilst it is outside of but immediately adjacent the settlement boundary for Boxted Cross on the adopted Proposals Map the site is currently zoned on the Proposals Map for Boxted Cross as a rural employment site. Although the commercial buildings have been removed, the site is characterised by the footprints of the former buildings and large areas of hardstanding. Accordingly, there is no dispute that the site is previously-developed land (PDL).
10. The appellant acquired the appeal site in its commercial use and has submitted planning applications to erect new industrial and office buildings which have been approved and renewed. Despite the concern of some local residents regarding the loss of employment I accept the evidence from both the appellant and the Council that there is no realistic prospect of the appeal site being viably redeveloped for industrial or office uses for the foreseeable future.

² Doc 4, Section 6

11. The Colchester Local Development Framework Core Strategy was adopted in 2008 (the CS). This was augmented by the adoption in 2010 of a Colchester Local Development Framework Development Policies document (the DP). Selected policies from both documents have recently been subjected to a 'Local Plan Focused Review' (LPFR) to secure a number of modifications so that certain policies would be in conformity with the National Planning Policy Framework (the Framework). The examination process has been completed and the revised policies were adopted in July 2014. The LPFR process considered, amongst other things, overarching policies on sustainable development (CS Policy SD1), rural communities (CS Policy ENV2) and design and character (CS Policy UR2). These and other relevant policies are listed at paragraphs 5.2 and 5.3 of the Statement of Common Ground (SOCG) and Section 6 of the SOCG confirms that these policies are not out of date.
12. CS Policy SD1 articulates the spatial strategy for the Borough, the delivery of which requires compliance with a settlement hierarchy which focuses development to the most accessible and sustainable locations. It also expects developments to make efficient use of land and gives priority to accessible locations and previously developed land. The presumption in favour of sustainable development as set out at paragraph 14 of the Framework is now embedded in the revised policy.
13. Whilst setting a sustainable settlement hierarchy CS Policy SD1 does not preclude the principle of some development in the villages of the Borough, including Boxted provided it is of high quality design, sustainable and compatible with local character. This is further expressed in CS Policy ENV2 which allows for development outside of, but directly adjacent to, the settlement boundary, primarily where it constitutes an exception to meet identified local affordable housing needs.
14. Whilst the LPFR process included CS Policy H1 on housing delivery I have noted that it did not revisit the housing numbers contained therein which are based on the revoked 2008 Regional Spatial Strategy for the East of England to 2021 (the RSS). The evidence on objectively assessed housing need (OAHN) in Borough is progressing following the publication of a Strategic Housing Market Assessment (SHMA) in 2013. Against this context the Council is shortly to embark on an initial issues and options consultation early in 2015 for a new Local Plan.
15. Colchester's housing provision is set out in Table H1a in support of CS Policy H1. The numbers in the policy, which are those from the revoked RSS, are expressed as minima and therefore provide a floor rather than a ceiling. Whilst I recognise that recent evidence in the Strategic Housing Market Assessment (SHMA)³ indicates an upwards direction of travel in relation to the OAHN this process remains to be concluded and further work, currently underway, may conclude on a different figure, which may be closer to the current annual minimum target of 830 new homes per annum. Therefore, in the interim before the OAHN is clarified I do not find the strategy or minimum housing provision set out in Policy H1 to be out of date.
16. Additionally, I consider the Council's use of the annual figure of 1,065 new homes from the SHMA for the five period 2013-18 to be an appropriate interim measure by which to monitor housing delivery and performance. I also

³ Doc 2

consider the use of the SHMA's lower 1,065 figure to be a reasonable basis for ensuring the sustainable delivery of a balanced housing market in Colchester prior to the finalisation of the OAHN which will inform the forthcoming Local Plan. As such it is an appropriate figure against to which calculate the existence, or not, of a five year supply of deliverable housing land.

17. The appellant agrees on the basis of the 1,065 figure that there is a five year supply, including the 5% buffer required by paragraph 47 of the Framework. However the appellant submits that the Council is only just able to meet its interim housing supply and therefore vulnerable if certain sites do not come forward as anticipated. Be that as it may, I have not been presented with any detailed evidence of specific risk points in the Council's submitted housing trajectory⁴. Consequently, I am satisfied that the relevant policies for the supply of housing, including CS Policy H1, are to be considered up-to-date, in accordance with paragraph 49 of the Framework.

Sustainable Location

18. Boxted is a rural parish to the north of Colchester containing approximately 580 dwellings, with some 1,360 residents⁵. Settlement across the parish is scattered although there is an appreciable concentration of housing at Boxted Cross estimated at 170 dwellings, around which a settlement boundary has been defined on the Proposals Map.
19. Key facilities in the parish are also focused at Boxted Cross including the Primary School, Village Hall, a pre-School and the Boxted Sports and Social Club and King George Playing Field. I also observed the garden centre including a café on Boxted Straight Road and the butchers shop on Langham Road. However, these last two facilities are beyond a reasonable walking distance from the appeal site. Moreover, Boxted does not sustain a shop, post office, public house, medical facilities or frequent public transport services to Colchester or other higher order settlements.
20. CS Policy SD1 seeks to secure sustainable patterns of growth with an emphasis on a sequential approach focused on the most accessible and sustainable locations. The explanatory text to this policy refers to the need to locate development where, amongst other things, it would help improve accessibility and reduce the need to travel, by ensuring that homes, employment and facilities are well located. This approach accords with the objective at paragraph 17 of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
21. The settlement hierarchy to CS Policy SD1 is reflected in the spatial distribution of housing provision in the Borough set out in Table H1a to CS Policy H1. Whilst there is dispute about the numbers in the Table, which I address separately below, I have not been presented with compelling evidence that the spatial strategy itself should be re-cast and that Boxted should be elevated because of improved sustainability credentials from its current categorisation in the lower tier as an 'other village' for nominal housing provision.
22. Turning to accessibility, the appellant submits that the appeal site is well located to the primary school, village hall, pre-school and sports and recreation

⁴ Housing Trajectory from Emerging 2014 AMR – Appendix 4 to Karen Syrett Proof.

⁵ 2011 Census data, p7-8 Boxted Neighbourhood Plan Submission Version November 2014

- facilities. These key facilities are within a safe and convenient walking distance. However the appeal site location would result in the need to travel, notably for day-to-day convenience retail, medical appointments, leisure (including eating and drinking) and employment.
23. The appeal site is some distance from neighbouring village facilities in Langham or Great Horkesley, neither of which are within a reasonable walking or cycling distance. Boxted has a limited bus service⁶ connecting the village to Colchester General Hospital and the town centre. Whilst this would allow for an inflexible daily commute during the week I note that the limited frequency of bus services, especially to the bus stop at Boxted Cross, would mean that the bus would not provide an attractive or convenient alternative to the private car. This is borne out by the evidence in the 2012 Neighbourhood Plan consultation⁷ of the low usage of public transport for work, leisure and retail.
24. The appellant submits that internet shopping and online access to services would reduce the need to travel from the appeal site. Be that as it may, any reduction remains without quantitative evidence. I am therefore not persuaded that the internet would significantly reduce travel from the appeal site to access shops, doctors and other services.
25. I was also directed towards the proposal in the Boxted Neighbourhood Plan Submission Version November 2014 (the NP) at Policy RE1 which supports the provision of a community shop. The appeal proposal would not provide this facility. Whilst the appeal proposal would increase the housing stock in the parish of Boxted by some 7%, I have no compelling evidence that this increase would provide the tipping point for the community shop scheme to come forward. Nor do I have sufficient evidence that the community shop project is close to fruition irrespective of the appeal proposal. As such I place very limited weight on the prospect of a community shop reducing the need to travel from the appeal site.
26. I also note that the submitted bus information does not demonstrate that existing services provide a flexible connection to employment areas in Colchester, in particular those areas at Northern Gateway and Severalls. These employment areas are approximately 4 km from the appeal site and the absence of continuous footway makes walking an unrealistic mode of travel. Cycling to these employment zones would be an option but I find that the lack of street lights and the volumes of traffic on the connecting rural roads would deter all but the most ardent cyclist.
27. At present the appeal site is allocated as a rural employment site and whilst I acknowledge the position regarding its deliverability it nonetheless remains that its loss would negatively affect the sustainability credentials of Boxted Cross. My attention was drawn to alternative sources of employment in the Parish, predominantly along Boxted Straight Road where I observed a garden centre, a skip hire company, a groundworks company and a number of modest smallholding enterprises. These are some distance from the appeal site without the benefit of being connected by a continuous footway with street lighting. I am therefore not persuaded that the scale and location of these enterprises would significantly reduce the need to travel from the appeal site for employment purposes.

⁶ Appendix 18 to Council's Statement of Case

⁷ Response to Q25 in Appendix 8 to Karen Syrett Proof of Evidence

28. The appellant also submitted, as with online retail and service provision, that home working would reduce the need to travel to work from the appeal site. However, I have little compelling evidence to demonstrate that home-working would markedly reduce the need to travel for work.
29. Accordingly, on the matter of accessibility the appeal site is poorly related to a number of key day-to-day facilities and principal employment areas. As such its location would conflict with the overarching sustainability objective in the Borough to reduce the need to travel, particularly by private car.
30. I therefore conclude that the appeal proposal would not be in a sustainable location. As such it would be contrary to CS Policies SD1, H1 and ENV2 for the reasons given. It would also conflict with the objective of the Framework at paragraph 17 to manage growth to make fullest use of the public transport, walking and cycling and to focus significant development in locations which are or can be made sustainable.

Character and Appearance

31. Whilst I understand that density is not a design measure per se and that CS Policy H2 on density has been revised as part of the LPPR to exclude specific density requirements, it nonetheless remains that density is a strand of local character. CS Policy HS2 requires housing densities that not only make efficient use of land but also relate to the context. Furthermore, the policy stipulates that new developments must enhance local character and optimise the capacity of accessible locations. The Policy then states that locations with lesser access should involve more moderate densities and that density needs to be informed by, amongst other things, the character of the area.
32. CS Policy UR2 seeks to secure high quality design and requires development to be informed by context appraisals. The appellant has referenced a number of nearby examples including recent developments at Cross Field Way and White Arch Place and has submitted an overall contextual block plan. However, I share the Council's view that there should have been a more holistic appraisal of local characteristics to inform and evaluate a scheme design.
33. The settlement boundary at Boxted Cross encompasses the vast majority of residential development at this location, including curtilages. There is no dispute that the average density within the existing settlement boundary is 15 dwellings per hectare (dpha). There is also little dispute, based on the appellants figures, that the net density within the appeal proposal would be 29dpha. Whilst there is agreement that the appeal proposal would meet minimum garden areas⁸, I remain concerned that the disparity in densities could result in a development that would appear incongruously cramped compared to the established grain of development at this rural location.
34. The appellant submits that the tight linear arrangement of housing in other parts of Boxted Cross obfuscates the overall lower density provided by the generous rear gardens, thus creating an impression of tighter grain of development. I note that the appellant's evidence focuses on the former local authority housing at Cross Cottages. However, from my observations of the area, I found this example not to be representative of the predominantly spacious layout of housing elsewhere in Boxted Cross which enables an

⁸ Doc 10

- appreciation of large rear garden areas by virtue of the appreciable gaps between buildings. As such the illustrative layout indicates that at the density proposed the spacious layout of Boxted Cross would not be reflected in the development proposed.
35. I recognise that the proposed open space combined with the retained trees and boundary planting would provide a verdant aspect to the appeal proposal, potentially softening its appearance, especially when viewed from Boxted Cross junction and Boxted Straight Road. However, the proposed open area would also enable longer views into the appeal site, which subject to the final layout, would reveal the inappropriately tighter density of the appeal proposal.
36. To secure the proposed density of development the appellant has illustratively deployed the use of parking courts and parking spaces beyond the curtilage of the property, including at prominent peripheral locations. I observed, that the general character in Boxted Cross is for residential parking to be provided off-street and within the residential curtilage. Reference has been made to the parking court at White Arch Place and the parking provision at the adjacent primary school but again, these are limited examples which are not typical of the general layout and appearance of dwellings elsewhere within the settlement. As such I am not persuaded that they should set the pattern of development in this rural location. Whilst I accept that the visual impact of these parking areas could be partially ameliorated by landscaping and the detail subject to reserved matters, I nonetheless find that if deployed as indicated they would be at odds with the rural character and a harmful consequence of the inappropriate density.
37. A number of the proposed plots are close to the highway and the Council is concerned about the lack of set back at prominent locations. Concern was also expressed regarding plots with front-facing gables. My attention was drawn to a number of particular plots, however, I am mindful that this is an illustrative scheme and I am satisfied that there remains sufficient flexibility to amend the position and orientation of some plots as part of any reserved matters. In coming to this view I have taken into account the extracts from the Essex Design Guide (EDG)⁹ and nearby examples of housing schemes in Boxted.
38. Whilst I have found that there would be sufficient flexibility with the appeal site to resolve matters of detail relating to plot position and orientation, this does not outweigh nor negate my concerns about the consequential effect of the proposed development in terms of the incongruous density and by association the introduction of urban features such as parking courts. CS Policy H2 is unambiguous in connecting the efficient use of land to both local context and accessibility, with the supporting text anticipating lower densities in village locations. As set out elsewhere in my decision I have strong concerns about the accessibility of the appeal site and accordingly I am not persuaded that the proposed scale and density would be appropriate for its rural context.
39. In the light of all the above considerations, and even if limited to 43 dwellings, I conclude that the impact of the proposed development on the character and appearance of Boxted Cross would be unduly harmful. It would not accord with the development plan in terms of the requirements of CS Policies UR2 and H2 and DP Policy DP1 to secure high quality design that reflects local character. It

⁹ Doc 15

would also be contrary to the objective to secure high quality design at paragraph 17 of the Framework.

Other Material Considerations

40. Notwithstanding the evidence that the Council can demonstrate a five year supply of deliverable housing land, CS Policy H1 expresses the Borough's housing requirement as a minimum. Additionally, paragraph 47 of the Framework refers to the need to boost significantly the supply of housing. Accordingly, the appeal proposal would moderately add to the supply of deliverable housing land in the Borough and widen choice for rural housing. This is a benefit which weighs in favour of the appeal proposal.
41. The appeal proposal would also include 20% affordable housing in accordance with revised CS Policy H4. Such provision would contribute to meeting local affordable housing needs, including exceeding the local need identified in a recent parish Housing Needs Survey¹⁰. Under the proposed planning obligation, the affordable housing would also be available, initially, to local residents. I am also mindful that both paragraph 54 of the Framework and CS Policy ENV2 facilitate the delivery of some market housing in rural areas to cross subsidise affordable housing provision.
42. The Council submits that Boxted's identified need for affordable housing would be better secured through a rural exception site which would not be susceptible to the 'stair-casing' mechanism whereby it is ultimately removed from the affordable housing stock. The Council has provided evidence of recent examples of delivery of exception sites elsewhere in the Borough and it has, along with local community representatives, sought a similar arrangement on part of the appeal site.
43. Whilst I am persuaded that the existing use value of the appeal site, given its former use and extant planning permission for employment uses, does not lend itself as a viable exception site, it nonetheless remains that 80% of the proposed dwellings on the appeal site would be open market housing. I have little evidence of the relative need for such a proposed quantum of market housing in Boxted to support, more widely, rural housing need in the Borough. Furthermore, although initially available to people with local connections, the affordable housing would not be secured in perpetuity. This limits the weight I can attach to the benefit of affordable housing in the appeal proposal.
44. I now turn to other sustainability factors, most notably with regard to previously developed land (PDL) in the context of CS Policy SD1. In my view the wording of the policy in the second paragraph sets out a broad two-step approach for development to qualify as sustainable in the Borough. Firstly the location would need to be accessible and secondly the proposal would need to make an efficient use of land. In reinforcing this approach the policy seeks a sequential approach that gives priority to accessible locations and PDL. As such, the wording of the policy does not disengage PDL from a requirement to be accessibly located.
45. I am mindful that the Framework at paragraph 17 encourages the effective use of PDL. My attention was also drawn to the recent policy statement¹¹ on

¹⁰ Boxted Housing Needs Survey 2013 (Appendix 25 – LPA Statement of Case)

¹¹ Joint statement of the Chancellor and Secretary of State for Communities and Local Government for More Homes on Brownfield Land. Published 13 June 2014.

brownfield land. Whilst this statement reaffirms the objective of delivering more homes on this resource in order to protect valued countryside it is, however, subject to the proviso that it is brownfield land that is suitable for housing in the area. I therefore accept that this statement has parallels with the wording of CS Policy SD1. As such whilst the PDL status of the appeal site would weigh in favour of the proposal, the requirement for it to be accessibly located, significantly limits the weight I can attach to this benefit.

46. The appeal site is no longer a source of employment. The appellant submits that whilst the settlement boundary was drawn to purposefully exclude the appeal site to protect a particular land use, it nonetheless should be regarded as being part of the settlement. I agree that the previously developed character of the site has a stronger relationship to the built environment of Boxted Cross than the adjoining countryside. However, as a site which remains outside of the defined settlement boundary in an up-to-date development plan I am mindful that paragraph 22 of the Framework requires applications for alternative uses on employment land to be treated on their merits.
47. Paragraph 22 also requires consideration of the relative need for different land uses to support sustainable local communities. The appellant submits that the proposed housing would assist in sustaining the Primary School and other existing village facilities. I broadly agree although I have not been presented with evidence that the school is under threat of closure or that community facilities and clubs would falter without this development. This limits the weight I can attach to this benefit of the appeal proposal.
48. I also note that the appeal proposal would deliver public open space in the form of a new village green at Boxted Cross. It would also through the proposed planning obligations secure community infrastructure. These are aspects which would marginally enhance the sustainability of Boxted Cross and therefore weigh moderately in favour of the appeal proposal.

Other Matters

Setting of the Listed building

49. Immediately to the north of the appeal site is Hill House and further to the north its garden wall, both of which are Grade II listed. The list description identifies that the special interest of the house is its 16th Century origins including its H-plan form together with a number of details, particularly on the elevation fronting onto Carter's Hill.
50. From the evidence before me¹² it is clear that development has been long established to the south of Hill House either as part of a historic farm complex and more recently in the latter half of the 20th Century onwards as a fruit packing station and then a commercial area. Whilst the appeal proposal would fall within the setting of Hill House I find that the proposed residential use would be more complementary to its setting compared to the previous and permitted commercial buildings. From the appellant's indicative plans I am satisfied that a detailed scheme which retained the proposed rhythm and spacing of the modest houses would secure this complementary arrangement.

¹² Heritage Statement, Beacon Planning July 2014 (appendix 22 Appellant's Statement Of Case) and Heritage Proof of Evidence, Beacon Planning 30 October 2014

51. I also observed that the immediate surroundings of Hill House would be largely obscured from within the appeal site by both existing boundary planting and the presence of a tall ancillary building to the south-west of Hill House abutting the appeal site boundary. Consequently, I am satisfied that the appeal proposal would not uncomfortably encroach onto the setting of the listed building.
52. I therefore conclude that the setting of the listed building at Hill House would be preserved. In this way the appeal proposal would accord with the objectives of CS Policy ENV 1 and DP Policy DP14 in respect of conserving and enhancing Colchester's historic environment.

Highway Safety

53. It is appreciated that there is local concern that the highway network would not be able to cope with the traffic generated by the development, particularly given the relationship of the Primary School on Carter's Hill to the proposed site entrance. However, the Highway Authority, who is responsible for road safety and the free flow of traffic, has not raised objections in this respect. In the circumstances I am not satisfied that there is evidence to support objector's views that the local road network would become more dangerous.

Wildlife

54. There is concern that the proposal would result in loss of nesting habitat for birds, including turtle doves. However, the illustrative proposals for the site include the retention of the majority of trees and boundary vegetation. Accordingly, there is nothing substantive in the evidence before me that leads me to suppose that the development proposed would have a significant adverse effect on local wildlife.

Planning Obligations

55. There are two Planning Obligations by Agreement. In the Agreement with the Borough Council there are covenants relating to affordable housing, CCTV provision and open space and recreation. In the Agreement with Essex County Council, the covenants relate to secondary education provision and associated bus travel. However, as the Council has withdrawn that part of its reason for refusal which related to planning obligations and I have concluded that the proposal is unacceptable in other respects, it is not necessary for me to consider this matter further.

Conclusion and Planning Balance

56. The Borough Council can demonstrate a five year supply of deliverable sites at the higher interim figure informed by the 2013 SHMA. In these circumstances its housing land supply policies should not be considered to be out of date. In this context CS Policies SD1 and H1 have full weight in the decision making process. Accordingly, the appeal proposal would not comply with the sustainable settlements strategy. Whilst Policy H1 apportions a modest amount of housing to the smaller rural villages with limited facilities, I do not consider that the interim SHMA figures notably reshape the sustainable settlement strategy.
57. As such smaller villages such as Boxted, which do not have basic day-to-day services or frequent public transport, should not have a significant role to play

in accommodating the latest housing figures. The amount of residential development proposed is redolent of development envisaged for named higher order villages in table H1a where there is better access to services and facilities. Furthermore, there is no convincing evidence that the spatial strategy has constrained the supply of rural housing or that the appeal proposal is needed at this particular location for convincing environmental, social and economic reasons.

58. Whilst I acknowledge that CS Policy ENV2 includes the scope for residential development outside but contiguous to village settlement boundaries I consider that it does not provide a sufficient policy basis to support estate scale residential development in isolated and unsustainable rural locations. Such an approach would be contrary to both national and local sustainability objectives embedded in the Framework and the development plan at CS Policy SD1.
59. In respect of paragraph 14 of the Framework the development plan is not absent, silent or relevant policies out-of-date. For the reasons set out in this decision I do not accept the appellant's submission that the development proposals would accord with the development plan for the reasons given.
60. The appeal proposal would re-use a brownfield site not viable for employment use at a location where it is accessible to the handful of village facilities. It would also provide affordable housing and would help sustain and improve the limited existing facilities. It would also be acceptable in terms of setting of the adjacent Listed Building, local ecology and highway safety. These sustainability factors weigh in favour of the appeal proposal. However, it is a rural location where there are limited opportunities for the choice of transport modes for the significant majority of local journeys for employment and most day-to-day services. As such the residents of the appeal proposal would be overwhelmingly dependent upon transport by the private car. I have also concluded that the impact of the proposed development on the character and appearance of Boxted Cross would be unduly harmful.
61. Accordingly, there would be significant harm to the environmental dimension of sustainability. The Framework at paragraphs 6-9 sets out the three dimensions of sustainability should be sought jointly and simultaneously. As such the appeal proposal would not constitute the sustainable development for which there would be a presumption in favour of, and the adverse impacts of the proposal would not be significantly and demonstrably outweighed by the benefits.

Neighbourhood Plan

62. The Boxted Neighbourhood Plan Submission Version November 2014 (the NP) was submitted to the Borough Council on 24 November 2014. At the time of the Inquiry the NP was subject to a pre-examination public consultation period, as required by the Regulations¹³, which is due to end in early January 2015. The Steering Group preparing the NP have engaged professional planners (Navigus Planning) to prepare the documentation which includes, amongst other things, the plan itself, a consultation statement and a basic conditions statement. Navigus Planning informed the Inquiry that the programme is to have the plan examined in early 2015, with the required referendum shortly thereafter.

¹³ Neighbourhood Planning (General) Regulations 2012

63. The PPG contains guidance on the weight to be attached to an emerging neighbourhood plan¹⁴. At the time the Council made its decision the NP had not been submitted but preparation of the document has clearly advanced in 2014 such that there is agreement between the parties that 'significant' weight should be attached to the submission version NP. However, from the evidence of the Borough Council and that given to the Inquiry by the local Ward Member and Navigus Planning, there would appear to be a local consensus that given the advanced stage of the NP, localism should be observed and the NP should be allowed to complete its process to the referendum, the outcome of which remains uncertain. Indeed, Navigus Planning who are preparing the NP informed the inquiry that they could only "surmise" the outcome of the referendum.
64. Given the advice at Annex 1 of the Framework, the PPG¹⁵ cautions that refusal of planning permission on grounds of prematurity will seldom be justified where a neighbourhood plan has not reached the end of the local planning authority publicity period. It is therefore necessary in determining whether the appeal proposal would prejudice the outcome of the plan-making process to pay particular attention to the advice in the PPG¹⁶ including whether there are any unresolved objections to relevant policies in the NP and to look at the evidence of local support prior to the referendum.
65. The NP allocates the appeal site at proposed Policy HF1 for up to 43 dwellings and includes details on how the site would be developed. Navigus Planning confirmed that the allocation of the appeal site was the central proposal in the NP. I agree with this assessment and acknowledge that the appeal proposal accords with the emerging Policy HF1. To some extent this is not surprising given the evidence of collaborative working between the appellant and the NP Steering Group. Furthermore, it is understandable given the location and current condition of the appeal site and the recent planning history including proposals for housing submitted by the appellant in 2013 and 2014 that the NP would wish to address its future use.
66. However, from the evidence before me local support for the allocation through the NP process would be at best described as inconsistent. I note that the public response to the initial 2012 consultation (which provides the largest sample of responses) shows that only 41% of respondents were in favour of the principle of additional housing in the village, with only a third of respondents supporting a need for additional market housing. This is counterbalanced by 51% of respondents supporting residential as a future use on the appeal site. However, the 2012 consultation did not invite comment on the scale of development and I note that when asked on the most appropriate use for the site¹⁷ only 20% supported housing.
67. A pre-submission consultation was undertaken in summer 2014 but I note that the level of submitted public response was particularly low. Whilst I understand that this may reflect a degree of public acceptance for the proposals, including the proposed allocation of the appeal site, the absence of a clear community response one way or the other, nonetheless presents a considerable degree of ambiguity. This may be clarified by the current

¹⁴ Planning Practice Guidance. References ID: 41-007-20140306; 41-008-20140306; 41-009-20140306

¹⁵ Planning Practice Guidance Reference ID 21b-014-20140306

¹⁶ Planning Practice Guidance. References ID: 41-007-20140306

¹⁷ Q6 to Appendix 8 to Karen Syrett Proof

- submission consultation but at the time of this appeal I am not persuaded on the evidence before me that there is a groundswell of community support for the appeal site through the NP process.
68. I have noted that there has been local objection to the appeal process from some nearby residents as part of the planning application and appeal processes. My reservations about the degree of community consensus for the NP proposals are also heightened by the petition¹⁸ objecting to the development of the appeal site submitted at the Inquiry by a local resident. Whilst I have some concerns about the method and timing in which the petition was collected it nonetheless reveals a potential risk to the NP process going forward which ratchets back, in my view, to the lack of a clear community mandate in 2012 regarding the scale of further housing in Boxted, despite the then employment use of the appeal site and its current condition. Against this context, and without the benefit of the outcome of the current submission consultation, the views expressed by the Borough Council and local representatives about letting the NP process run its course are understandable.
69. I recognise the appellant's submission that the NP, and more specifically the proposal at Policy HF1, is supported by a high level sustainability appraisal of alternative sites which confirms the appeal site as the most sustainable option for new housing in the village. I also accept that the appeal proposal would conform to the objective and policy of the NP to avoid coalescence between Boxted and the northern fringe of Colchester. The Basic Conditions Statement for the NP at Section 2 has undertaken an assessment of the plan against the Framework and at Section 4 a similar exercise for the relevant development plan policies. However, given the contradictory signals from the local community engagement to date, in a neighbourhood planning process which is predicated on localism, I therefore attach limited weight to the various internal assessments of the NP undertaken by the team preparing it.
70. I have also noted that the Borough Council has provided technical and professional support to the NP process in Boxted. However, the Borough Council's response to the pre-submission NP¹⁹ infers potential conformity issues with the development plan in relation to Policy HF1 at the appeal site. On this basis it has invited the NP process to collate further evidence to justify the proposed scale of residential development at the Hill Farm site. I have noted that the NP response acknowledges potential conformity issues and refers to paragraph 22 of the Framework regarding employment allocations and the flexibility to consider a revised proposal with fewer dwellings. It is not the role of this decision to examine the NP but inevitably there are synergies given the relatively advanced stage the plan document has reached.
71. The appellant has drawn my attention to a recent appeal decision²⁰ in West Sussex where the Secretary of State placed significant weight on the fact that the appeal site was allocated in a submitted Neighbourhood Plan. I have very few details about this appeal and whether there are comparisons in the preparation of the neighbourhood plan. In any event, I note that the local planning authority in this appeal had a substantial shortfall in its five year supply of deliverable housing land. This led the Secretary of State in paragraph 18 of his decision to conclude that the housing land supply situation

¹⁸ Doc 12

¹⁹ Doc 21, Consultation Statement, Appendix E.

²⁰ APP/D3830/A/13/2203080

tipped the planning balance in favour of the emerging neighbourhood plan proposals. This appreciably limits the comparison with the circumstances with this appeal proposal where there is no dispute that the Council has a deliverable five year housing land supply.

72. I understand that the appellant would be put at additional cost and exposed to changes in the market which may stall delivery of the site under the scenario that this appeal was dismissed but the NP endorsed by a referendum in 2015. However, these risks do not outweigh the greater risk, given the particular evidence in Boxted, of prematurely approving a significant proposal that has yet to be examined or pass a community referendum.
73. My concerns in this regard are not allayed by the mixed picture of community views as part of the NP process to date nor by the NP response to the Borough Council's pre-submission observations regarding conformity prior to an examination and referendum. In coming to this view I am cognisant of the recent ministerial statement on neighbourhood planning²¹. However, despite the progress made in Boxted I am not persuaded that the evidence from the consultation to date establishes sufficient community endorsement to verify that the appeal proposal is the right type of development to support strategic development needs.
74. Consequently, given that the appeal site is the central proposal in the NP I am concerned that the appeal proposal would predetermine a decision concerning a significant aspect of the plan which has yet to secure demonstrable community 'buy-in'. As I have set out elsewhere in this decision it is clear that there would be adverse impacts of granting planning permission, that given the availability of a five year housing land supply, would not be significantly and demonstrably outweighed by the benefits of the proposal. Therefore, in view of the stage of preparation reached by the NP both of the circumstances in the PPG in which it may be justifiable to refuse planning permission on the grounds of prematurity are engaged. As such I attach significant weight to the evidence that to allow the appeal proposal would undermine the emerging NP process.
75. I have also found that significant weight should also be attributed to the prematurity and localism issues. Having regard to the advice of the PPG²², it is also part of my overall conclusion that approving the appeal proposal would undermine the emerging NP, which has reached an advanced stage. Accordingly, approving the appeal proposal would be detrimentally premature to the outcome of this important local document.

Overall Conclusion

76. I have had regard to all other matters raised, both in the oral and written representations, but have found nothing to change my conclusion that this appeal should not succeed.

David Spencer

INSPECTOR.

²¹ Ministerial Statement of The Parliamentary Under-Secretary of State for Communities and Local Government on Neighbourhood Planning 10 July 2014

²² Planning Practice Guidance Reference ID:21b-014-20140306

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Pickles Of Counsel instructed by Mr M Russell
of Colchester Borough Council

He Called:

Mrs Karen Syrett BA(Hons) MRTPI, DMS Place Strategy Manager, Colchester
Borough Council

Mr Mark Russell BA (Hons) MA MRTPI Principal Planning Officer, Colchester
Borough Council

FOR THE APPELLANT:

Mr M Lowe Of Queen's Counsel instructed by Mr
A Martin of Andrew Martin Planning

He Called:

Mr Andrew Martin MAUD, DipTP, Director, Andrew Martin Planning
FRICS, FRTPI

Ms Joanna Burton BA (Hons), MPhil, IHBC Senior Consultant, Beacon Planning

Mr Jonathan Crisp MCIAT Director, Arcady Architects Ltd

INTERESTED PERSONS:

Mrs Amanda Clowe Local Resident

Cllr. Nigel Chapman Member for Fordham and Stour Ward,
Colchester Borough Council

Mr Chris Bowden MRTPI Navigus Planning on behalf of Boxted Parish
Council and Boxted Neighbourhood Plan
Steering Group

DOCUMENTS submitted during the Inquiry

- 1 Site Notice for Notification of Inquiry dated 17 October 2014
- 2 Strategic Housing Market Assessment – Final Report 2013, DCA for
Colchester Borough Council.
- 3 Annual Monitoring Report 2013 – Colchester Borough Council
- 4 Updated Statement of Common Ground
- 5 Colchester Local Development Framework Core Strategy 2008, Selected
Policies Revised July 2014

- 6 Colchester Local Development Framework Development Policies 2010, Selected Policies Revised July 2014
- 7 Statement on chronology of evidence relating to heritage assets from Colchester Borough Council
- 8 Statement of clarification on development plan policies from Colchester Borough Council
- 9 Correspondence dated 12 November 2014 from Mr David Rees, Hill House, Boxted
- 10 Boxted Cross Garden Areas Table
- 11 Dwg No 13/30/SK03 (dated Oct 2014) at A1 size
- 12 Signed Petition 'Keep Boxted Rural'
- 13 Statement from Councillor Nigel Chapman
- 14 Photographs of the former commercial buildings on the appeal site dated 12 May 2006 (in conjunction with Ms Burton's evidence)
- 15 Extracts from the Essex Design Guide (pages 93, 137, 165 & 177)
- 16 Map showing relationship of appeal site to Colchester Northern Gateway and Severalls employment areas.
- 17 Extract from Colchester Site Allocations Development Plan Document Inspector's Report 2010 re paragraph 4.21
- 18 Email correspondence dated 13 March 2014 from Andrew Martin Planning to Colchester Borough Council
- 19 Signed and dated Unilateral Undertaking re: open space, affordable housing and CCTV provision.
- 20 Signed and dated Unilateral Undertaking re: secondary education provision
- 21 Boxted Neighbourhood Plan – Submission Documents November 2014
- 22 Extract from Colchester Borough Council Site Allocations Inspector's Report 2010. Inspector Change No.2 After paragraph 4.21.

DOCUMENTS submitted by arrangement following the Inquiry

- 22 Signed plans relating to the Unilateral Undertakings