
Appeal Decision

Site visit made on 23 May 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 14 June 2017

Appeal Ref: APP/X1545/W/17/3166779

Oakfield Farm, Hyde Chase, Purleigh CM9 6TN

- 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 Mike King against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00657, dated 6 June 2016, was refused by notice dated 8 September 2016.
 - The development proposed is change of use of agricultural building to B1 light industrial use.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of agricultural building to B1 light industrial use at Oakfield Farm, Hyde Chase, Purleigh CM9 6TN in accordance with the terms of the application, Ref FUL/MAL/16/00657, dated 6 June 2016, subject to the conditions in the attached schedule.

Procedural Matter

2. The Council's decision notice refers to Policies S1, S8, D1, H4 and T2 of the emerging Maldon District Pre-Submission Local Development Plan (MDLDP). The MDLDP is at an advanced stage and has been subject to recent examination hearings. However, as I do not have evidence before me as to whether there have been any significant objections to the above policies and the Inspector's report has not yet been published, having regard to the advice provided in the National Planning Policy Framework (the Framework)¹, I give these policies in the emerging Development Plan limited weight as a material consideration.

Main Issues

3. The main issues are the effect of the development on (i) the living conditions of the occupiers of the neighbouring property at The Firs with particular regard to the noise and disturbance; and (ii) highway safety in the area.

Reasons

Living conditions of the occupiers of the neighbouring property

4. The appeal site comprises of a large steel profile agricultural barn set back from the road behind a mature landscaped boundary and fencing within an open countryside location. It forms part of the scattered pattern of low density

¹ Paragraph 216 of the National Planning Policy Framework (2012)

development along the southern side of Hyde Chase characterised by large dwellings set within mature spacious landscaped plots.

5. The proposal would involve the conversion of the agricultural barn to a B1 light industrial use. No external changes are proposed, although I note from my site visit that part of the building was in residential use and the Council have confirmed in their appeal statement this is the subject of a separate application for a Lawful Development Certificate and ongoing enforcement action².
6. Although the nearest adjacent dwelling at the Firs to the east of the site is located some distance from the barn, the building would be immediately adjacent to the rear garden area of the adjacent property. The residents, however, living near to an agricultural barn might reasonably expect to experience some noise and disturbance during the daytime and evening activities. My daytime site visit indicated that the area experienced some noise and disturbance particularly associated with the business use in the buildings occupied by Meridian Windows, Doors and Conservatories to the west of the site and traffic movements along the road.
7. I am mindful that no objections were submitted by the Council's Environmental Health officer concerning any adverse impact which might be caused to the living conditions of the occupiers of neighbouring properties by the proposal. No evidence has been provided by the Council to contradict the appellant's claims concerning the likely level of activities associated with the intended use.
8. Therefore whilst this proposal may cause some increase in noise and disturbance, given the scale and intended use, the separation distance and the boundary treatment between the appeal site and the adjacent residential property, I do not consider it would result in significant harm to the living conditions of the occupiers of neighbouring property. It would not be sufficient to justify withholding permission on these grounds in this case and I consider that the potentially adverse effects can be satisfactorily mitigated by appropriate planning conditions.
9. Consequently, I conclude that the proposal would not result in significant adverse harm to the living conditions of the occupiers of the neighbouring properties with particular regard to noise and disturbance. It would comply with Policies BE1 and CC6 of the Maldon District Replacement Local Plan (2005) (LP) which seek to ensure that development is compatible with its surroundings, harmonises with the character of the area and the living conditions of neighbouring properties, conserves the special landscape areas and seeks to control development outside the settlement boundaries within the countryside. In addition, it would accord with the aims of the Framework that development should seek to secure a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17).

Highway safety

10. The proposal is accessed via an unmade track off Hyde Chase, a narrow private road bordered by grass verge. The road by the entrance to the site is bounded by a boundary fence and hedge.
11. The Council object on the grounds that the proposal would result in significantly more vehicular movements from employees, deliveries and visitors than the

² LDE/MAL/16/00179

existing use for agricultural purposes and an unacceptable intensification of the existing narrow rural lane that has limited turning facilities. The appellant, however, has stated that Essex County Council as the Local Highway Authority did not object to the proposal subject to mitigation and appropriate conditions. The appellant also argues that the highway impacts of the proposal could be potentially lower than the existing unrestricted use of the site for agricultural purposes and the size of vehicles would be significantly smaller.

12. Paragraph 32 of the Framework states that decisions should only be prevented or refused on transport grounds where the residual impacts of development are severe. In view of the scale of development, it is evident that the impact of the development on highway efficiency would not be severe. However, paragraphs 32 and 35 of the Framework go on to state that decisions should also take into account whether safe and suitable access to the site can be achieved for all people.
13. From the evidence provided and from my observations on site, I consider that Hyde Chase is sufficiently safe and suitable to cater for the limited additional traffic movements from the proposal. Due to the current configuration of the site and the proposed access and turning arrangements, vehicles would have the ability to manoeuvre into and out of the site in a forward gear. The current road conditions on this section of the road would allow sufficient visibility for vehicles to enter and leave the site safely and minimise any conflicts between traffic and cyclists or pedestrians.
14. Consequently, I conclude that the proposal would not have an adverse effect on highway safety. It would therefore comply with Policies BE1 and T2 of the LP that seek to ensure that new development is compatible with its surroundings in terms of traffic impact and provides safe access to and from the highway. In addition, it would accord with paragraphs 32 and 35 of the Framework, which seek to ensure that a safe and suitable access to the site can be provided for all people and that a safe and secure layout can be achieved which minimises the conflicts between traffic and cyclists or pedestrians.

Other matters

15. I have noted the objections raised by a local resident and Purleigh Parish Council to the proposal on the basis of its impact on the character of the area, living conditions, special landscape area, highways, the maintenance of the private road and the potential use of a separate hay barn granted under prior approval on the site being constructed and used for future B1 use. However, I have addressed the matters relating to the impacts on the living conditions of the occupiers of the neighbouring property and highway safety in the main issues above and the other matters did not form part of the Council's reasons for refusal. The maintenance of the private road is not a land use planning matter I can address as part of this Section 78 appeal and the construction of another barn for B1 use would require the benefit of planning permission.

Conditions

16. Having regard to the Framework, and in particular paragraph 206, I have considered the conditions suggested by the Council and the submissions received from the appellant.

17. In addition to the standard time limit condition, I have specified the approved plans as this provides certainty. Those conditions relating to the restricting the use of the building to B1 use only, opening and deliveries times, restricting the use of machinery outside the building and extraction or external ventilation on the building are necessary and reasonable to ensure there are no significant adverse impacts upon the living conditions of local residents and the amenities of the area. Those conditions relating to external illumination of the site and the external storage are necessary and reasonable in the interests of protecting the rural character and appearance of the area.

Conclusion

18. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be allowed.

David Troy

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 1:2,500, Site Plan 1:500, Floor Plan 1:200 and Elevation Plan 1:100.
- 3) The premises shall only be used for business purposes as defined within Class B1 of the Schedule to the Town & Country Planning Use Classes Order 1987 (as amended), (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.
- 4) The use hereby permitted shall only be undertaken between 07:30 and 18:00 on weekdays and between 08:00 and 13:00 on Saturdays and not at any time on Sundays and Public Holidays.
- 5) Deliveries to and collections from the site shall only be undertaken between 07:30 hours and 18:00 hours on weekdays and between 08:00 hours and 13:00 hours on Saturdays and not at any time on Sundays and Public Holidays.
- 6) No means of external illumination of the site shall be installed.
- 7) No machinery shall be operated and no process shall be undertaken outside of the building.
- 8) No goods, materials, plant, machinery, skips, containers, packaging or other similar items shall be stored or kept outside of the building
- 9) No extraction or ventilation equipment, vents, air conditioning units or similar plant equipment shall be installed or fitted to any external part of the building except in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme as approved and installed shall be retained as such thereafter.