
Appeal Decision

Site visit made on 10 November 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 2nd December 2020

Appeal Ref: APP/X1545/W/20/3248895

Gracedale Farm, Maldon Road, Bradwell-On-Sea, CM0 7HU

- 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 Morgan against the decision of Maldon District Council.
 - The application Ref FUL/MAL/19/01150, dated 2 November 2019, was refused by notice dated 4 March 2020.
 - The development is hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for hardstanding at Gracedale Farm, Maldon Road, Bradwell-On-Sea, CM0 7HU in accordance with the terms of the application, Ref FUL/MAL/19/01150, dated 2 November 2019, and the submitted plans referred to as location/farm (marked up holding extents), block (hardstanding dimensions) and floor (hardstanding layout and detail), subject to the following condition:
 - 1) The hardstanding hereby permitted shall be demolished and all materials resulting from the demolition shall be removed from the site within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
 - (i) within 3 months of the date of this decision a scheme for surface water drainage shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - (ii) if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - (iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

Procedural Matters

2. The hardstanding is retrospective. There is an issue between main parties as to whether the use of it and surrounding land is for agriculture. It is not the role of this appeal to make a formal determination on the use of the existing hardstanding or land. However, the existence of horses, being fed artificially

on the site, raises a legitimate uncertainty as to whether the site does fall within the definition of agriculture. Therefore, I have used a simpler description of the development as “hardstanding” than that used in the application form and where necessary, I will comment upon these matters in this decision.

Application for costs

3. An application for costs was made by Mr Morgan against Maldon District Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is whether the location of the hardstanding is acceptable in the countryside, having regard to need and effect on the character and appearance of the area.

Reasons

Location of development

5. The appeal site comprises an area of hardstanding which measures approximately 37 metres by 54 metres. It is surrounded by fields on three sides and on the remaining side, the back of rural buildings and beyond this, a detached dwelling fronting onto Maldon Road, all of which are within the control of the appellant. There are feeding troughs and hay feed areas on the hardstanding as well as surface drains. The surrounding area features open fields, sporadic development and the village of Bradwell-On-Sea, some distance to the north east of the site.
6. The application site lies outside of any defined settlement boundary under the Maldon District Local Development Plan (LDP) 2014-2029. Outside of the settlement boundaries and allocated sites, LDP Policy S8 states that permission will only be granted where the intrinsic character and beauty of the countryside would not be adversely impacted upon, provided it is for a development listed within the policy, such as agriculture or rural diversification, recreation and tourism. There is a dispute as to whether the hardstanding is being used for agriculture, one of the listed developments.
7. The appellant has made it clear that activities being undertaken at the farm are solely agricultural. However, horses form a significant proportion of the animals to be housed on the hardstanding based on what I saw on my site visit and the appellant’s confirmation of a total of 60 horses on the holding. The hardstanding would also be for supplementary feeding, including daily feeding, during winter or dry months. A letter from a local supplier confirms long standing deliveries of animal feed and forage. On the balance of evidence before me, the keeping of the horses on the hardstanding is not agricultural and it has not been demonstrated that the primary purpose of their feeding is from the grass on the holding.
8. Nevertheless, this development with the housing of the animals would not be visually dissimilar to listed developments permitted in principle under LDP Policy S8 which relate to agriculture use or rural diversification, recreation or tourism uses, that include equestrian and related activities. Furthermore, the development would not conflict with the policy’s additional criteria on need, link

to existing use and location (within LDP Policy E4 for agricultural and rural diversification development).

9. In this regard, the hardstanding would be necessary for animal feeding, handling and monitoring when the pastures are not available. The hardstanding area roughly equates to that indicated under the Agro Business Consultants Agricultural and Budgeting Costings Book May 2019. The hardstanding also prevents animals standing in mud which can lead to illness. Under the animal welfare legislation, there is a requirement that owners and keepers adhere to the welfare needs of their animals.
10. Therefore, there is a justifiable and functional need for the activity and the function of the proposed activity is directly linked and ancillary to the existing use. Additionally, the activity cannot be reasonably located in existing towns, villages or allocated employment sites. The criteria of LDP Policy E4 would be met, albeit that this is for agricultural and rural diversification development.
11. Turning to character and appearance, the hardstanding area is large compared to that of the adjacent existing buildings. It has also resulted in the removal of grassland from a field. However, the site would be partly screened by hedgerow, holding buildings and a fence, and would have only one fully exposed boundary. Public views of the site would be limited, largely being restricted to long distance views from the village.
12. The lack of public visibility is not a sole determining consideration in the acceptability of a development but in this scheme, the development's visual and landscape impact is reduced by its largely open flat form and its location adjacent to existing rural buildings. Additionally, animal activity is commonly expected to be within the countryside and part of rural character. For all these reasons, the development respects and enhances character and local context and makes a positive contribution in terms of landscape setting in compliance with LDP Policy D1.
13. In summary, the scheme conflicts with LDP Policy S8 because it is not within any of the permissive listed developments. However, the conflict with LDP Policy S8 is not significant, in particular due to the similarity of the development with those permitted under the policy, and the development does not adversely impact upon the intrinsic character and beauty of the countryside. Accordingly, greater weight is given to the proposal's compliance with LDP Policy D1 and the proposal complies with the development plan taken as a whole. In the reason for refusal, LDP Policy H4 is not relevant because it relates to housing schemes.

Other matters

14. As part of an 'Integrated Farm Management System', all farmyard manure generated on the hardstanding is collected and spread on the pastureland as a fertiliser. Surface water discharge from the hardstanding would be into a ditch and there is a nearby open drainage culvert. A separate watercourse consent from Essex County Council as the Lead Flood Authority (LFA) has been granted.
15. However, greater detail on drainage measures is required, especially at times of higher precipitation because of the hardstanding area and number of animals housed upon it, and how the resultant risk of pollution of neighbouring land can be minimised. In this regard, LDP Policy D2 requires all development to

minimise all forms of possible pollution including air, land and water. There should be no reason why a condition cannot address this issue given the outline of measures proposed and nature of the scheme. Furthermore, both the LFA and the Council have raised no drainage objections to the scheme, with the former recommending the condition.

Conclusion

16. The scheme complies with the development plan taken as a whole. There are no considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan and therefore, planning permission should be granted.
17. The drainage condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of the details before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met. It is not necessary to impose a plans condition as the development has been carried out. Nevertheless, reference to the plans has been made in the effective part of the formal decision in paragraph 1.
18. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR