The Planning Inspectorate

Appeal Decision

Site visit made on 1 December 2020

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/Z1510/W/20/3258725
Land south of Hedingham Road, Bulmer CO10 7EF

- 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 & Mrs Smith against the decision of Braintree District Council.
- The application Ref 20/00387/FUL, dated 25 February 2020, was refused by notice dated 27 July 2020.
- The development proposed is application for replacement of existing buildings with offices following the granting of prior approval.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: -

   - Whether the site is a suitable location for a business use having regard to local policy for the delivery of employment with particular regard to accessibility by a range of modes of transport, and: -
   - The effect of the proposal on the character and appearance of the countryside.

Reasons

Suitable location

3. The proposal site is part of a small group of rustic buildings located to the south of Hedingham Road. Hedingham Road is a single carriageway rural road lacking footways and street lighting and is subject to a 60 MPH speed limit.

4. There are two buildings that are the subject of this appeal, identified on the drawings accompanying the application as a chicken shed and a hay store. At the time of my site visit the chicken shed had collapsed in on itself.

5. The site is situated outside any settlement boundary and is defined as countryside by the development plan. It is therefore in the countryside for the purposes of applying the policies in the development plan.

6. Policies, including RLP27 and RLP40 of the Braintree District Local Plan Review -2005- (the Local Plan), set out the Council's employment strategy. RLP 27 seeks to concentrate employment development on suitable sites in towns and villages where housing, employment and other facilities can be provided close

together with the aim of minimising the length and number of trips by motor vehicles.

7. The site lies in an area of sporadic development and with very limited services within the small groups of buildings or settlements and persons employed at or visiting the site would, in all likelihood, need to travel some distance to reach it.

8. The unlit nature of the intervening roads, with their lack of footways and vehicular speeds would be likely to deter pedestrians and cyclists, particularly after dark or during inclement weather and so anyone accessing the site would almost certainly rely very heavily on the private car to meet their day-to-day travel needs. I have no evidence before me to demonstrate that public transport is available to provide a realistic alternative to the use of the private car to cater for the day-to-day travel needs of persons accessing the site.

9. However, Policy RLP 40 of the Local Plan allows minor industrial and commercial development within the countryside and away from towns and villages if it would be for the extension of existing industrial and commercial development or small scale proposals which would secure significant improvement to the local environment.

10. The proposal is not for the extension of an existing industrial or commercial development as the site is currently an agricultural use. Although the chicken shed has collapsed it is not uncommon to see this in the countryside. Thus, whilst somewhat unkempt, the site is not out of keeping with the rural character of the area around it.

11. The proposal would replace two existing structures with buildings of a similar size and of a comparable rustic design. As such they would not look visually incongruous when compared to their neighbours. Moreover, I have little substantive evidence before me that the proposal would significantly intensify activity on the site or introduce extraneous paraphernalia that would be out of keeping with the locality. Therefore the proposal would preserve the character and appearance of the area. This neutral effect would not amount to a significant improvement to the local environment. As such, the proposal does not glean support from Policy RLP 40.

12. I therefore conclude that the proposal does not gain support from Policy RLP 40 and, lacking accessibility by a range of modes of transport is not a suitable location for a business use having regard to local policy for the delivery of employment. The proposal is, therefore, contrary to the aims of Policies CS5 and CS7 of the Core Strategy and Policy RLP27 of the Local Plan.

Character and appearance

13. I have found above that the proposal would not result in material harm to the character and appearance of the countryside and so would accord with the aims of Policy RLP 80 of the Local Plan in so far as this seeks to ensure that development integrates into the local landscape.

Other Matters and Planning Balance

14. The appellants have applied for, and had granted, an application for a change of use of the buildings from agricultural use to office use[1] under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

15. This permits a change of use. However, there is nothing to suggest that any such change of use has been implemented, which would occur through occupation. Approval of Part R development established acceptability of the proposed use only with regard to the narrow tests set out within the GPDO that require prior approval. It does not demonstrate a wider adherence to the development plan or the National Planning Policy Framework -2019- (the Framework).

16. Further, any associated operational development in relation to the building or land which are reasonably necessary to use the building or land for the use proposed under Class R would require a separate planning permission. The current condition of the site would suggest that occupation is some way off. It has not, therefore, been demonstrated to my satisfaction that the permission granted under Class R would constitute a fallback of sufficient force to justify permitting the proposal despite the conflict with the development plan.

17. The Local Plan pre-dates the Framework and so policies within it should be assessed and given weight in terms of their consistency with the aims of the Framework. The Framework does not impose a blanket restriction on development outside defined settlements but nor does it explicitly prevent the use of such boundaries.

18. Paragraph 83 of the Framework seeks to support a prosperous rural economy by enabling the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.

19. Paragraph 84 of the Framework acknowledges that to meet local business and community needs in rural areas sites may have to be found adjacent to or beyond existing settlements. However, Paragraph 84 includes the caveat that development must exploit opportunities to make a location more sustainable.

20. The Framework recognises that sustainable transport solutions will vary between urban and rural areas and that rural development can enhance or maintain the vitality of rural communities. However, for such a limited scale of development there is no real scope to improve connexions for walking, cycling or public transport and so dependency upon private motor vehicles would be almost total.

21. Thus, the policies in the Core Strategy and Local Plan that are most important in this case are broadly consistent with the aims and policies set out in Sections 6, 9 and 15 of the Framework. However, they are more restrictive than the approach taken within the Framework and so I afford the conflict with them moderate weight.

22. The development would provide benefits in terms of delivering an additional employment site. There would be minor benefits to the local economy in

[1] Council Ref: 19/02082/P3RNOT

relation to short term employment in the construction industry and longer term support to shops and businesses through increased economic activity. The long term support to shops and businesses would be mainly felt in the local town, rather than supporting rural villages. The proposal would build on existing building footprints, but it would not re-use existing buildings as encouraged in the Framework. Taken together these benefits carry limited weight.

23. Given the location of the site and the complete lack of access to safe walking and cycling routes or public transport to provide access it is likely that future employees and others visiting the site would be heavily reliant on private motor vehicles. This is a significant factor weighing against the scheme.

24. In conclusion the limited benefits provided by the proposal would be outweighed by the identified harm when considered against development plan policies and the Framework when read as a whole.

Conclusion

25. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

I Dyer

INSPECTOR