



Appeal Decision

Site visit made on 1 October 2020

by Mark Caine BSc (Hons) MTPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12/01/2021

Appeal Ref: APP/Z1510/W/20/3248269

The Bird In Hand and land to the rear, Coggeshall Road, Earls Colne, CO6 2JX

- 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 Brands Direct Ltd against the decision of Braintree District Council.
- The application Ref 19/00604/FUL, dated 25 March 2019, was refused by notice dated 20 December 2019.
- The development proposed is the demolition of a public house and erection of an office Building (828 sqm) with car parking.

Decision

1. The appeal is dismissed.

Procedural matters

2. The description of the proposal in the application forms does not provide the floorspace area of the proposed office building. However, this was subsequently altered by the Council to '(828sqm)'. In making the appeal, this revised description was accepted by the appellants, and I have therefore determined the appeal on that basis.
3. The Council has referred to the policies SP1, LPP8, LPP50 and LPP55 of the emerging Braintree District Publication Draft Local Plan 2017 (DLP). However, as this plan has not been formally adopted I have given them limited weight as material considerations.

Main Issues

4. The main issues are:
 - (i) The effect of the proposed development on the character and appearance of the area.
 - (ii) Whether the proposal would provide a suitable site for the proposed development, with particular reference to its location and accessibility to local services and facilities.

Reasons

Character and appearance

5. The appeal relates to a roughly rectangular shaped area of land that contains a vacant two storey detached public house, an associated hard surfaced car parking area to the front of the site, along with part of an undeveloped former

paddock to the rear. It is located on a prominent raised corner location adjacent to the junction of Coggeshall Road and America Road.

6. It is uncontested that the appeal site lies outside of any development boundary as designated in the development plan and is therefore situated in the countryside. I saw on my site visit that there are warehouse and office buildings, with some palisade fencing and lorry containers situated to the north. However, there are intervening fields and green gaps between these and the appeal site. Given the degree of separation from the built form I therefore consider the appeal site, particularly the undeveloped former paddock area to the east, to have more affinity with, and read very much as part of the adjoining open agricultural land form and countryside, thereby positively contributing to it.
7. The proposed office building would have a 'U' shaped footprint, be of a low-level height, and of a traditional rural design using materials typical of the local vernacular palette. In addition, I recognise that the location of the proposed car parking area is similar to that currently associated with the public house. The appellants also suggest that the proposal would improve the appearance of the site at close quarters through the removal of an unsightly building and a car wash which already significantly impacts on the character and appearance of the site.
8. However, there was no car wash evident on my site visit and the proposed office is of a significantly larger footprint than the public house. Furthermore, the proposed building, associated access roads and hardstanding/gravel areas to the rear of the site for the storage of containers would take up a considerable amount of the undeveloped part of the site, intensifying the urban form and significantly reducing its openness. The stark industrial appearance of the proposed palisade fencing would also sharply contrast against the adjacent open grassed fields. Furthermore, the topography of the area is such that much of the development, including storage containers and the palisade fencing, would be elevated, and likely to be visually prominent from a number of vantage points.
9. I have had regard to the appellants' submitted artistic impressions, and am mindful that the Landscape and Visual Impact Assessment (LVIA) concludes that walkers would barely perceive changes on site in the context of the wider landscape and the presence of overhead power lines and the deteriorating condition of the public house. The LVIA also concludes that road users on Coggeshall Road will have changed views of a short duration adjacent to the site.
10. It is undeniable however, that were the development to go ahead, those passing close by on America Road or the nearby footpaths, would look out onto a large office development with storage containers rather than an open field. This would diminish the spacious and open character of part of the site and thus its contribution to the open rural character and appearance of the countryside.
11. It has been put to me that an appropriately worded planning condition could ensure that an alternative boundary treatment could be achieved. However, I have no details of what type of fencing that this may be or of the proposed landscaping before me, including the size, height and species that would be implemented. A reasonable degree of certainty is required to ensure that an

effective solution can be achieved. In the absence of any compelling evidence to the contrary I am therefore unable to establish whether the suggested landscaping would provide effective mitigation for the fencing, proposed building and storage of containers, particularly during the winter months.

12. The appellants have also suggested that the area for storage containers could be removed from the proposed scheme. However this would fundamentally alter the proposal and I must deal with the application as submitted. As such it would be unreasonable to deal with these matters by planning condition.
13. The development proposed would therefore cause unacceptable harm to the character and appearance of the surrounding area. It would conflict with Policy RLP90 of the Braintree Local Plan 2005 (LP) and Policy CS9 of the Braintree Core Strategy (CS) in this regard. These policies seek, amongst other things, for new development to be of a high standard of layout and design to respect and respond to the local context, including landscape sensitivity.

Location and accessibility

14. LP Policy RLP2 confines new development to the areas within Town Development Boundaries and Village Envelopes. Outside of these areas (in the countryside) CS Policy CS5 strictly controls proposals to uses appropriate to the countryside so as to protect its landscape character and amenity. LP Policy RLP 27 also 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.
15. However, the development plan policies referred to above are overly restrictive, imposing blanket restrictions on development outside of defined boundaries. As such they are not wholly consistent with the National Planning Policy Framework (the Framework) in terms of its approach to rural development. The fact that the site is located outside of any defined development boundary or envelope is therefore not a determinative factor in this case and I apportion limited weight to the proposal's conflict with CS Policy CS5 and LP Policies RLP2 and RLP27 in this regard.
16. It has been put to me that Policy RLP 40 of the LP 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. However, the proposal is not for the extension of an existing industrial or commercial development. It would also result in a building that has a substantially greater footprint than the existing public house, that the Council measures to be approximately 828 square metres in area and would occupy a large portion of the site. As such I do not consider this to be a small-scale development. Whilst the appellants also argue that the proposal would satisfy 5 out of 6 of the criteria within LP Policy RL39 the proposal would not be for the expansion of a local firm adjacent to an existing premises and would therefore conflict with this development plan policy.
17. Nonetheless, I am mindful that the Framework advises that planning policies and decisions should recognise that to meet local business and community

needs in rural areas sites may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.

18. In these circumstances the Framework states that in addition to ensuring that development is sensitive to its surroundings, it must not have an unacceptable impact on local roads and should exploit any opportunities to make a location more sustainable.
19. It is uncontested that there is a lack of public transport in the area, and I agree with the Council that there would be a strong likelihood that most future users would be dependent on the private car to access the site and other facilities in Key Service Villages. However, the Council has not disputed the evidence within the appellants' transport statement which finds that there would be a reduction in vehicle movements associated with the proposal when compared with the previous use. I have no substantive reason to question this and am therefore unable to conclude that the proposed offices would lead to significant vehicle trips, traffic congestion or an unacceptable impact on local roads. The reduction in trips, whilst maybe not at similar times to those associated with a public house, would therefore represent an opportunity to make the location more sustainable.
20. I therefore find that the proposal's location in regard to accessibility to local services and facilities to be acceptable. It would therefore not conflict with LP Policy RLP 27 and advice contained in the Framework in this respect.

Other matters

21. The appellants have put forward a number of other matters in support of their case. These include the appeal site's location within Flood Zone 1 and outside of a Conservation Area, away from any Listed Buildings. It has been put to me that the public house is of no particular architectural merit or interest, and that the Council's archaeological advisors recommended a planning condition to record the building prior to demolition. I have also been made aware that the Council has no objections in respect of the loss of a community use. Nonetheless, these matters do not overcome the harm that I have identified above.
22. Although the Council has questioned the appellants' evidence in respect of the need for the proposal and the market search that has been undertaken it has presented little substantive evidence of its own to counter this. It has, however, referred me to Section 2 of the DLP which it states sets out the employment allocations to meet employment need in the District. My attention has also been drawn to the Employment Land Needs Assessment 2015 which is the latest evidence base for the DLP. Nonetheless, as previously noted, the DLP has not been formally adopted, and I have therefore given it limited weight as a material consideration.

Planning Balance

23. I find the LP and CS to be out of date insofar as they seek to resist development outside settlement boundaries. Not only does this limit the weight that I can attach to CS Policy CS5 and LP Policies RLP2 and RLP27, but in line with Paragraph 11d of the Framework the presumption in favour of development and the 'tilted balance' is engaged. This requires that permission should be granted unless any adverse impacts of doing so would significantly

and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

24. The development would provide some benefits in terms of delivering an additional employment site that is more accessible to the appellants' existing workforce, thereby reducing journey to work times, congestion, emissions and potentially allowing the business to grow. There would also be minor benefits to the local rural economy in relation to short term employment in the construction industry and longer-term support to shops and businesses through increased economic activity.
25. Given the likely levels of vehicular movements compared to those associated with the existing use of the site I have found no material harm arising by virtue of the site's lack of accessibility to local facilities and services. However, the lack of harm in this respect is neutral and does not weigh positively in the planning balance.
26. Moreover, Policies RLP90 and CS9 seek a high standard of design and layout. This is fundamental to achieving sustainable development and these policies are consistent with the Framework. I have found that there would be significant harm to the character and appearance of the area as a result of the development proposed and given the prominence of the site in the surrounding area and the conflict with the development plan policies it is attributed substantial weight.
27. The adverse impacts identified above would therefore significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposed scheme would therefore not result in sustainable development for which there is a presumption in favour.

Conclusion

28. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Mark Caine

INSPECTOR