
Appeal Decision

Site visit made on 8 February 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2021

Appeal Ref: APP/Z1510/W/20/3259451

Nether Hall Farm, Nether Hill, Gestingthorpe CO9 3BD

- 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 Frank Ladkin (FC Ladkin Farms) against the decision of Braintree District Council.
 - The application Ref 20/00864/FUL, dated 3 June 2020, was refused by notice dated 21 August 2020.
 - The development proposed is described as single storey side extension to provide additional workshop space and office.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's emerging Local Plan has been submitted for examination. The examining Inspector has identified necessary modifications, and there is currently no timescale for its adoption. Accordingly, the policies in the emerging plan attract limited weight.

Main Issues

3. The main issues are:
 - Whether the appeal site accords with relevant local policies regarding location; and,
 - The effect of the development proposed on biodiversity and the natural environment.

Reasons

Location

4. The appeal site is a former agricultural building now in use as a joinery workshop following the grant of planning permission. Policy 40 of the Braintree Local Plan 2005 (the LP) states that where permission is granted for the re-use of a rural building, further development by way of extensions, rebuilding or redevelopment will not be permitted. This is an absolute restriction on future development and makes no allowance for changing circumstances.

5. Policies RLP2 of the LP and CS5 and CS7 of the Braintree Core Strategy 2011 (the CS) further state that new development will be confined to designated settlements, that in the countryside only appropriate development will be allowed, and that future development will be provided in accessible locations to reduce the need to travel.
6. The appeal site is located outside of any designated settlement in a rural location, nor is it adjacent to any such settlement. Most customers to the site are likely to rely on private transport as there is no suggestion that the site is accessible by public transport, and therefore the site is not in an accessible location that reduces the need to travel.
7. The appeal site therefore fails to accord with LP Policies 40 and RLP2 and CS Policies CS5 and CS7, the requirements of which are set out above.

Biodiversity and the natural environment

8. Bats have been recorded in the local area. In addition, Belchamp Brook lies a short distance from the site and as a may provide a habitat for protected species. The development is relatively small in scale, but no evidence has been provided to show that no harm would result to bats or the potential habitat. *Circular 06/2005: Biodiversity and geological conservation – Statutory obligations and their impact within the planning system* states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
9. There is a bank of established trees immediately next to the site of the proposed extension. These contribute significantly to the character of the area, screening the building from view from the road. The appellant has indicated that these could be protected during construction of the extension, but no details of how this would be achieved have been provided. Given the importance of this bank of trees to screening the building in the surrounding area, even if I were otherwise minded to allow the appeal I do not consider that it would be appropriate to address this matter through use of a planning condition as I cannot be certain that adequate protection of the trees can be secured in the absence of any submitted evidence.
10. In the absence of the necessary information, it is not possible to conclude that the development proposed would not cause unacceptable harm to biodiversity and the natural environment. It therefore conflicts with LP Policies RLP36, RLP80, RLP81, RLP84 and RLP90 and CS Policies CS5 and CS8.

Other Matters

11. Both parties have referred to other appeals at the site. However, the details of those cases are not before me, and in any case each appeal must be determined on its own merits.

Planning Balance

12. Taken together, the development plan policies direct development towards more accessible locations other than for certain exceptions considered appropriate in the countryside and require that development not be harmful to biodiversity. Of these policies, LP Policy 40 specifically addresses the

enlargement of converted rural buildings. While the development plan policies overall direct expanding businesses towards more accessible locations, the inflexibility of LP policy 40 is not consistent with the objective of the National Planning Policy Framework (the Framework) to support a prosperous rural economy, even in locations beyond existing settlements and that are not well served by public transport. Accordingly, the conflict with this policy with respect to the development's location only attracts limited weight in the determination of the appeal. However, the development plan policies addressing biodiversity are consistent with the aims and objectives of the Framework, and therefore the conflict with these policies attracts full weight.

13. The development proposed would be a relatively modest and subordinate extension to an existing building that would allow the creation of new jobs within the business. In addition, the development would allow greater social distancing for workers. There are no other buildings available within the site that could be used to provide the additional space for which permission is sought.
14. If the matter of location was the only conflict then in this instance there would be no harm that would significantly and demonstrably outweigh the resulting benefits of the appeal proposal when assessed against the policies of the Framework, taken as a whole.
15. However, from the evidence submitted it is not clear that the development would not have a harmful effect on biodiversity, including the adjacent bank of trees and protected species in the vicinity of the appeal site. Therefore, the application of policies in the Framework does provide a clear reason for refusal.

Conclusion

16. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR