



Appeal Decision

Site Visit made on 18 May 2021

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2021

Appeal Ref: APP/Z1510/W/20/3265918

Lodge Farm, The Ryes, Little Henny CO10 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr S Collins against the decision of Braintree District Council.
 - The application Ref 20/01436/FUL, dated 31 August 2020, was approved on 27 October 2020 and planning permission was granted subject to conditions.
 - The development permitted is erection of detached storage barn.
 - The condition in dispute is No 4 which states that: The building hereby permitted shall be used only for storage purposes ancillary to the use of the dwelling known as Lodge Farm and for no other purpose, including commercial use.
 - The reason given for the condition is: In the interests of the countryside location and the amenity of neighbouring residential properties.
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Decision

1. The appeal is allowed and the planning permission Ref 20/01436/FUL for erection of detached storage barn at Lodge Farm, The Ryes, Little Henny, CO10 7EA granted on 27 October 2020 by Braintree District Council, is varied by deleting condition 4 and substituting it for the following condition:
 - 1) The building hereby permitted shall be used only for storage purposes and for no other purpose, including commercial use.

Main Issue

2. The main issue is whether the condition is necessary having regard to the living conditions of neighbouring occupiers.

Reasons

3. Planning permission was granted for the erection of a barn within a red boundary that includes the host dwelling, Lodge Farm. From the evidence, the appellant intends to use the barn for the storage of equipment used to maintain the adjacent land which is used for equestrian purposes as well as the land within the red line.
 4. Condition 4 states that the building hereby permitted shall be used only for storage purposes ancillary to the use of the dwelling known as Lodge Farm and for no other purpose, including commercial use.
 5. Since the maintenance of the adjacent land would not be ancillary to Lodge Farm, the storage of equipment used for such purpose would conflict with this condition.
 6. The reason given for the condition was that it is in the interests of the countryside location and the amenity of neighbouring residential properties.
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There are a number of dwellings near the site such that any commercial activity that may arise from the building may cause harm to the living conditions of neighbouring occupiers with regard for noise.

7. However, since a storage purpose that is not ancillary to the use of the dwelling would not necessarily cause undue noise and activity, restricting the storage purpose accordingly would not be necessary in order to safeguard the living conditions of neighbouring occupiers provided that the equipment is not used for commercial purposes.
8. Consequently, Condition 4 is not necessary having regard to the living conditions of neighbouring occupiers. A condition which restricts the use of the building to a storage use and for no other purpose including commercial use would be necessary to safeguard the living conditions of neighbouring occupiers with regard for noise.

Other Matters

9. I acknowledge the history of the application including the red line boundary. I also note the evidence regarding an application for a Lawful Development Certificate for an Existing Use. However limited information is before me and from the evidence that application has not been determined. Therefore, these matters have not altered my overall decision.

Conclusion

10. For the reasons given above I conclude that the appeal should succeed but only in respect of removing the requirement for the storage purpose to be ancillary to Lodge Farm. I will vary the planning permission by deleting the disputed condition and substituting another.

R Sabu

INSPECTOR