



Appeal Decision

Site visit made on 13 September 2022

by Philip Mileham BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal Ref: APP/C1570/W/21/3287385

Plot A, Land to the West of The Vales, Radwinter Road, Ashdon CB10 2LZ

- 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 Christopher Luscombe against the decision of Uttlesford District Council.
 - The application Ref UTT/21/2047/FUL, dated 18 June 2021, was refused by notice dated 20 August 2021.
 - The development proposed is the change of use from agricultural to residential and light industrial, erection of 1 no. detached dwelling and 1 no. glassblowing workshop and gallery.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural to residential and light industrial, erection of 1 no. detached dwelling and 1 no. glassblowing workshop and gallery at Plot A, Land to the West of The Vales, Radwinter Road, Ashdon CB10 2LZ in accordance with the terms of the application, Ref UTT/21/2047/FUL, dated 18 June 2021, subject to the conditions listed in the schedule at Appendix A.

Preliminary Matters

2. The documentation submitted with the appeal has been made in the name of Mr Christopher Luscombe however the application form is in the name of Mr Barrie Luscombe. It has been confirmed that Mr Christopher Luscombe and Mr Barrie Luscombe are the same person and the applicant's full name is Mr Christopher Barrie Luscombe. I have therefore utilised the name Mr Christopher Luscombe in the heading above.
3. During the course of the appeal, the appellant has provided plans showing the available visibility splays having regard to the comments submitted by Essex County Council as Local Highway Authority in their third party representations and I have had regard to them in reaching my decision.
4. The Council's decision notice refers to the 2019 National Planning Policy Framework (the Framework) and specifically, paragraph 109. A revised Framework was published in 2021 and as a result, a number of paragraph references have changed including paragraph 109 which has now become paragraph 111. As a result, I have utilised the paragraph references from the latest version of the Framework where appropriate.

Main Issues

5. The main issues are:

- Whether the proposal is in a suitable location for residential and business development having regard to local and national policy;
- The effect of the proposed development on the character and appearance of the area; and
- The effect of the proposed development on highway safety having regard to visibility.

Reasons

Suitable location

6. The appeal proposal includes a residential element for the erection of a single dwelling. Policy H1 of the Uttlesford Local Plan (2005) (the ULP) sets out the spatial strategy for the area whilst policy S7 addresses development in the countryside. Policy S7 allows for proposals to be permitted where development needs to take place there. As a result, the policy takes a more restrictive approach to rural development than the Framework. As a result, the policy is inconsistent with the Framework and is thereby out of date as a result.
7. The proposed development would be located outside of the settlement boundary for the village. There are a number of adjacent commercial buildings and directly opposite the site is a residential property. The proposed dwelling would be also located adjacent to the property known as 'The Vales' and would therefore not result in an isolated dwelling which paragraph 80 of the Framework seeks to avoid.
8. The appeal site would be located some distance away from the main part of the village. There is no evidence before me of the extent of services and facilities in the village and whether these would be sufficient to meet the day-to-day needs of future occupiers of the proposed dwelling. There is no footpath or streetlighting along Radwinter Road and this would limit its attractiveness for trips by walking or cycling, particularly outside daylight hours. The appellant's transport statement indicates that opportunities for public transport would be limited. Therefore, future occupiers would be likely to use private vehicles to access services and facilities in larger settlements nearby such as Saffron Walden.
9. The proposed glassblowing workshop and gallery would cater for small groups with around 2-3 visitors anticipated at any time. Whilst visits to the glassblowing workshop would likely be made by private vehicles, the limited numbers of proposed users at any one time would generate relatively few private vehicle trips. Due to the small number of visitors, I consider the number of trips generated would not be at a level that would be harmful.
10. Having regard to the location of the proposed glassblowing workshop and gallery, it would be sited adjacent to existing commercial buildings. There is no dispute between the parties that in terms of its location, the proposed glassblowing workshop would accord with the Development Plan.
11. Paragraph 84 of the Framework indicates that decisions should enable the growth and expansion of all types of businesses in rural areas through conversion of existing buildings and well-designed new buildings. Furthermore, paragraph 85 of the Framework indicates that planning decisions should recognise that sites to meet local business and community needs in rural areas

may have to be found adjacent or beyond existing settlements and in locations that are not well served by public transport. In this regard, the proposed glass blowing workshop would result in the creation of a new small business unit within the countryside. The workshop would support economic growth in the rural area and would therefore accord with the Framework in this respect.

12. Whilst the suitability of the proposed glassblowing workshop is not in dispute, when considered in the round, I conclude that the proposal would not be in a suitable location for new residential and business development having regard to local and national policy. As a result, it would fail to accord with policies H1 and S7 of the ULP which set out the strategy for development in the area and seek to strictly control new development in the countryside.

Character and appearance

13. The appeal site would be located on a plateau where long views are possible towards the south over the adjacent agricultural land. The proposed dwelling would be single storey and as a result, whilst some cross-valley views would be possible, these would be limited and confined to glimpses by passing traffic or pedestrians using Radwinter Road. Therefore, although the appeal site is located on the plateau, the extent of existing and proposed planting on site would provide some screening of the proposed dwelling, reducing its impact.
14. The proposed dwelling would be located to the rear of an existing dwelling known as 'The Vales'. The pattern of development along Radwinter Road in the vicinity of the site is of broadly linear development along the road frontage. Due to the siting of the proposed dwelling, it would project development to the rear of the existing dwelling, extending development further into the countryside along the adjacent Water End Road that runs alongside the site boundary. As a result, it would appear discordant with the linear pattern of development in the area.
15. The proposed dwelling would introduce a residential development on to the site which would likely include paraphernalia such as refuse storage, children's play equipment and outbuildings. These would change the character of the site from its current predominantly verdant state to a more domestic character resulting in some limited urbanisation of the site. This urbanisation would lessen the sense of transition between the small cluster of development in the vicinity of the site and the surrounding rural area.
16. The proposed glassblowing workshop would infill the space between The Vales and the adjacent agricultural buildings. This part of the site contains mature trees and vegetation, and whilst some of this would be lost as a result of the proposed workshop, a significant amount of planting would remain along its access drive and to the rear of the workshop. The proposed planting would also soften the effect of the proposed workshop building limiting the extent of urbanisation of the site arising from an additional building on the frontage of Radwinter Road.
17. The design and materials of the proposed glassblowing workshop differ from nearby agricultural and commercial buildings. However, the scale of the proposed workshop would be acceptable and whilst the materials to be used would not wholly reflect the pallet of materials in the vicinity, it would appear as a contrasting building reflecting its proposed commercial use. In light of this, I consider its scale and appearance would accord with the adjacent commercial

buildings and the mix of buildings in the vicinity. However, these factors do not alter the harm I have identified above in relation to the pattern of development and the character of the area.

18. Concerns have been raised in respect of the effect of the proposal on the setting of nearby heritage assets, namely the Grade II Listed property known as 'Goldstones', the Grade II Listed Barn to the south west of Goldstones and the Grade II Listed property known as 'Summer Hill'. The significance of these buildings is derived from, amongst other things, their architectural detailing and their construction. I consider the proposal would not result in any harm to their settings due to the significant distances between the different components of the appeal proposal to these heritage assets along with the intervening screening. The proposal would therefore accord with policy ENV2 of the ULP which indicates that development adversely affecting the setting of a Listed Building will not be permitted.
19. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving the building or its setting, to which I attached considerable importance and weight.
20. In light of the above, whilst the proposal would not affect the setting of nearby listed buildings and thereby accord with ENV2 of the ULP, when considered in the round I conclude that the proposal would nonetheless result in harm to the character and appearance of the area. It would therefore fail to comply with policies S7 and GEN2 of the ULP which seek to protect the countryside for its own sake and that development is comparable with the scale, form, layout, appearance and materials of surrounding buildings.

Highway safety

21. The proposed development would be accessed via an existing driveway entrance adjacent to The Vales. Radwinter Road is an existing single carriageway where a speed limit of 60 miles per hour is in force in the vicinity of the appeal site. During the appeal process, Essex County Council as the Local Highway Authority has made third party representations in relation to southbound visibility splays being insufficient from the site entrance.
22. The appellant has provided evidence in respect of calculations of the traffic speeds in the vicinity of the appeal site based on a local traffic speed survey as required by the Design Manual for Roads and Bridges (DMRB). The DMRB allows a departure from standards based on the 85th percentile of traffic speeds which would require visibility splays of 2.4 metres by 118 metres southbound and 141 metres northbound. The appellant has provided drawings showing that a visibility splay of approximately 2.4 metres by approximately 258 metres can be achieved southbound and a technical note showing approximately 141 metres northbound. These include land within the appellant's ownership and highway land and would meet the required standard. Having observed the proposed visibility splays on site and having regard to the drawings provided as part of this appeal, I consider that there would be sufficient visibility in both directions for vehicles entering and exiting the site as well as to allow visibility to traffic already on the highway. I therefore consider that the proposal accords with the DMRB and the proposed visibility splays would be capable of being secured through planning conditions.

23. In light of this, I conclude that the proposed development would not result in harm to highway safety having regard to visibility. It would therefore accord with the Highway Authority's Development Management Policies Supplementary Planning Guidance (2011) and policy GEN1 of the ULP which seek to ensure that the design of proposal must not compromise road safety.
24. The proposal would also accord with paragraph 111 of the Framework which states that development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety and the DMRB which seeks to ensure suitable visibility splays are provided to accompany development proposals.

Other Matters

25. The appeal proposal would result in a number of benefits. Economic benefits would arise as a result of the operation of the proposed glassblowing workshop and gallery through commerce, and there would be further benefits via the creation of jobs in construction and in the accompanying supply chain. Whilst the latter would be temporary during construction, the commerce benefits of the glassblowing workshop and gallery would be felt for the duration of the business. Social benefits would arise as a result of future occupants of the dwelling utilising local services and facilities and participating in community activities. Environmental benefits would arise through the creation of additional planting and ecological enhancement measures which would be secured via planning conditions.

Conditions

26. The Council has suggested conditions which the appellant has had the opportunity to comment on. I have considered these against the advice in the Framework and the Planning Practice Guidance and have only imposed them where I consider them to meet the tests, amending them where necessary for the sake of clarity and precision.
27. In addition to the standard time limit, in the interests of certainty I have imposed a condition specifying that the development is carried out in accordance with the submitted plans.
28. A condition requiring the approval of the materials was sought, but as materials are described on the application form this is not necessary. In order to ensure the character and appearance of the area is maintained, a condition is necessary to secure the details of the hard and soft landscaping measures to be used. I have amended this condition to remove criteria which required the details to be submitted of boundary treatments, trees and hedgerows to be retained and details of planting to enhance biodiversity which would be secured via the approved plans specified in another condition.
29. In the interests of the conservation and enhancement of protected and priority species, a condition is necessary requiring works be carried out in accordance with the details in the Ecological Assessment. For the same reason, a pre-commencement condition is necessary for the securing of a mitigation licence for any works which may affect the breeding or resting of Great Crested Newts. This is required to be pre-commencement to avoid the potential that any commencement works may result in harm and to comply with legislation to

which the appellant has agreed. For the same reason a condition is required for the approval of a lighting design scheme for biodiversity.

30. In the interests of highway safety, conditions are necessary for the laying out and maintenance of parking and turning areas, the establishment and subsequent maintenance of visibility splays, the driveway width, suitable bound materials, requirements in respect of the distance of any gates installed from the highway and that there be no discharge of surface water on to the highway.
31. In the interests of the living conditions and health of future occupiers and nearby residents, conditions are necessary to address any unexpected contamination, the control of the use for the glassblowing workshop which I have amended to remove a tailpiece, its opening times and restriction of the use and storage of associated plant and machinery on site.
32. A condition was sought for electric vehicle charging points however this is not necessary as since June 2022 this requirement is addressed via changes to the Building Regulations and is therefore not imposed.

Conclusion and planning balance

33. The proposed development would result in the creation of an additional dwelling as well as providing economic benefits as a result of the proposed glassblowing workshop.
34. As set out above, I have identified harm to the character and appearance of the area and in respect of the location of development for the residential element of the appeal proposal.
35. There is no dispute between the parties that the Council is currently unable to demonstrate at least 5 years land supply that the Framework requires. As such, the tilted balance set out at paragraph 11(d) of the Framework is engaged and the key policies for determining the proposal are considered to be out of date and their weight consequently reduced.
36. The extent of the current shortfall in housing land supply is significant being confirmed in the Council's appeal statement as being approximately 3.52 years. Therefore, whilst the proposal would only result in the creation of a single dwelling, in light of the extent of the shortfall of housing land supply, I have afforded this significant weight. I have also attached significant weight to the economic benefits of the glassblowing workshop.
37. The extent of the harms I have identified above regarding the location of development and to the character and appearance of the area would be moderate. However, due to the relevant policies for these matters being considered out of date, their weight is reduced and I find that the conflict with the development plan when read overall would be limited.
38. Taking the above matters in the round, it is my judgement that the proposals' benefits would outweigh the harms identified above and the conflict with the development plan, thereby providing a compelling case for allowing the appeal.
39. Therefore, in light of the above the appeal is allowed.

Philip Mileham

INSPECTOR

Appendix A – Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 01 – Site Plan
 - 40-001A – Location Plan
 - 40-002A – Existing Block Plan
 - 40-003A (Rev D) – Proposed Site Plan
 - 40-004A (Rev C) – Proposed Ecology Plan
 - 40-005A (Rev C) – Proposed Tree Coverage Plan
 - 40-006A – Heritage Assets Plan
 - 40-007A (Rev B) Visibility Splay
 - 40-008A – Drainage Plan
 - 40-009A – Proposed Floorplans
 - 40-010A – Proposed Elevations
 - 40-011A (Rev B) – Proposed Elevations and Floorplan
- 3) Prior to commencement of development above slab level, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include:-
 - a) Proposed finished levels
 - b) Hard surfacing, other hard landscape features and materials
 - c) Planting plans, including specifications of species, sizes, planting centres, number and percentage mix
 - d) Details of siting and timing of all construction activities to avoid harm to all nature conservation features
 - e) Location of service runs
 - f) Management and maintenance details.
- 4) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Southern Ecological Solutions Ltd., June 2021) as already submitted with the planning application.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

- 5) Prior to the commencement of the works hereby approved the submission of a copy of Natural England's Mitigation Licence for Great Crested Newts shall be submitted and approved by the Local Planning Authority. Any works which will impact the breeding / resting place of Great crested newt, shall not in in any circumstances commence unless the local planning authority has been provided with either:
- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
 - b) a method statement relating to a registered site supplied by an individual registered to use a Great Crested Newt Low Impact Class Licence; or
 - c) a GCN District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
 - d) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.
- 6) Prior to the occupation of the development hereby approved a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.
- All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.
- 7) Before the dwelling and glassblowing workshop building hereby approved is occupied, a suitable surface area shall be provided and thereafter maintained to the satisfaction of the Local Planning Authority, within the curtilage of the site to enable a vehicle to turn and leave the site in a forward gear.
- 8) The parking area shown on the approved plan shall be provided prior to the first occupation of the dwelling and glassblowing workshop building and shall be free of obstruction for the parking of residents and visitors vehicles.
- 9) Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay of 118m to the south and 141m to the north along Radwinter Road shall be provided and retained free of any obstruction at all times.
- 10) Prior to the occupation of any of the proposed dwellings, the proposed shared private drive shall be constructed to a width of 5.5 metres for at

least the first 6 metres from the back of carriageway and provided with an appropriate vehicular crossing of the verge.

- 11) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 12) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
- 13) There shall be no discharge of surface water onto the Highway.
- 14) If during any site investigation, excavation, engineering, or construction works evidence of land contamination is identified, the applicant shall notify the Local Planning Authority without delay. Any land contamination identified, shall be remediated to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.
- 15) The building hereby approved for light industrial as indicated on drawing ref: 40- 003A REV D shall only be used for glassblowing workshop and for no other purpose.
- 16) The glassblowing workshop building hereby permitted shall not operate outside of the hours 07.00-1830 Monday - Friday and 07.00-13.00 on Saturday, and at no time on Sundays, Public or Bank Holidays.
- 17) No power tools, equipment, machinery or plant of any kind shall be used associated with the glassblowing workshop building at any time anywhere on the site except within the buildings hereby permitted. All associated plant and machinery associated with the glassblowing workshop building shall not be stored outside of the building.