



Appeal Decision

Site visit made on 8 November 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal Ref: APP/Z1510/W/21/3283875

Oaklands, Shardlowes Farm, Hedingham Road, Gosfield CO9 1PL

- 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 Roger White against the decision of Braintree District Council.
 - The application Ref 20/00915/FUL, dated 5 June 2020, was refused by notice dated 1 April 2021.
 - The development proposed is described as Erection of workshop for service and repair work on high performance sports cars.
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Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. The wider plot in which the appeal building is situated includes a dwelling, accesses, hardstandings, garaging and former holiday let buildings. These are within the red line plan. However, the description of development and question 17 of the application form makes it clear the application seeks permission for the building only. The form states the development commenced on 1 March 2020. A building has been built out in general conformity with the dimensions on the submitted plans. I have considered the appeal on this basis.
3. There is understood to have once been some hardstandings and a smaller agricultural building north of the appeal building, indicated on plans for a refused 2015 application. I have no evidence explaining when it was removed, or demonstrating this proposal is a replacement building. The Council states prior to the introduction of the operations, the red line area was used for holiday lets and residential use only. The appellant has not provided substantive evidence that would lead me to the view this is incorrect. The application form states the former use of the building location is 'Residence of applicant'. I have considered the appeal on this basis.
4. The appellant's appeal statement proposes wooden cladding to the building, that could be secured by a condition. The Procedural Guide: Planning Appeals – England (2022) states the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector is essentially what was considered by the Local Planning Authority, and on which interested people's views were sought. At my visit a substantial proportion of the building had been clad, which considerably changed the appearance of the building from that on the submitted plans. This is a significant and material change.

Therefore, taking into account the Wheatcroft¹ principles, I have considered the appeal based upon the scheme submitted to and determined by the Council.

5. Since the Council's decision was issued, the Braintree District Local Plan (2022) (the BDLP) has been adopted. Its policies supersede those of the Braintree District Local Plan Review (2005) and the Braintree District Local Development Framework Core Strategy (2011), and it integrates the policies of the Braintree District Shared Strategic Section 1 Local Plan (2021). Therefore, my assessment is made against these adopted policies. I have sought and taken into account the Council's and the appellant's views upon the implications of the adoption of the BDLP, which are reflected in my findings below.

Main Issues

6. The main issues are:

- whether or not the development is compliant with policies for the location of new development;
- the effect of the development upon the character and appearance of the area; and,
- the effect of the development upon the living conditions of the occupiers of Oaklands with particular reference to noise and disturbance, and other pollution.

Reasons

Location

7. Policy SP3 of the BDLP explains that existing settlements will be the principal focus for additional growth and development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role. Supporting text to Policy LPP1 of the BDLP explains that the development boundaries provide a guide to where the Council believes new growth should be directed. The appeal building is in open countryside approximately 120m north of the designated settlement boundary of Gosfield. Gosfield is a third tier village, which the BDLP identifies as being the smallest villages, typically lacking most facilities to meet day to day needs and often with poor access to public transport. From what I saw and the evidence before me there is nothing to suggest Gosfield is not typical of this description.
8. Given the gap between the appeal building plot and the designated village to the south and west it is not adjoining the designated village. Between the appeal site and the scrap/timber/storage area, and the village boundary there are open and undeveloped areas of land including grassland, garden land and woodland. Their size and position in relation to both the appeal building and associated land, means that while it might be reasonably well related to the village, it cannot be considered as adjoining a settlement as I saw it on the ground. Therefore, it does not gain support from this aspect of Policy SP3.
9. Policy SP3 advises beyond the main settlements, diversification of the rural economy will be supported. There are former holiday lets on the plot, but there is no explanation of the linkage between them and this building and how this building supports the diversification of that letting business. Indeed, by

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37].

virtue of the increased activity of a seemingly unrelated business, this appeal proposal could be considered to work against that established use. Therefore, the building is not supported by this part of Policy SP3.

10. Policy LPP1 advises that development will be confined to uses appropriate to the countryside whilst protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, to protect the intrinsic character and beauty of the countryside. Policy LPP2 seeks to retain existing employment areas where they continue to offer a viable and sustainable location for such employment uses. Policy LPP7 advises outside development boundaries, proposals for small-scale commercial development, which involve the conversion and re-use of existing buildings that are of permanent and substantial construction and capable of conversion without complete re-building, will be considered acceptable subject to three criteria.
11. This proposal is for new business use and not retention of an existing one. It is not demonstrated that this business is appropriate to a countryside location. The proposal is not for the conversion and re-use of an existing building. For these reasons, the proposal does not gain support from Policies LPP2 and SP3, and it also conflicts with the aims of Policies SP3, LPP1 and LPP7.
12. There is in principle support from the National Planning Policy Framework (2021) (the Framework) from paragraph 81, which expects decisions help create conditions in which businesses can invest, expand and adapt, with significant weight placed on supporting growth and productivity. Decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings (paragraph 84). Sites to meet local business and community needs in rural areas may have to be found beyond existing settlements, although (amongst other things) development should be sensitive to its surroundings (paragraph 85). Whether or not it complies with paragraphs 84 and 85 my conclusions in respect of the next main issue are determinative.
13. However, the proposed development is not supported by or compliant with development plan policies for the location of such development. It conflicts with the aims of policies LPP1 and LPP7 of the BDLP, and does not gain support from Policy LPP2, the relevant provisions of which I have referred to above. While it is supported in principle by broad policies of the Framework, whether or not it complies with paragraphs 84 and 85 will be considered below.

Character and appearance

14. The north, south and west the site is set within a predominantly pastoral and arable landscape of fields and meadows set within mature hedgerows and occasional residential dwellings and outbuildings. Some dwellings within the village are visible further to the south. The other existing site buildings include brick, render, weatherboarding and tile roofs with a limited bulk and a generally domesticated appearance as a result of the composition and proportions of the elevations, their scale and materials. From what I saw this is broadly reflective of many of the residential and small commercial or agricultural buildings adjoining the east of the plot.
15. Further east I saw the complex of industrial buildings, stored cars and timber, and smaller units and containers. This complex has an industrialised character and appearance. However, it is only a comparatively small part and does not

form the prevailing character and appearance of the area. Moreover, it is some distance from the appeal site and given the intervening buildings, open land and mature woodland areas, it is distinct from and does not form a significant part of the immediate visual context.

16. Based upon the evidence before me, the appeal building was erected on grassland south of the existing buildings. Given its significant width, depth, height and materials it results in a significant incursion of new built development further into open countryside. It appears of a significantly larger scale, distinctly more industrialised and utilitarian character and appearance than existing site buildings. Therefore, the building cannot be considered to be well designed or sensitive to its context, and it is significantly harmful to the character and appearance of the area.
17. The harm is visible from open land at close proximity to the south, east and west. There are limited filtered views beyond the wider hedge line, to the south and west, from a number of residential dwellings and parts of Hedingham Road, and some limited visibility from the access road which is a public footpath. There is little by way of landscaping immediately surrounding the building. Given the building height and surrounding land levels it is likely that any landscaping scheme in keeping with the surroundings would take a considerable number of years to have a meaningful beneficial effect, and may not fully mitigate the harm.
18. For the reasons set out above the building is significantly harmful to the character and appearance of the area. It conflicts with Policy LPP52 of the BDLP which, amongst other things, requires development is of a high standard of architectural quality, design and scale that reflects, enhances and is in harmony with the character and appearance of its surrounds. It also conflicts with paragraph 130 of the Framework insofar as this requires development is sympathetic to local character, visually attractive as a result of good architecture, with appropriate and effective landscaping. In-light of my findings above the development conflicts with paragraphs 84 and 85 of the Framework as it is not sensitive to its surroundings.
19. The Council's decision notice refers to Policy LPP71 of the BDLP. However, this is not specifically explained or reasoned in the delegated report or appeal statement, and given the change in numbering of the adopted plan it is not clear which policy this now is. Therefore, I have not concluded against it.

Living conditions

20. The commercial uses to the east and surrounding highways resulted in there being a moderate ambient noise level in the surrounds of the residential property at my visit. Activities in the building were not audible above this at the time of my visit. However, there is no formal noise assessment before me demonstrating what I experienced is typical of the building and surrounds.
21. As well as some comings and goings, the nature of the use is likely to require the use of machinery for some tasks and sudden louder noises from bodywork or mechanical repairs, although I am informed many tasks will be quiet ones, so this may only occur for a proportion of time.
22. The hours of use could be controlled by a suitably worded planning condition. There might be some scope for acoustic mitigation inside the building and the

containment of noisier activities with the doors shut, although it is not clear this is achievable while providing satisfactory working conditions in hot weather. However, the dwelling of Oaklands and its garden is very close to the west of the building. Were dwelling windows to be open or the existing or future occupiers using the garden, I cannot be satisfied based upon the limited evidence before me that noise would not be frequently audible and intrusive.

23. Therefore, based upon the evidence before me, I cannot be certain the development would not cause harmful living conditions to the occupiers of Oaklands. For these reasons, I also cannot be certain the use is a Class E use, rather than Class B2 which the appellant listed on the application form.
24. While at the present time the dwelling is in the ownership of the appellant, that they would continue to occupy or own both the dwelling and business in the future, is not certain. What may be tolerable to an existing occupier, may not be tolerable to another if the ownership were to be separated in the future.
25. The Council as referred to its concerns in respect of a number of other emissions to air, although they do not substantiate or reason these concerns. Neither has the appellant provided me with substantive discussion or mitigation for such emissions. However, there is nothing of substance before me to suggest the effects would be significant or they could not be adequately controlled in accordance with development plan and Framework policies, by suitably worded planning conditions. Were this the case, these would be a neutral matter in the planning balance. However, this would not mitigate or overcome the other harm that could arise.
26. For the reasons set out above, I cannot be certain the development would not result in harmful living conditions to the occupiers of Oaklands with particular reference to noise and disturbance. Therefore, it would conflict with the aims of paragraph 130f) of the Framework which expects development to create places that provide a high standard of amenity for existing and future users.

Other Matters

27. The appellant is open to erecting a building similar to the appeal building under Class E of Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended). It would have to be for a purpose incidental to the enjoyment of the dwellinghouse, no more than 2.5m in height to the eaves and no more than 4m overall if it were 2m or more from the boundary. If within 2m it could be no more than 2.5m in height. I am satisfied there is a greater than theoretical possibility of this taking place.
28. There would need to be a significant reduction in height and to be over 2.5m in height an elevation would need to be moved. The commercial element would need to cease, and the hobby use would need to be deemed incidental to the enjoyment of the dwellinghouse. While there could be re-purposing of existing materials, that development would require some significant investment of time and resources. The incidental use suggests that much of the income that the current buildings activities generate could not be generated by a new building.
29. While it could be of a larger floor area, the reduced height would limit its visual impact. I have not been provided with plans of a scheme showing a building that would allow me to conclude a scheme is ready to be implemented. Taking

all the matters advanced into account, on-balance, I attribute this fallback position limited weight.

30. Further to the east is a Grade II Listed Building known as 'Shardlowe's Farm Barn Approximately 50 Metres East of Farmhouse'. Given the distance, position, intervening buildings and woodland there is no direct intervisibility between the heritage asset and the appeal building. Therefore, the appeal building does not result in harm to the setting and significance of the designated heritage asset.

Planning Balance

31. Activities based at the building employ 5 people associated with the lift maintenance business and two full-time, two part-time and two vacancies (pending certainty over the building future) associated with car maintenance. There is no substantive evidence demonstrating the businesses and employees could not be accommodated at another site and they are dependent upon the building being located where it is. There would have been temporary economic benefits during constriction. The economic and social benefits are such that they attract moderate weight in favour of the development.
32. As I have not been provided of the home locations of the employees, it is not demonstrated the appeal building is a significantly more convenient location offering any overall sustainable transport benefits. In the absence of substantive evidence to the contrary, this is a neutral matter. Were I to agree the development is or could be made compliant with policies related to matters such as highway access and safety, parking, and contamination, these would be neutral matters. Compliance with policies in respect of matters such as ecology, drainage and the living conditions of wider occupiers, would also be a neutral matter.
33. The policy compliance and benefits of the development and the fallback position are such that overall, they attract moderate weight in favour of the scheme. However, the development conflicts with policies for the location of such development. It is significantly harmful to the character and appearance of the area, and I cannot be certain that it would not result in harmful living conditions to the existing or future occupiers of Oaklands. The nature of the policy conflicts and harm is such that it attracts significant weight against the scheme. Therefore, the fallback, the policy compliance and the benefits of the development are significantly outweighed by the harm.

Conclusion

34. The development is contrary to the development plan and the Framework taken as a whole. There are no other considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR