



Appeal Decision

Site visit made on 17 November 2022

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2023

Appeal Ref: APP/A1530/W/22/3290724

Bypass Nurseries, Dobbies Lane, Marks Tey CO6 1EP

- 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 Jason McAdam, on behalf of Nustone Products Ltd, against the decision of Colchester Borough Council.
 - The application Ref 211747, dated 18 June 2021, was refused by notice dated 30 September 2021.
 - The development proposed is change of use of land from garden nursery (sui generis) to B8 storage.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Jason McAdam, on behalf of Nustone Products Ltd, against Colchester Borough Council. This is the subject of a separate Decision.

Preliminary Matters

3. The Colchester Local Plan 2017-2033 Section 2 (Local Plan Section 2) was adopted in July 2022. The Council has confirmed that the policies they refer to from the Development Policies document (adopted 2010, amended 2014) and the Core Strategy (adopted 2008, amended 2014) are now superseded by the adoption of the Local Plan Section 2. The Council has provided copies of those policies from the Local Plan Section 2 which they consider relevant. I am required to consider the appeal in the context of the development plan currently in place and so I have disregarded the superseded policies. Both parties have had an opportunity to comment on the adoption of the Local Plan Section 2 and so are not prejudiced by this change.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal site comprises a rectangular area of grassland within a larger field. It is located outside of the settlement limits designated in the development plan albeit close to an employment zone. It is to the south-east of an existing employment site, operated by the appellant company Nustone, which contains

- a collection of small commercial buildings surrounded by external storage areas.
6. The approach to the site from Marks Tey along Old London Road is lined by dwellings, which give way to the employment uses closer to the appeal site. However, immediately opposite the site across Dobbies Lane is a similar area of grassland. Adjacent to Old London Road is the A12 dual carriageway with agricultural land, a small number of isolated houses and a petrol station beyond. To the south-west, beyond the wider field boundary and another small collection of houses, is further agricultural land. Despite some elements of urbanising development and the site's position on the edge of the built-up area, the surrounding area is therefore predominantly rural in character, and the site clearly contributes to this.
 7. Policy ENV1 of the Local Plan Section 2 states that development will only be permitted where it would not adversely affect the intrinsic character and beauty of the countryside. This policy seeks to control development outside of settlements to protect open stretches of countryside around and between exiting settlements to prevent coalescence and retain settlement identity. Any development outside of settlement boundaries must be compatible with local landscape character and setting.
 8. Policy DM6 of the Local Plan Section 2 seeks to maintain a balance between environmental considerations and appropriate business growth. In the cases of expansion of an existing business however, any new development will be expected to have adequate landscape mitigation to compensate for any additional impact upon the surrounding countryside.
 9. I saw on my site visit that the existing Nustone site featured numerous stacked pallets stored externally and several parked trailers. These have an urbanising effect on the otherwise predominantly rural landscape. However, the appeal site, along with other undeveloped land adjacent, provide a buffer that maintains separation between the existing Nustone site and the public highway, softening its influence on the character and appearance of the area and creating a softer edge to the wider settlement.
 10. The proposal comprises use of the site for external storage by Nustone, who specialise in supplying stone paving. To facilitate this, hardcore would be laid across the site. A new access to allow HGVs to enter the site from Old London Road and associated opening in the frontage would be provided. Stone slabs packaged in wooden crates would then be stored up to a height of 3 metres.
 11. The proposed site is separated from the existing storage site by grassland and so functionally the appeal proposal would appear as a separate operation. However, when viewed from Old London Road and the A12, it would bridge the existing undeveloped gap and bring development closer to these public vantage points. The proposal would therefore considerably erode the existing buffer that the appeal site and neighbouring land provides to the employment uses and other urbanising development behind. Although it would not result in coalescence, the proposal would nevertheless detract from the prevailing rural character and appearance of the area. The site's accessibility and proximity to existing employment and storage uses do not lead me to a different conclusion.
 12. The site does benefit from an appreciable amount of screening on two sides, and more could be secured by way of a planning condition. This would go some

way to mitigating the visual impact of the development and I recognise the proposed hard standing itself would not be particularly noticeable. However, the stored materials would likely be visible above the soft landscaping in places, and it seems to me that this screening may also be less effective in winter months. In addition, the opening in the frontage of the site onto Old London Road would allow views through.

13. I therefore find that the proposal would harm the character and appearance of the area, contrary to the aims of Policies ENV1 and DM6 of the Local Plan Section 2, as set out above. It is also contrary to Policies SP7 of the North Essex Authorities' Shared Strategic Section 1 Plan adopted February 2021 (Local Plan Section 1) and DM15 of the Local Plan Section 2. These policies, amongst other things, seek to ensure development proposals respect and, wherever possible, enhance the character of the site, its context and surroundings.

Other Matters

14. The appellant indicates that at no stage in the application process were they made aware of or provided with comments from the Council's landscape officer. However, this does not lead me to a different conclusion on the main issue.

Conclusion

15. This windfall storage scheme would result in some economic benefits through the provision of additional space for the established business, however there is no compelling evidence before me to demonstrate the proposal is essential to its operation. It has been put to me that the site is in an ideal location in respect of a sequential approach to providing such development and that a landscaping scheme could secure a significant increase in soft landscaping and biodiversity features. However, I do not find that these considerations would outweigh the identified harm and development plan conflict. While the proposal may comply with other national or local policy, the absence of development plan conflict or harm with respect to other relevant matters is neutral and weighs neither for nor against the proposal.
16. I have found no material considerations that indicate the proposal should be determined other than in accordance with the development plan, taken as a whole. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR