
Appeal Decision

Site visit made on 26 July 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 17th August 2023

Appeal Ref: APP/Z1510/W/22/3305804

Land North of Brooks Farm, Tumblers Green, Sisted, Essex CM77 8BA

- 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 Jacobs against the decision of Braintree District Council.
 - The application Ref 22/01232/FUL, dated 12 May 2022, was refused by notice dated 12 August 2022.
 - The development proposed is the erection of a log cabin to be used as temporary agricultural accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development cited on the appeal form has been adopted for reasons of conciseness and precision.
3. As part of the appeal application the appellant sought approval for the construction of a vehicular access. The appellant now states that there is no longer a need for the vehicular access and the access would remain on foot via a gap in the roadside hedge. Parking would occur within the unmade lay-by areas within the highway verges located close to the appeal site.
4. However, there are no observations from the Council as to whether such an amendment to the scheme would give rise to other objections or harms. There has also not been an opportunity for any amended scheme to be the subject of consultation, including with the Highway Authority. Accordingly, this appeal has been determined based upon the scheme assessed by the Council.

Main Issues

5. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the surrounding area and (b) the safety of other highway users.

Reasons

Character and Appearance

6. The appeal site is a plot of land which forms part of a larger field located within open and verdant countryside. There are sporadic built forms of development within the wider area comprising dwellings and agricultural buildings but these

are not readily seen from the site. Currently, the site is not enclosed by fences or hedges except along the road frontage. The site positively contributes to the open and verdant countryside.

7. There is an Article 4 Direction affecting the site which removes permitted development rights for the erection of temporary agricultural buildings. This Direction necessitates the submission of planning applications for such forms of development. Policy LPP1 of the Braintree District Local Plan (LP) refers to proposals outside development boundaries being confined to uses appropriate to the countryside. In principle, the erection of a building for agricultural purposes, including accommodation for a farm worker, would not conflict with national or local planning policies concerning development in countryside.
8. If specific criteria are met, a temporary rural worker's dwelling in the form of a wooden building, or other easily dismantled structure, may be granted for a period of up to three years under LP Policy LPP38. The criteria include clear evidence of a firm intention to develop the enterprise concerned and that the proposed enterprise has been planned on a sound financial basis.
9. The proposed development includes the erection of a timber cabin style building which would be used for a temporary period in connection with the use of the site for an existing viniculture enterprise. The appeal scheme would allow the appellant to provide overnight residential accommodation for security reasons to protect the grapevines, to enable early morning working toilet and to provide rest facilities for workers. There would also be space for the safe storage of equipment associated with the vinicultural use.
10. However, the site does not currently have the appearance of being actively used as a viniculture enterprise. Further, by reason of scale, the proposed cabin and off-street parking spaces would occupy a noticeable proportion of the site thereby reducing the potential area used to grow grapes.
11. Although the appellant has provided some evidence about expenditure to date, there is a lack of specialist evidence to explain how the vinicultural enterprise on the site is expected to grow, including the planting of the vines, the management of the vines during their initial growing period, when the first harvest is due and the financial standing of the enterprise going forward. These matters are pertinent to establish the need for, and potential size of, the proposed cabin, including the provision of the residential accommodation.
12. Accordingly, there is a lack of clear evidence required to demonstrate the firm intention to develop the enterprise on a sound financial basis and, as such, there is a conflict with LP Policy LPP38. In reaching this judgement it is acknowledged that there may not be any near-by dwellings which could be occupied by the appellant in association with the enterprise, including because of the sporadic nature of the existing built forms of development.
13. In the absence of the required clear evidence, the erection of the proposed cabin would introduce a built form of development into an area characterised as open and verdant countryside. The roadside hedge would afford some screening of the proposed cabin but the creation of a vehicular access would create a gap through which the structure would be seen. There would be unacceptable harm caused to the character and appearance of the surrounding area by reason of the scale and siting of the proposed cabin.

14. The use of timber clad walls would not sufficiently mitigate the identified harm. Further, planting would also not mitigate this harm, particularly because if a landscaping condition was imposed both the maintenance of the planting and the replacement of individual plants would normally only be secured for a period of 5-years.
15. Accordingly, and in the absence of the required clear evidence, on this issue it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would conflict with LP Policies LPP1, LPP38, LPP52 and LPP67. In addition to the matters already identified, these policies also refer to development reflecting or enhancing the area and new development proposals being informed by, and be sympathetic to, the character of the landscape.

Highway Safety

16. The appeal application was refused due to the lack of information concerning the proposed access and associated visibility splays. This remains the case and it is unclear whether there is the potential for a vehicle emerging from the proposed access not to be seen at an early enough opportunity by the driver of a southbound vehicle. Notwithstanding any specific concerns about landownership, the visibility splay to the north would be compromised by the horizontal alignment of the road and there would be a need to ensure any achievable splay would be appropriate for the speed of traffic along the road.
17. Based upon the siting of the proposed cabin and the indication of the potential number of workers, there would appear to be scope to provide sufficient on-site parking to meet the needs of a vinicultural enterprise undertaken on the site and, as such, there would not be a conflict with LP Policy LPP43. However, this matter does not outweigh the absence of appropriate visibility splays associated with vehicular access to the site.
18. In the absence of the necessary information, it is concluded that the proposed development would adversely affect the safety of other highway users and, as such, it would conflict with LP Policy LPP52. Amongst other matters, this policy refers to proposals not having a detrimental impact on the safety of highways. LP Policy LPP1 is not considered to be of direct relevance to this issue.
19. Accordingly, and for the reasons given, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR