



Appeal Decision

Site visit made on 8 August 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/C3620/W/22/3309585

Berry Farm, Blanks Lane, Newdigate Charlwood RH6 0ES

- 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 K M Lawal against the decision of Mole Valley District Council.
- The application Ref MO/2021/2387/PLA, dated 15 December 2021, was refused by notice dated 10 May 2022.
- The development proposed is Installation of one 20 ft. container for storage of seeds, soil, bulk and machines. Container to be clad in wood with 6 No. solar panels (1m x 2 m each). Erection of small water butts for rainwater collection. Erection of one cabin (2.50 x 3.00 m) for prepping area for fresh and drying herbs and spices, vegetables, and for making essential oils. Foundation contains uncontaminated hardcore. Retaining steps made out of railway sleepers.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development and site address from the Council's decision notice as these are clearer and more succinct.
3. The Council has confirmed that Policy ENV66 of the Mole Valley Local Plan 2000 (MVLDP) is not saved and so the reference to it in the third reason for refusal is erroneous. I have not taken this policy into account in reaching my decision.

Main Issues

4. The main issues are a) the effect of the proposed development on the character and appearance of the area; b) vehicular access, parking and turning; and c) drainage.

Reasons

Character and Appearance

5. The appeal site is an irregular shaped piece of land and is one of a number of plots formed from an earlier subdivision of a larger field. The appeal site, and the larger field in which it sits, are within gently undulating open countryside. Fields are generally bound by hedges linking to small tracts of woodland. There are some sporadic buildings or groups of buildings in the area which are mainly accessed off Blanks Lane. Accordingly, the site and the wider surroundings have a predominantly rural character and appearance.
6. Policy RUD14 of the MVLDP establishes criteria against which agricultural development will be assessed. The Council accepts that the proposed works

would comply with some aspects of the policy, including that they would be reasonably necessary for the purposes of agriculture within the holding. However, it is said that there is conflict with other criteria, principally the one which seeks to ensure proposals do not detract significantly from the appearance and openness of the countryside. There are other development plan policies that also seek, more generally, to protect the character and appearance of such areas.

7. The container and cabin are already positioned on site together with some water butts and railway sleepers. Although the walls were not yet clad in timber, there appeared to be solar panels on the roof of the container. I also noted that a ramp had been erected to allow for access to the eastern side of the container. This latter feature is not included within the proposed drawings and so for the avoidance of doubt I confirm that I have based my decision on the submitted drawings considered by the Council.
8. Cladding the container in timber would soften its appearance but nonetheless, the proposal as a whole would still retain a commercial/industrial and somewhat utilitarian appearance. Although positioned on a slightly lower part of the field, the container and cabin sit on supports so are not completely at ground level. Furthermore, the southern end of the container is raised, in order to maintain a consistent floor level. All of this would add to the overall prominence of the proposal within the landscape.
9. The container, cabin and associated infrastructure would undoubtedly be something of an unexpected and incongruous feature in the wider landscape that would erode some sense of the open character of the area. Whilst I accept that the effect would be localised, there would nonetheless be significant harm to the character and appearance of the countryside in the immediate vicinity of the site. The fact that it might not be seen by many people does not make it acceptable.
10. Overall, the harm I have identified leads me to conclude on this main issue that the proposal would be contrary to Policies CS13 and CS14 of the Mole Valley Core Strategy 2009 (MVCS) and Policies ENV22 and RUD14 of the MVLP. These policies, amongst other things, seek to ensure that appropriate agricultural development is permitted and that it respects the character of the area, including the landscape.

Access, Parking and Turning

11. Access from Blanks Lane is said in the Technical Note on Highway Access (TNHA) to be wide enough to accommodate the simultaneous entry/exit of vehicles. However, the existing access is not prominent along the Blanks Lane frontage and the apron itself does not allow for a gentle turn into the site.
12. Despite the TNHA indicating the visibility splays to be appropriate for the access, at the time of my site visit the visibility when exiting the site was somewhat restricted by the hedge and vegetation within the verge. Although only a snapshot, I have no reason to believe that what I saw was not the regular experience of others who use the access. Thus, in my opinion, it seems likely that a vehicle would necessarily have to take a more central position when exiting the site in order to obtain the best possible view of Blanks Lane and of any on-coming traffic.

13. Given all of the above, were two vehicles to meet at the entrance, it seems highly unlikely that they would be able to pass one another. At the very least this would require the vehicle wishing to enter the site to have to wait on the carriageway whilst the exiting vehicle either completes its manoeuvre or reverses back into the site.
14. Vehicle generation within the TNHA is based on anticipated visits given the lack of data within the Trip Rate Information Computer Programme. However, much of this appears to be based on a masterplan and typical plot sizes but there is no indication as to the status of this plan or how any of the different plots are used. The shown typical, rectangular plots are not representative of the irregularly shaped appeal site. Therefore, the robustness of these assumptions is not clear. Whilst additional activity at the site would represent a potential increased use of the access and an increased risk and inconvenience to other road users it is difficult to know how likely it is two vehicles might meet at the entrance as a result of the proposal.
15. The appeal submission includes a drawing to demonstrate that a lorry could turn and exit onto Blanks Lane in a forward gear. I have some reservations about the drawing as it does not relate to the actual appeal site and uses land that did not appear to be immediately accessible to vehicles. The TNHA includes a swept path analysis for a transit type vehicle but similarly does not show this in relation to the actual appeal site. Furthermore, that drawing does tend to support the concerns regarding the width of the access onto Blanks Lane and its ability to be used by two vehicles at the same time, especially if one of them is a larger car or van.
16. The observations from my site visit suggest that a lorry might be able to gain access to the appeal site (albeit not currently via the route shown on the submitted drawings) but would struggle to turn around on site. A transit sized vehicle would be able to achieve access more easily but as the site is at the end of the indicated access, any turning around of the vehicle would need to be accommodated on site. It is not clear if this is achievable.
17. Furthermore, even if a 'transit' sized vehicle is more likely to be used, it is not clear where such a vehicle would park once at the site. The application form refers to two existing parking spaces but none are shown within the layout drawings. There was a vehicle parked on the appeal site at the time of my site visit. However, any on-site parking (or turning) would be likely to significantly diminish the ability of the site to fulfil its agricultural function.
18. I also note that access to the site through the internal access routes is said to be via the 'middle' route. However, this is not what is shown on the submitted application drawings and on what the Council would have based their decision. Given that the route shown on the submitted drawings does not appear available, there must be some doubt as to whether what was originally proposed in terms of the access is now achievable.
19. In addition, whilst substantive evidence is limited, I do not doubt from the representations made by interested parties that there are instances when activities at the Berry Farm site more broadly cause disruption on Blanks Lane.
20. Overall, I find the evidence in support of the proposal does not provide me with sufficient confidence to conclude on this main issue that there would not be problems associated with on-site parking and turning. Aside from whether the

site would function well, I cannot rule out the possibility of the proposal also leading to conflict with other road users.

21. Consequently, taking all of the above into account, I find that the proposal would not adequately address the access, parking or turning arrangements for the site. As such it has not sufficiently demonstrated that it would not have an adverse effect. The proposal would therefore not accord with Policy MOV2 of the MVLP which, amongst other things, seeks to ensure that access, parking or turning arrangements are appropriately assessed and mitigated.
22. Similarly, I cannot be sure that the proposal would comply with the National Planning Policy Framework (the Framework) and that there would not be an unacceptable impact on highway safety.

Drainage

23. The site does not have any foul sewer connections. Given the topography of the site, any contaminated fluids emanating from the cabin would have the potential to cause harm to the nearby Beam Brook. I accept that this would also be likely to harm the appellant's own planting and so it is not in the appellant's interests to let this occur. Nevertheless, this does not negate the validity of the Council's concerns and the need to ensure the Brook is adequately protected.
24. There is no information before me which would give me some confidence to know that the activities in the cabin, particularly those involving oils, could be undertaken in a way which would be likely to avoid pollution entering the Brook. Therefore, I do not know whether this matter could be sufficiently addressed by a planning condition.
25. Accordingly, I find that Policy ENV65 of the MVLP, which seeks to ensure that appropriate drainage is provided to developments would not be met. The proposal would therefore not accord with the Framework which amongst other things, seeks to ensure developments minimise impacts on biodiversity.

Other Matters

26. I note that there are other containers and structures in close proximity to the site. However, whilst there have been some structures approved on or in the vicinity of the site in the past, it is not clear that all those currently in situ benefit from planning permission.

Conclusion

27. The harm I have identified above would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR