



Appeal Decision

Site visit made on 5 September 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/A1530/W/22/3311568

Land north of Lower Road, Layer Breton, Essex CO2 OPX

- 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 and Mrs Richard and Rebecca Long on behalf of Long Agricultural Plant against the decision of Colchester City Council.
 - The application Ref 222173, dated 22 August 2022, was refused by notice dated 17 October 2022.
 - The development proposed is the erection of an open-sided agricultural storage building. Resubmission of 220006 with design revisions.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an open-sided agricultural storage building. Resubmission of 220006 with design revisions at Land north of Lower Road, Layer Breton, Essex CO2 OPX in accordance with the terms of the application, Ref 222173, dated 22 August 2022, subject to the conditions contained within the attached Schedule.

Applications for costs

2. An application for costs was made by Colchester City Council against Mr and Mrs Long. This application is the subject of a separate decision.

Main Issues

3. The appeal site was the subject of another appeal decision for a very similar proposal¹. The previous appeal decision proposed construction of an agricultural building of equal dimensions and sited in the same location as the current scheme. The previous appeal decision therefore provides relevant planning history to the appeal proposal.
4. In their decision, the Inspector concluded that "subject to suitable landscaping along the site frontage, which could be required by planning condition, the development would not harm the character and appearance of the area". In light of the Inspector's findings and the similarities between the two schemes, the Council has confirmed it is no longer pursuing the first reason for refusal. Consequently, my consideration of this matter is not necessary.
5. Having regard to the above, the main issue in this appeal is the effect of the proposal on highway safety and efficiency.

¹ APP/A1530/W/22/3297755

Reasons

6. The site is located at the front of a field at the northern side of Lower Road, a narrow carriageway flanked by grass verges and hedgerows. The site is accessed from Lower Road via a ramped access and a field gate set back from the carriageway. To the west of the site are a mix of residential uses, small holdings and agricultural buildings. The surrounding area is predominantly in agricultural use and the area has a rural character.
7. The site is currently used for the open storage of agricultural equipment. The proposed building would provide covered storage of this mechanical equipment and machinery. The appellant indicates there would be a maximum of four movements from the access onto Lower Road in any one day, two in each direction, operating up to five days per week. Traffic volume associated with the proposal would therefore be low.
8. Lower Road is a single-track road without formal passing spaces. However, occasional driveways and farm accesses offer some opportunities for vehicles to pass. Narrow lanes serving farms are not uncommon, and there are some existing or former agricultural buildings located along Lower Road, west of the appeal site. The surface of the carriageway appears somewhat aged, with some cracks and unevenness but is not atypical of a rural location. Accident data shows no recorded vehicle accidents within the past 23 years along this section of Lower Road or the junction with Lower Breton Hill. Therefore, there is no evidence of highway safety issues in the area.
9. Whilst the appellant suggests that details of visibility splays were provided to the Council, visibility splays have not been annotated on the submitted plans. The section of Lower Road at the frontage of the appeal site is reasonably straight providing a generally good standard of visibility on both sides where vehicle speeds are likely to be lower than the legal speed limit due to the single-track nature of the road. Longer distance views along Lower Road in each direction are limited by the gentle curvature of the road and the presence of mature vegetation near the carriageway edge. However, taking account of the likely frequency and speed of traffic in this location, I am satisfied that the standard of visibility from the site access is adequate.
10. The proposal would provide an area of hardstanding for the parking and turning of vehicles. The submitted plans do not illustrate how vehicles would be manoeuvred on the site. However, even if vehicle movements were not wholly within the hardstanding area, the proposal would provide enhancement of the site which presently comprises mown grass. The provision of hardstanding would therefore reduce mud and soil being carried into the highway.
11. The proposed development would utilise the existing field access. The submitted plans do not provide scaled swept path analysis drawings of towing vehicles and trailers. Whilst the previous Inspector identified some degree of overrunning on each side of the access, during my site visit I did not identify such erosion of the highway verge.
12. The appellant is a sole trader with no employees, and therefore the operations of the business are small-scale. The business is long established having formerly operated from another site in the locality for 20 years. Through their business activities, the appellant serves a client base of farm businesses in the local area fulfilling a range of functions clearly related to agriculture.

13. Following relocation from its former site, the appeal site has been used by the appellant for approximately 18 months. From the evidence before me, I have no information to suggest the appellant's use of the land is anything other than lawful. At time of my site visit, a range of agricultural machinery was being stored on the site, the transportation of which would involve vehicle movements to and from the site.
14. In the previous appeal decision, the Inspector considered that the construction of a building and associated hardstanding would increase the intensity of the use of the site. However, the appellant has provided compelling evidence of the scale and nature of their business operations. The evidence before me does not suggest that the building would facilitate the expansion of the business nor result in the intensification of its operations.
15. Consequently, the evidence does not suggest that the proposal would generate additional traffic nor result in the intensification of use of the site access or Lower Road by vehicles. Moreover, if I were to dismiss the appeal, the use of the site and its associated traffic movements would be expected to continue at the same rate.
16. For these reasons, the proposal would have a neutral effect on highway safety and efficiency and would not result in harm. The proposal would therefore comply with Policies DM15 and DM21 of the Colchester Borough Local Plan Section 1 2022, along with paragraph 112 of the National Planning Policy Framework (the Framework), which together require development proposals create a safe and secure environment, minimise conflict between road users, integrate safe vehicle access, and incorporate necessary infrastructure for highways and parking. In addition, LP Policy DM7 encourages proposals for appropriate farm diversification where they support the rural economy.
17. I have also had regard to paragraph 111 of the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. As set out above, the effects of the proposal on highway safety and the road network would be neutral and therefore neither unacceptable nor severe.

Other Matters

18. I note the comments from local residents raising concerns regarding the proposal's effects on highway safety, including for pedestrians, cyclists and horse riders who may use the carriageway which does not include pedestrian footways or cycle infrastructure. As set out above, the proposal would not increase traffic and therefore would not reduce highway safety for vulnerable road users.
19. In addition, concerns were raised that the proposal would not serve an agricultural use. However, I am satisfied that the proposal would constitute an agricultural use of the land as per s336(1) of the Town and Country Planning Act 1990.
20. Concerns were raised regarding the effects of the proposal on the character and appearance of the area. As set out above, this no longer forms a main issue in the appeal. However, I am mindful of the Inspector's conclusions in the previous appeal and the recommendations of the Council's Landscape Officer

regarding the need for appropriate landscaping at the site's frontage and to restore degraded sections of hedgerow and have attached a condition requiring a scheme of landscaping and planting.

21. I also note concerns regarding external lighting on the area's rural character and dark skies. The use of external lighting can be controlled through a planning condition.
22. Since I have found the proposal would not result in an intensification of the use of the site, I do not consider the proposal would give rise to excessive noise. Noise and disturbance during construction can also be controlled through a planning condition.

Conditions

23. In addition to the standard time limit of the planning permission granted, in the interests of certainty I have attached a condition specifying the approved plans.
24. To ensure the proposal does not adversely impact upon the character and appearance of the area, I have attached a condition requiring a scheme of landscaping be submitted to the Council for approval, to be implemented and retained thereafter. In addition, to provide certainty regarding the appearance of the building, I have included a condition requiring external materials match those specified on the approved plans. Also related to the rural character, and to conserve dark skies, I have attached a condition requiring details of external lighting be submitted to the Council for approval.
25. As indicated above, to ensure construction does not generate excessive noise or disturbance to nearby residents, I have included a condition specifying the hours in which construction may take place.
26. The proposed building relates to the existing use of the site and would provide agricultural storage. The Council suggested a condition restricting use of the building for other agricultural functions. However, I consider such limitations on the building's use would not be necessary to make the development acceptable in planning terms and therefore the condition would not comply with the Framework's tests.

Conclusion

27. Whilst I have reached a different conclusion to that of the Inspector in the previous appeal, I have reached my decision on the basis of the submitted evidence which demonstrates the proposal would not result in increased vehicle movements.
28. For the reasons given above, having assessed the case against the development plan as a whole and having had regard to all other relevant material considerations, I conclude that the appeal should be allowed.

E Dade

INSPECTOR

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: Location Plan; Site Plan; Block Plan; Agricultural Building - Side Elevations; Agricultural Building - Front And Rear Elevations; Agricultural Building - Floor Plan.
- 3) No development above ground level shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 4) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plans: Agricultural Building - Side Elevations; Agricultural Building - Front And Rear Elevations; Agricultural Building - Floor Plan.
- 5) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the building is occupied. Development shall be carried out in accordance with the approved details.
- 6) Demolition or construction works shall take place only between 08:00 and 18:00 on weekdays, between 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

END OF SCHEDULE