



Appeal Decision

Site visit made on 22 January 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/Z1510/W/23/3321656

Berwick Bungalow, Terling Hall Road, Hatfield Peverel, Essex CM3 2EY

- 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 Adrian Hanlon against the decision of Braintree District Council.
 - The application Ref 22/03311/FUL, dated 5 December 2022, was refused by notice dated 13 February 2023.
 - The development proposed is change of use of annexe to hairdressing salon.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst I have had regard to the text included on the application form, I have taken the description of development from the decision notice and the appeal form. This is because it is neutrally worded, accurate and concise.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issue in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issue

4. The main issue is whether the site is in a suitable location for the proposed use, having regard to relevant development plan policies for retail, and the accessibility of the site.

Reasons

5. The annexe that is the subject of this appeal lies within the curtilage of Berwick Bungalow which, in turn, forms part of a cluster of dwellings on Terling Hall Road near to the village of Hatfield Peverel. The site lies outside of a defined settlement boundary, in the open countryside. The annexe is a chalet style building with internal floorspace at ground floor and in the loft. From my observations, it currently provides accommodation in the form of an upstairs room, a downstairs room and a shower room.
6. Amongst other things, Policy LPP1 of the Braintree District Local Plan 2013-2033 Section 2 (adopted July 2022) (LP) restricts development outside of development boundaries to uses appropriate to the countryside. Policy LPP9 of the LP also seeks to direct town centre uses, such as shops and services,

towards existing settlements except, amongst other things, where there are no sequentially preferable sites that could accommodate the development. The appeal proposal is not being advanced as having a particular need for a rural location and, consequently, it would conflict with Policies LPP1 and LPP9 of the LP as a matter of principle.

7. It is the appellant's intention to operate the hairdressing salon as a small-scale business to serve a few customers, including those with specific needs that could mean they are not at ease visiting a conventional salon. Moreover, it is stated that the appellant would be the sole operator of the salon, and that there would be no additional employees. Given the floorspace of the annexe, the development falls below the threshold for a retail impact assessment set out in Policy LPP9 of the LP. On this basis, it is put to me that the development would not be of a scale that would compete with similar businesses in existing local centres, including Hatfield Peverel.
8. However, whilst it would be entirely reasonable to limit the working hours and days of the business through a condition, it would be neither reasonable nor enforceable to restrict the customer base to those with specific needs, or to limit the number of customers visiting the premises. Further, from my observations, and whilst it is not the appellant's intention, there would be sufficient space within the annexe for more than one hairdresser to operate from it in the future. Consequently, in view of the fact that the proposal relates to the internal use of the annexe in its entirety, there would be no reasonable or realistically enforceable planning controls available to prevent the business from potentially being upscaled in the future. The development would, therefore, have the potential to attract a meaningful number of customers away from other hairdressing businesses in the local area and to cause harm to the vitality and viability of existing service centres, including Hatfield Peverel.
9. I have had regard to the suggestion that the development could be restricted for the sole use of the appellant. However, the Planning Practice Guidance is clear that planning permission usually runs with the land and conditions to limit benefits to a particular person are rarely appropriate. Moreover, whilst there may be occasions where a personal permission may be justified on planning grounds, this would ordinarily be where an exceptional need for a particular individual concerned has been demonstrated. I am not persuaded, on the basis of the evidence before me, that there is an exceptional need for the development and, therefore, a personal permission would not be justified in this case.
10. The appeal documents do not indicate a specific catchment area for the proposed hairdressing salon. However, given the rural character of the area, it is reasonably likely that future customers could travel considerable distances to access the appeal site. The appeal property is located on a rural lane, with no footpath and limited space for pedestrians or cyclists to take refuge from moving vehicles. It is therefore unlikely that future customers would choose to travel to the premises on foot or by bike. I have also not been directed to any substantive evidence that the site is served by a bus service. Consequently, in all probability, future customers would be heavily reliant on the private car to access the development.
11. The Framework supports the development of accessible local services in rural areas. Paragraph 89 of the Framework states that sites to meet local business

and community needs may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. However, the Framework also expects planning decisions to encourage and prioritise sustainable travel modes. In the circumstances of this case, I am not persuaded that the development would meet a business or community need arising locally to the appeal site and, therefore, there is limited justification for its siting in a location that is not easily accessible by sustainable travel modes.

12. I conclude that the site would not be in a suitable location for the proposed use, having particular regard to relevant development plan policies for retail, and the accessibility of the site. The proposal would therefore conflict with Policy LPP1 of the LP which, amongst other things, seeks to resist development outside of development boundaries. It would also conflict with Policy LPP9 of the LP insofar as it seeks to direct town centre developments, including shops and services, to existing town, district and local centres. There would be further conflict with the Framework insofar as it seeks to encourage and prioritise sustainable travel modes.
13. The Council has referred to Policy ECN4 of the Hatfield Peverel Neighbourhood Development Plan 2015-2033 (made December 2019) (NP) in its decision notice. This policy protects existing commercial premises from changes of use and provides support for growth and diversity of economic activity within the commercial zones of Hatfield Peverel. It is, however, silent on the change of use to commercial activity on sites outside of the commercial zones, such as the appeal site. Therefore, I have not found Policy ECN4 of the NP to be determinative in my consideration of the appeal.

Other Matters

14. The evidence indicates that the appellant operates other businesses within existing town centre locations and, therefore, makes a positive contribution to the vitality and viability of those centres. However, I do not find the existence of those other businesses relevant to my consideration of the appeal proposal, which would be sited outside of a settlement boundary.
15. The appeal documents suggest that the number of private car journeys undertaken by the occupants of Berwick Bungalow would reduce if the appellant could work from the annexe as proposed. However, the reduction in commuting journeys would not be commensurate with the total number of private car journeys that would be fairly anticipated to be associated with the proposed development.
16. There is an existing homeware business sited close to Berwick Bungalow. I do not have sufficient evidence before me to identify the full circumstances that led to that use establishing. However, I have considered the appeal proposal on its own merits and with regard to the development plan and other material considerations that are relevant at the time of my decision.
17. The proposed development would be sited within the curtilage of an existing dwelling. It would not necessitate the erection of additional buildings or the encroachment onto agricultural land. Moreover, no advertisements or signage are proposed and, in any event, could be controlled through a condition. Consequently, no harm has been identified in terms of the effect on the character and appearance of the countryside. Based on the evidence, and my own observations, I have no reason to take a different view.

18. Furthermore, no objections to the proposal were made by the occupants of neighbouring properties and no harm has been identified in respect of the living conditions of neighbours, environmental health, highway safety or parking. From the information before me, I have no reason to take a different view on these matters. However, an absence of harm weighs neither for nor against the proposal.
19. Whilst the proposal would offer some limited benefits through supporting a prosperous rural economy and the needs of local residents, these scheme benefits would not outweigh the harm and associated policy conflicts that I have identified.

Conclusion

20. The proposed development would conflict with the development plan when read as a whole. There are no material considerations before me to indicate a decision should be made otherwise than in accordance with the development plan. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

E Catchside
INSPECTOR