

Appeal Decision

Site visit made on 2 September 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2024

Appeal Ref: APP/C1760/W/23/3332080

Oak Lodge, Chilworth Drive, Chilworth, Hampshire SO16 7JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jack Nethercott (Prime Oak) against the decision of Test Valley Borough Council.
 - The application Ref is 23/00573/FULLS.
 - The development proposed was described as erection of oak framed agricultural storage building.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the proposal is justified, having regard to its location and purpose.

Reasons

3. The appeal site is in the countryside. It is a dwelling and land used as garden; part of a swathe of sloping, mainly undeveloped grassland amongst trees and surrounded by woodland. The agricultural storage building would be erected on the site on one side of the dwelling, in the same position currently as a double unit mobile home which appeared to be unoccupied.
4. Policy COM2 of the Test Valley Borough Revised Local Plan January 2016 (the LP) sets out that development in the countryside will only be permitted if it meets either of two exceptions. There is no dispute that the proposal does not meet any of the policies listed in the first exception (a). The reason for refusal in the Council's decision notice and in its officer report, inserts 'need' in the context of the second exception (b). This word does not appear in this policy, but it nonetheless only permits development if it is essential to be located in the countryside.
5. The Council did not refuse planning permission for any reason related to other LP policies each main party has referred me to. I have no reason to find otherwise in those regards. However, those policies in isolation or together do not render the proposal acceptable, as the appellant suggests, because it is still necessary to consider the overarching LP Policy COM2.

6. Most land used for agriculture¹ is in the countryside. Associated development for agricultural use is, therefore, of necessity appropriate in principle in the countryside. But that is not the same as that a proposal which does not conflict with any other relevant LP policy, including its intrinsic effect on the character or appearance of the countryside, automatically complies with LP Policy COM2(b) or outweighs it. Such development, even if not publicly visible, and albeit in a small way, nonetheless physically erodes and spatially diminishes the undeveloped countryside. Planning permission is not granted by this policy as of right, but must nonetheless be essential, so absolutely necessary or extremely important.
7. The description of development in the banner header above is taken from the application form and is what the appellant used. It plainly refers to an agricultural storage building. The appellant's covering letter said it was to store agricultural appliances such as tractors, mowers, chainsaw and electrical log splitting equipment. Prior to its decision, the appellant informed the Council that the proposal was to store machinery needed to maintain the area of woodland surrounding the building.
8. All of these appliances, or others seen on the site by the Council's planning officer, could on the face of it be agricultural appliances or conceivably be used for agriculture. However, there is no evidence that the appellant or an owner of the site is employed in agriculture, or intends to be, or that the site is, or is in use as, part of an agricultural enterprise.
9. There were some stacked, sawn tree trunks stored on pallets or under temporary covers but no evidence that this timber, or shipping containers and other miscellaneous equipment or machinery, or the site, is, or is in use as, part of a forestry business. In any event, by this same definition agriculture excludes the use of land for woodlands unless that use is ancillary to the farming of the land for other agricultural purposes. A forestry business in isolation, even if relating to land in the countryside, is therefore not an agricultural use of land or buildings. There is no evidence that the surrounding woodland is ancillary to a farming use of any land, including the site. According to the appeal plans, the surrounding woodland is anyway not owned or controlled by the appellant or the owner of the site.
10. In the appeal the appellant variously alleges that the building is required for 'a more Forestry up-keep', 'to maintain the surrounding areas', 'to maintain said countryside' or 'to allow the surrounding Forestry to be maintained'. However, none of this has still yet been explained in any explicit detail or with clear, unambiguous meaning. Alternatively, the building is also said not to be for 'business use'. However, there is no objective evidence that such a large building, for these types or quantity of appliances (even though if all already at the site) is reasonably necessary or would be ancillary or incidental to domestic use of the dwelling or the site; for instance to maintain the garden. The trees on adjoining land owned or controlled by the appellant or an owner of the site (edged blue in the appeal plans) are individual or more sporadic, not a woodland. Nor is there any evidence that all this land is part of a garden.

¹ As defined by section 336 of the Town and Country Planning Act 1990 (as amended)

11. Domestic use of the proposed building would also be fundamentally inconsistent with the description of development, so could not be changed as part of a decision to grant planning permission or by a planning condition. In the absence of any credible association with an agricultural enterprise, woodland surrounding the site or such use on the site, there is no apparent reason why these appliances could not be stored at an established commercial premises elsewhere.
12. I am, therefore, not satisfied the appellant has demonstrated that the proposal is justified, having regard to its location and purpose. Consequently, it is contrary to LP Policy COM2(b) which sets out that development in the countryside will only be permitted if it is essential for it to be located in the countryside.
13. Amongst other things, the National Planning Policy Framework (NPPF) sets out that the planning system should be genuinely plan-led with a clear purpose, including to conserve the natural and local environment by recognising the intrinsic character and beauty of the countryside. Also, to achieve well-designed places with development that will function well. The proposal would result in unjustified development in the countryside at odds with these aims of the NPPF. It would also undermine the Council's relevant objectives of the LP which are broadly consistent with the NPPF. These are important considerations and as such have significant weight against the appeal. In these circumstances, especially absence of satisfactory reasoned justification for the proposal, there is no public benefit to outweigh this harm and no pedantic application of planning policy as the appellant otherwise alludes to.

Conclusion

14. The proposal does not comply with the most relevant policy of the development plan and there is conflict with relevant policies in the NPPF. There are no other material considerations to indicate that the decision should not be made otherwise than in accordance with the development plan taken as a whole².
15. Consequently, for the reasons given above the proposal is unacceptable so the appeal does not succeed.

Robin Buchanan

INSPECTOR

² Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and NPPF paragraph 12