



Appeal Decision

Site visit made on 24 September 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal Ref: APP/X1545/W/23/3334126

Crouch Ridge Estate, Fambridge Road, Althorne, Essex CM3 6BZ

- 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 and Mrs R Lonergan Crouch Ridge Estate Ltd against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/22/01176.
 - The development proposed is Section 73a application for a barn to be used as a visitors centre, tasting room, café and shop with associated operational development which includes an area of decking, two covered areas, extractor and air conditioning units, a gas tank, container and enlarged car park.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw during my visit that the external layout of the site differed from that shown on the submitted existing site plans. The car park area had not been laid out as shown. However, for the avoidance of doubt, I have determined the appeal on the basis of the submitted drawings.
3. Planning permission was granted under application FUL/MAL/17/00275 (the 2017 permission) for a new wine warehouse and visitor facility. This permission was not implemented and is therefore not extant. A second permission was granted under reference 19/01004/FUL (the 2019 permission) for the change of use of existing agricultural barn to visitors centre with storage and hardstanding/access.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposal would be harmful to highway safety, with particular regard to parking provision; and
 - whether the proposed development would be in a suitable location having regard to relevant development plan policies.

Reasons

Character and appearance

5. The appeal site comprises an existing building and area of land associated with Crouch Ridge Vineyard. It is located outside, but close to the village of Althorne in the open countryside. The parking area was accessed directly from Farmbridge Road and positioned in front of the visitor centre, which generally has the appearance of an agricultural building. An area of decking and steps was located at the rear of the building.
6. The development on the western side of the building comprising gas tank, fencing container, flue and AC units add to visual clutter and are mainly visible from the direction of public highway. However, they are subservient to the main building and are discreetly located between that and an established high hedgerow. The elements would appear as functional structures associated with a similarly functional appearing rural building and in a logical position. They do not obstruct views significantly more than the main building and are not obtrusive. Even if a shed were not to be precluded from the development, it would not be harmful if finished in dark colours.
7. However, the additional proposed parking spaces would intrude into the undeveloped and grassed areas of the site. This would bring it closer to an existing hedgerow along the western side of the visitor centre, and the hedgerow along the northern boundary with Farmbridge Road. There would also be a further area of parking to the east of the main building in close proximity to vineyard. Due to the sloping land levels, relatively low road hedgerows and wide site entrance there would be views provided across the site particularly from the roadside and elevated land to the east.
8. The additional areas of parking would be increasingly at variance with the largely undeveloped nature of the countryside and prominent against the open attractive agricultural and rural landscape. The introduction of further areas of hardstanding would appear particularly stark in their own right and more so in combination with parked vehicles. Furthermore, the plans show that this would be demarcated and lit. The proposal would not be mitigated by the proposed gravel parking surface and would result in a greater degree of harmful urbanisation than currently exists.
9. Although it has been suggested that a landscape scheme could be conditioned, there are no proposals before me to introduce planting or trees to this area. I therefore cannot be certain that the imposition of such a condition to secure additional planting would be appropriate for the area, or successful at mitigating the parking and without compromising the number of spaces.
10. The Council in the officer report considers the overall location of the building, and the visual impact of the decking, glass balustrade and temporary sunshade and gazebos to be acceptable. The Council has suggested that these appear to be similar to elements contained within the 2019 permission, as such I have no reason to take a different view, on these.
11. Notwithstanding that there are elements of the proposal that would be acceptable, the areas of car parking would be obtrusive. I conclude that the proposal would significantly harm the character and appearance of the area. There would be conflict with Local Plan policies S1, S8 and D1. Together, and

insofar as they are relevant to this matter, these require, amongst other things, that planning permission will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon, and that development should respect, enhance character and local context of the area and make a positive contribution to landscape setting and rural character if the area.

Highway safety

12. Local Plan policies D1 and T2 promote highway safety by requiring that vehicle parking is provided having regard to the Council's adopted parking standards. The Vehicle Parking Standards Supplementary Planning Document sets out the proposed use should feature a maximum of 1 space per 5m². The Council suggest that the appeal scheme would have a floor area of around 334m² while the appellant contends that the scheme results in an additional 228m². As such, the overall required car parking provision is disputed. Based on the Council's calculations there would be a significant shortfall.
13. The appellant's calculations of floor area may meet established measuring guidance for the main building. Although the measurements do not include the external decking with the covered outdoor seating areas these are of substantial size, permanent and close to the main building. They would provide seating for customers. The covered areas in particular could provide additional space year round thus increasing the capacity of the venue. It is reasonable to include some of the outdoor decking within the calculations, particularly given the surrounding views of the vineyard and across the countryside. In more clement weather this would likely be a draw for customers.
14. Taking the above in account, alongside the additional area calculation of the shed and container, the overall likely level of parking required could be higher than that proposed. There would be a shortfall in parking in excess of five parking spaces. Insufficient evidence has been provided to calculate and assess how many parking spaces could be achieved if the dimensions of the parking spaces were reduced. The appellant has stated that the number of existing spaces are normally suitable. However, given that the development has been operational, it would have been possible to provide this information or parking surveys to substantiate this.
15. The appellant identifies most visitors arrive from outside of the Maldon district. As such it would be expected that they would arrive by private vehicle. However, the appeal site is relatively accessible by more sustainable modes of transport including walking, cycling and public transport. Nevertheless it is not considered that sufficient parking evidence or travel surveys have been provided to support a reduction.
16. There are no details of any overflow parking areas, which could accommodate any further parking if required. It is therefore not possible to conclude that it would be suitable or available. It would not be reasonable to condition this aspect for later approval given the findings about the appearance of the proposed parking.
17. The Highway Authority did not object, however, the Local Planning Authority is not required to conclude similarly. Although the development would not have an unacceptable impact on the highway network, the proposed development

could lead to parking on the highway verge or harmfully spilling over onto other land. Regardless of the safety record in the vicinity of the site, parking on the stretch of road close to the site entrance could increase the risk of conflict between road users from those who may be trying to use the pavement opposite, cross the road, egress into and out of the site or navigate around parked vehicles. As such this would not minimise the scope for conflicts between pedestrians, cyclists and vehicles as required by paragraph 116 of the Framework.

18. Overall it is concluded that the proposed development could result in harm to highway safety with particular regard to insufficient parking provision. The proposal is therefore in conflict with Local Plan policies D1, T1 and T2. Together these policies aim to ensure safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards in order to assess the impact of development in terms of highway safety.

Suitable location

19. The proposal includes provision for the existing building to continue to be used as a visitor centre and tasting room. The officer report for the 2019 permission acknowledged that tours, tastings, food and wine pairings, open days and craft days as well as the option to purchase the products grown and produced there would be undertaken at the site. However, the main area of contention is that the proposed associated café and its extended operating hours creates a venue in its own right, which is not directly linked and ancillary to the vineyard.
20. As such the Council has considered the proposal as a main town centre use. The glossary in Annex 2 of the Framework identifies that main town centre uses include restaurants and tourism development. Although the local impact floorspace threshold in Local Plan policy E2 refers to retail uses and paragraph 92 of the Framework states that the sequential approach should not be applied to applications for small scale rural development, this is not defined in the Framework. Such an assessment is therefore a matter of planning judgement.
21. The evidence suggests visitor numbers reached 11,500 in 2022 and provided employment for up to 22 full and part time staff in summer. With the relatively late opening hours it is difficult to conclude, even taking into account the permitted 2019 visitor centre use, that the proposal would be small-scale rural development. The proposed development, incorporating restaurant and tourism development, could reasonably fall within the definition of a main town centre use. A sequential test has not been undertaken.
22. The Council has also previously considered the proposal to be rural diversification and tourism development. However, the Council argue that the justification and functional need as required by Local Plan policy E4 has not been demonstrated. Justification and need are not extensively qualified other than the appropriateness of the proposed use will be considered in relation to local needs and the impact of the proposal on the site and surroundings.
23. The evidence suggests that food and retail offerings are important components of the Maldon District economy¹. The appellant states the Crouch Valley region has been proven to have the best growing conditions to grow grapes, which is

¹ The Maldon District Economic Prosperity Evidence Base 2013 – 2029

reflected by the regional tourism board response that consider the vineyards as a key asset to promote the county.

24. The response from the Council's Strategic Theme Lead officer also suggests that such a facility as proposed together with the vineyards and the production of wine is a significant economic opportunity for the District. Furthermore their views are that the serving of food would enhance the existing tourism offer associated with the visitor centre. These relatively local circumstances to my mind represent an identified form of demand, need and link, although it does not follow that any location or the extent of the activities would be appropriate.
25. The appellant states that the business model still primarily relies on the vineyard tours and wine tasting paired with food. The proposal would allow the venue to be open all year round. This would potentially result in additional jobs and more stable levels of employment. It would undoubtedly add to the viability of the overall business. However, although the appellant has submitted evidence that only 16.06% of income as a total of the business was derived from the Café between September 2022 and August 2023 it is not clear if those figure were achieved with the proposed opening hours and days.
26. I understand that people may seek additional food offerings when they visit the site, particularly if undertaking tours and sampling wines. However, there is limited information regarding how the business operates when tours are not available and how the venue would be marketed out of season and in the evenings. I have not been provided with the number of anticipated covers and I am unable to conclude that the scale of the additional activity associated with the development would be ancillary.
27. Notwithstanding concerns regarding larger one off events, which could be controlled through suitably worded planning conditions, on the basis of the evidence before me I am also unable to conclude that customers would not likely visit the premises with the primary intention of eating within the evening as might be expected at a restaurant or café. It is not clear that this income would not ultimately exceed that from the visitor centre and tasting room, becoming a destination in its own right.
28. The Council previously identified that the unique selling point for the business in the 2017 permission was to showcase the activities occurring and the produce of the site, thus it was considered that it could not reasonably be located in existing towns, villages or employment areas. Whilst I appreciate that the siting of the cafe within the same unit as the visitor centre may complement the existing business, I have found that insufficient evidence has been provided to conclude that the additional activities would be ancillary to the main use.
29. The above being said, the proposal would largely be in accordance with Local Plan policy E5 which supports proposals which contribute positively to the growth of local tourism where there is an identified need for the provision proposed and where they would improve the Districts tourism offer and assets. However, this policy also requires no significant detrimental impact on the character and appearance of the area. I am of the view that this level of harm would occur, and there is conflict with Local Plan policy E5.

30. In conclusion, it has not been sufficiently evidenced that the development would be in a suitable location having regard to relevant development plan policies. Nevertheless, the proposal accords with several criteria in Local Plan policies E4 and E5. However although they are supportive of agricultural/rural diversification and tourism this is where they are ancillary and do not cause significant harm to the character and appearance of the area. This ultimately brings the proposal into conflict with them. The proposal is also in conflict with Local Plan policy E2, which requires such proposals to be subject to undertake a sequential test in accordance with national policy. The above is a balanced view due to the various elements of the proposal which accord with several criteria within policies E4 and E5 alongside the thrust of chapter 6 of the Framework. I therefore return to this matter within the final planning balance.

Other Matters

31. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed development can lawfully operate by the appellant. If the appellant wishes to ascertain whether the development would be lawful, they may make an application for a Certificate of Lawfulness of Existing Use or Development (CLEUD) or Proposed Use or Development (CLOPUD) under s191 or s192 of the Act.
32. However, the description of the proposed use within the Design, Access and Economic Statement (DAES) for the unimplemented 2017 permission advised that the proposal would facilitate a purpose made wine cellar, wine tasting area, office and toilets. It identified that the kitchen facilities would be sufficient for the production of refreshments to go with tastings but not for a full restaurant service. The opening hours did not exceed 6pm. In any event, the 2017 permission did not refer to a full restaurant service. This permission has also expired which ultimately limits the weight I can attach to this. I am also not convinced that the 2019 permission and the plans show the same form of development and activities. Thus I cannot be certain that the proposal before me is the substantially the same.
33. I have been referred to an approved planning application at Chigborough Farm. Whilst each proposal is judged on its own merits, I have carefully considered this example, and I note the similarities with the context. However, I have not been provided with the full details and it will have been determined under other evidence which is not before me in this appeal and would have been put to the Planning Committee. There is a degree of subjectivity in consideration of these matters and those put forward in support of that proposals would also have required site specific judgements to be made and for these reasons I attach limited weight to this.
34. A number of other matters have been raised by interested parties and I have taken them all into account. This includes matters such as Althorne Village design statement, disruption to wildlife, light pollution, public safety from the proximity to the gas main and effect on the sewerage infrastructure, noise and disturbance and effect on the nearby natural burial ground. I have also been referred to decisions in relation to new winery. However, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters or that the appeal decision is substantially the same as the proposal before me.

Planning Balance

35. There is clearly some support for the proposals, from third parties. The appeal site is located close to an existing settlement, in a relatively accessible location for such a facility by non-car modes of transport. It would complement the existing tourism development at the site. In addition to contributing to rural tourism and the rural economy, the development would support further employment and the existing enterprise.
36. These are matters that weigh in favour of the scheme in this location, but this is moderated as the proposed development has not provided sufficient evidence that the overall scale of the of the activities would be ancillary or that it is necessary for the continuation of the enterprise. As such these benefits weigh moderately in favour of the development.
37. However, although the proposal has not provided a sequential test, there are unique factors in relation to the proposed development and its location associated with the vineyard, and the overall support provided by Local Plan policies E4 and E5, which means that weight to be attached to the conflict with Local Plan policy E2 would be limited. However, the proposed development would have a harmful effect on the character and appearance of the area. Insufficient parking would also be provided which could compromise highway safety. Consequently the conflict with the relevant policies in the development plan in these respects overall carries significant weight.
38. Other matters pertaining to the proposal, as set out above, have been identified as being acceptable. These weigh neither for nor against the proposed development.
39. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

Conclusion

40. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K Williams

INSPECTOR