



Appeal Decision

Site visit made on 5 August 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2025

Appeal Ref: APP/Z1510/W/25/3358626

Land opposite Dearsley Farm, Kedington Road, Sturmer, Essex CB9 7XR

- 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 Nick Claydon against the decision of Braintree District Council.
 - The application Ref is 24/02064/FUL.
 - The development proposed is change of use from B* agricultural land under 5ha to B8 open storage (scaffold stored on 4no. wheeled trailers).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Nick Claydon against Braintree District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I note from the application details that the use of the site has already commenced. During my site visit the items and structures I observed do not fully accord with the plans submitted as part of the appeal. Notwithstanding this, I have considered the appeal based on the development applied for and the plans submitted with it.

Main Issues

4. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) the effect of the proposal on the living conditions of the occupiers of nearby residential properties with particular regard to noise;
 - iii) whether the proposal would have an adverse impact upon highway safety;
 - iv) whether a suitable location;
 - v) whether the scheme is acceptable in respect of flood risk; and
 - i) whether the requirements of Biodiversity Net Gain (BNG) are relevant to the proposal and, if so, whether such requirements are met.

Reasons

Character and appearance

5. The appeal site lies to the north of the village of Sturmer, in the countryside. In the vicinity of the appeal site there are sporadic residential properties along the northern side of Water Lane. A pumping station is positioned to the south-east and a concrete plant is located to the west of the appeal site.
6. The evidence indicates that the appeal site previously formed an open parcel of agricultural land. It lies within the Upper Stour part of the Stour Valley Project Area. The area around Sturmer has been assessed as being a Valued Landscape¹, which is recognised, amongst other things for its rolling valley farmlands, undulating estate and ancient farmlands and a lack of major transport infrastructure giving this landscape relative tranquillity.
7. Limited information is before me in respect of the site layout and visual appearance of the proposal. However, the supporting documentation indicates scaffold tubes and fittings would be stored on 4no mobile trailers, to be sheeted over with tarpaulin. No details of the size of the trailers, quantum of scaffold or the height of the storage has been provided. Nevertheless, the storage of scaffolding equipment on wheeled trailers would introduce a commercial use in the countryside that would be at odds with its former open, agricultural character.
8. Views into the appeal site from public rights of way may be limited, as are those from Water Lane, due to the presence of vegetation and tall, solid gates to the access driveway. However, it is unclear from the information before me whether or not the access and gates are lawful, and landscaping can rarely be relied upon in the long term with regards to its maintenance, retention and survival.
9. The appellant advances that the existing structures and industrial materials would be removed from site and this would be a visual improvement, as noted by the Council's Landscape consultee. However, it is unclear as to whether or not these are lawful. Even if all the structures and materials were removed, I attach very limited positive weight to this.
10. Due to the presence of existing commercial uses I did not observe the area to be tranquil. Nevertheless, given the nature of the proposed use and the movement of large, bulky items the proposed use would be likely to further undermine the tranquillity of the wider area by the intensified use of the site. This would result in unacceptable harm to the character of the area.
11. My attention has been drawn to other commercial development in the area, in particular, the concrete mixing plant and pumping station. Whilst I recognise that the concrete plant is an incongruous structure the evidence before me indicates that this benefits from a historical permission². In any event, the existing use on a nearby site does not justify the introduction of further uses in the countryside.
12. The appellant has suggested a series of conditions, including a 2-year temporary permission, restricting areas of storage and restricting operations to a 1-hour period each day. However, I am not satisfied that such conditions would be sufficient to mitigate the harm identified. Moreover, having regard to the Framework and the

¹ Valued Landscape Assessment Report - A Farmer 2019

² Office reference NE/HALE/33/64

tests set out in the Planning Practice Guide I am not satisfied that such conditions would be reasonable or enforceable.

13. Accordingly, for the reasons stated, I conclude that the proposal would be unacceptably harmful to the character and appearance of the area. The proposal would therefore conflict with Policies LPP52 and LPP67 of the Braintree District Local Plan 2013 – 2033 (LP), which amongst other things requires development proposals to be confined to uses appropriate to the countryside whilst also protecting the intrinsic character and beauty of the countryside.

Noise

14. There are several residential properties in close proximity to the appeal site, including those directly opposite the appeal site access.
15. Although scaffolding was not being moved/loaded/unloaded during my visit I was able to appreciate the potential for noise to be generated by a range of means. The movement of scaffolding tubes is likely to be intrusive due to the movement of bulky, metal items, including clanking and ringing sounds. Although limited information is before me in respect of how the site would operate, the likely nature of the use is that noise would be intermittent and sudden in character. Also, vehicles used to load tubes and other materials, are likely to omit noise.
16. The residential properties are close to a main road and passing traffic. I also observed that other commercial uses in the area already create a significant degree of background noise. Nevertheless, the appeal site would be located closer to residential properties than the concrete plant and the pumping station and the noise associated with the proposal is likely to differ.
17. From what I have read the current use of the appeal site results in significant levels of noise and disturbance to nearby properties, which has a harmful effect on the occupant's living conditions, and their ability to enjoy their homes.
18. Whilst the hours of operation could be restricted by way of a planning condition, I am mindful that the Framework states that to prevent unacceptable risk from pollution, planning decisions should ensure that new development is appropriate for its location. In the absence of an analysis of noise, and any required mitigation, I cannot be satisfied that the living conditions of existing occupiers of nearby residential properties would not be adversely affected by noise.
19. As it has not been demonstrated that the proposal would not lead to significant harm to the living conditions of nearby residents, in particular with regards to noise I cannot be satisfied that the proposal would meet the requirements of Policies LPP52 and LPP70 of the LP in so far as they require proposals for all new developments to prevent unacceptable risks from all emissions and other forms of pollution, including noise pollution.

Highway safety

20. The appeal site is accessed via a driveway taken off Water Lane. I observed areas of hardstanding, although no parking or turning areas were delineated within the site. Water Lane is a narrow country road, devoid of footpaths, is unlit and subject to the national speed limit. The access is proximate to a bend in the road and, consequently, I observed emerging visibility from the existing access to be poor.

21. It is unclear from the evidence before me as to whether the access is lawful and there is limited information in terms of likely vehicle movements associated with the use. Nevertheless, on the balance of probabilities it is likely that the introduction of a commercial use would lead to a material increase in the use of the site.
22. Whilst I accept that vehicle speeds are likely to be less than the national speed limit due to the narrow road conditions, and its alignment in the vicinity of the appeal site, no evidence is before me as to what vehicle speeds are, and accordingly, what might be an appropriate visibility splay for the proposed development. It is also unclear what visibility splay would be available to the development. The absence of a consultation response from the local highway authority does not indicate no harm in this respect.
23. Accordingly, for the reasons stated above, I cannot be certain that a safe and suitable access for all users can be achieved. I therefore find the proposal would conflict with Policy LPP52 of the LP insofar as it seeks to ensure highway safety.

Location

24. Whilst the appeal site is proximate to existing built form, it lies outside the development boundary of a settlement and is therefore within the countryside for planning purposes.
25. Policy LPP1 of the LP states that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
26. Policy LPP7 of the LP supports small-scale commercial development outside settlement boundaries, subject to a number of criteria. This includes the conversion and re-use of existing buildings that are of permanent and substantial construction and capable of conversion without complete re-building, where the access and traffic generated by the development can be accommodated without adverse impact on the local road network, there is no unacceptable impact on residential amenity and there is no unacceptable impact on the character of the site or the surrounding countryside and its landscape value.
27. The proposed use would introduce the storage of scaffolding on 4no wheeled trailers onto former agricultural land. As set out above I have identified harm in respect of character and appearance and living conditions. It has also not been demonstrated that the proposal could be accommodated without adverse impact on the local road network. Furthermore, the proposal would not include the conversion or re-use of an existing building and therefore the proposal would not benefit from LP policy support in respect of commercial development outside of settlement boundaries.
28. For the reasons stated above, the proposal would fail to meet the criteria of policies LPP1 and LPP7 of the LP and consequently would introduce an unacceptable use into the countryside.

Flood risk

29. It is not disputed that the appeal site lies within Flood Zone 3³ defined as having a high probability of flooding. No Flood Risk Assessment (FRA) has been provided with the appellant questioning the need for a FRA based on the nature of the proposed use.
30. The Framework⁴ sets out when a developer will be required to provide a site-specific FRA including, among other development, all proposals for new development (including minor development and change of use) in Flood Zones 2 and 3.
31. In the absence of a FRA insufficient information is before me regarding the risks and effects of flooding at the site and elsewhere. Consequently, the proposal would fail to comply with Framework insofar as it seeks to steer new development away from areas at the highest risk of flooding.
32. For these reasons, I cannot be satisfied that the proposal would be acceptable in terms of flood risk. Conflict therefore arises with Policy LPP74 of the LP, which amongst other things states that proposals should be located to avoid the risk of flooding.

Biodiversity Net Gain (BNG)

33. The appellant disputes the need for a BNG matrix for the proposal. However, the proposal would not be exempt from mandatory BNG, the requirements of which are set out in Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Consequently, it is necessary to demonstrate that the development would deliver a BNG of at least 10%⁵. In the absence of such information, I cannot be satisfied that the proposal would be acceptable in terms of BNG.
34. To conclude on this main issue, the requirements of BNG are relevant to the proposal and it has not been demonstrated that they could be met, nor has it been determined that a net gain in biodiversity would be delivered.

Other Matters

35. The appellant has indicated their willingness for a temporary permission. However, I consider this would be inappropriate given the harm identified in the main issues, which would not be overcome.
36. The appellant has drawn my attention to sites they consider comparable to the proposal. In respect of Countryside Leisure Ltd⁶ the information before me indicates that it related to the demolition of existing buildings in commercial use and for re-development in the form of a showroom and caravan MOT centre. Furthermore, the site was located in Flood Zone 1. Accordingly, I am satisfied that the description of development, location and main issues are not directly comparable. In any event, I have determined the appeal on its own merits based on the evidence before me.

³ As defined by the Environment Agency flood maps

⁴ Paragraph 176 and footnote 62 of the National Planning Policy Framework

⁵ Schedule 7A of the TCPA (as inserted by Schedule 14 of the Environment Act 2021).

⁶ Office reference: 22/01303/FUL

37. It is not clear how many persons are employed or the scale of operations. Nevertheless, as a commercial enterprise there would be some economic benefit which weighs positively in the determination of this appeal.

Conclusion

38. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
39. I have found that the proposal would be in an unsuitable location having regard to its countryside location and would harm the character and appearance of the area. In the absence of further evidence, I also cannot be satisfied that it would not result in unacceptable living conditions for existing occupiers of nearby residential properties with regard to noise or that it would have a safe and suitable access. I also cannot be satisfied that the proposal would be acceptable in respect of flood risk and BNG. It would be contrary to the development plan in these respects, and I give significant weight to this conflict. Whilst I recognise there would be some economic benefits, as a result of the proposal, these would be limited and would not be sufficient to outweigh this conflict.
40. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. In this circumstance, no material considerations, including the Framework, indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

R. Gee

INSPECTOR