The Planning Inspectorate

Appeal Decision

Site visit made on 5 November 2019

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2019

Appeal Ref: APP/W1525/W/19/3230832
Wheelers Farm, Wheelers Hill East, Chelmsford, Essex, CM3 3LZ

- 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 Tom Robert against the decision of Chelmsford City Council.
- The application Ref: 19/00018/FUL dated 17 December 2018, was refused by notice dated 3 May 2019.
- The development proposed is demolition of 3 storage buildings and the construction of 4 detached houses.

Decision

1. The appeal is dismissed.

Procedural Matters

2. A completed and signed Section 106 Unilateral Undertaking has been submitted by the appellant. It seeks to secure a contribution towards mitigation measures on a Special Protection Area (SPA) and Ramsar site in the area. I return to this matter later.

3. The appellant has another planning application subject of a separate appeal, for the replacement of an existing building with a new dwelling (Ref: APP/W1525/W/19/3231283) which lies adjacent to this appeal site. That appeal is the subject of a separate decision.

4. The Chelmsford Draft Local Plan Pre-Submission Document (the CDLP) was submitted to the Secretary of State with examination hearings held in late 2018. In a post hearing advice note the Inspector advised the plan could be found sound, subject to Main Modifications and the outcome of consultations. The Council has published and consulted on its main modifications. At the time of my consideration of this appeal the CDLP remains unadopted and since it could be subject to change, I afford its policies limited weight.

Main Issues

5. The main issues are:

   - whether the proposed development would be in a suitable location for housing having regard to local and national policy; and,

   - the effect of the proposed development upon the character and appearance of the area.

Reasons

6. The appeal site forms the north and eastern part of the modest built complex of Wheelers Farm, which comprises a mix of mainly residential, storage and agricultural buildings, and an area of largely open low level storage on its north eastern side. It is bound by the public highway (Wheelers Hill East) to the south but set within a largely open and verdant agricultural landscape, mostly composed of hedgerow lined fields. The proposed new dwellings would be accessed using the existing farm access off Wheeler's Hill East, with the internal access across the top (north) of the complex past some of the buildings proposed to be demolished.

7. The appeal site is located within the Rural Area beyond the Metropolitan Green Belt, designated by Policy DC2 of the Chelmsford Core Strategy and Development Control Policies Development Plan Document (CSDCP)[1]. Policy DC2 states that permission will be granted provided the intrinsic character and beauty of the countryside is not adversely impacted upon, and it is for various (listed) restricted types of development. The circumstances in which new build dwellings could be permitted in principle are limited to: accommodation in connection with a rural business; affordable housing for local needs; the replacement of an existing dwelling; or, residential infilling in villages.

8. Having regard to the evidence before me, the proposed development of four new build market dwellings does not meet any of the criteria of Policy DC2, as circumstances under which new or replacement dwellings would be permitted. Furthermore, the appellant has not advanced the development as being for any such purpose referenced in Policy DC2. Therefore, the proposals are contrary to Policy DC2 of the CSDCP, as they are not one of the circumstances where new market dwellings in the rural area would be permitted.

9. Policy CO4 of the CDLP contains similar provisions to Policy DC2 in respect of protecting the intrinsic character and beauty of the countryside, although it includes some additional differing circumstances in which rural dwellings might be permitted. For the development of 'new buildings' (Section A) this includes a rural worker's dwelling, securing the optimum viable use of a heritage asset, the reuse of existing buildings, demonstrating design of exceptional quality, and the replacement of existing buildings of the same use. Therefore, the proposed development is not permitted by and contrary to Section A) of Policy CO4.

10. The appellant has suggested the proposed development would constitute the redevelopment of previously developed land, which could be acceptable under Section B) of CO4. Section B) requires that such development should not adversely impact upon the intrinsic character and beauty of the countryside and will be assessed as such by reference to (amongst other things) the size, scale, spread of new development, visual impacts, and comparisons between the impacts of existing and proposed developments.

11. The Council has provided a copy of an Enforcement Notice (dated 7 March 2007) (the EN) and a Planning Contravention Notice (dated 10 December 2015). The Council is of the view that the EN is extant and use of much of the appeal site for open storage of various items including containers, vehicles and

[1] Chelmsford Core Strategy and Development Control Policies Development Plan Document 2001-2021 – adopted in 2008, reviewed and adopted in 2013

building materials, is not lawful. I note also the appellant's view that the site has an established use as a commercial storage area and builders yard. At my visit there was a limited amount of open storage taking place on the appeal site which included some of the items and materials prohibited by the EN.

12. However, there is limited evidence before me, and on the basis of this I cannot establish the lawful use of the appeal site land in the EN. However, even if that area of the appeal site were to be considered as previously developed land, in accordance with Policy CO4 and policies of the CSDCP, consideration needs to be given to the impacts of the development on the character and appearance of the area with regard to the intrinsic character and beauty of the countryside.

13. The buildings to be removed are of a somewhat utilitarian appearance, however, their proximity, relationship and appearance relate well to the current complex of farm buildings. The new dwellings would be sited across the eastern side of the site encompassing some existing buildings to be demolished and most of the sizeable open yard area, with the dwellings built in a roughly parallel north-south arrangement.

14. The two-storey dwellings would include accommodation within the roof space, resulting in an approximate height of 9.5 metres to the ridge. The height and arrangement of the dwellings and the addition of domestic paraphernalia would considerably increase the spread of built development across the site, in a northerly direction on what is a largely open site, thereby appearing as a significant urbanising intrusion into the countryside, harming its intrinsically rural and open character.

15. Whilst the development would be part screened by existing hedgerows and buildings from some directions, the appeal site is open to the north and the west. The buildings would be visible in views across open land from public footpath PROW 225_17 to the north, from limited filtered views from Essex Regiment Way to the west, and Wheelers Hill to the south east.

16. Being on four large parallel plots the dwellings would be contrary to the existing development pattern of the farm and development nearby, where dwellings generally address the street frontage and/or appear in smaller informal clusters. They do not have such a planned parallel arrangement of substantial, tall and identically designed dwellings. This arrangement would be considerably out of keeping with and harmful to the rural and established character of the area.

17. The appellant has referred to these proposals being similar in character to developments on Essex Regiment Way closer to Chelmsford, including one of 3,600 dwellings. I have not been provided with any further details on such developments, therefore making any meaningful comparison between them is difficult. However, a large planned 3,600 dwelling scheme close to a large settlement is of a completely different context, where it would be expected that dwellings would be arranged along streets. In any event I must consider each proposal on its own merits and impacts.

18. The appellant advocates the development would result in an overall enhancement of the site by removing existing unsightly, noisy and problematic uses. Based upon the information before me there is no evidence to demonstrate that the present use of the site is either noisy or problematic, or the use is such that the proposed dwellings would be an improvement.

19. For the reasons set out above the proposed development would be contrary to Policies DC2, DC45 and CP20 of the CSDCP. Amongst other things and in combination, these seek to ensure the intrinsic character and beauty of the countryside is not adversely impacted upon, and development is laid out and sited appropriately having regard to the character and appearance of development in the surrounding area. The development would also be contrary to the National Planning Policy Framework (2019) (the Framework). This (amongst other things) expects new development to be sympathetic to and maintain local character, add to the quality of an area (paragraph 127) and that permission should be refused for poorly designed developments (130).

20. The proposed development would also be contrary to Policies CO4 and MP1 of the CDLP which in combination and amongst other things, seek to protect the intrinsic character and beauty of the countryside, and expects development to respect and be compatible with the character and appearance of the area.

Other Matters

21. The appellant has submitted an Ecological Appraisal which considers the impact of the proposals upon biodiversity on and close to the appeal site. It suggests subject to safeguards during construction, the appeal proposal would be unlikely to result in harm to protected species on or adjacent to the site. However, reason for refusal No. 4 on the Council's decision notice relates to a failure to address the impact of the development on the Blackwater SPA and Ramsar site either through submitting any ecological evidence to inform a Habitat Regulation Assessment, or a contribution towards mitigation measures.

22. Since permission was refused by the Council, the appellant agreed to pay a financial contribution and provided a completed and signed Section 106 Unilateral Undertaking to secure a contribution towards mitigation measures for the SPA and Ramsar site. I note that the Council is satisfied that this addresses the concerns set out in reason No. 4. However, in light of my findings on the main issues above, it is not necessary to look at this matter in detail, given that the proposal is unacceptable for other reasons.

23. The appellant has submitted a Phase 1 Environmental Desk Study Report which explains the site is located in an area of low environmental sensitivity for controlled water receptors, as well as the potential for and safeguarding measures in respect of contamination. The Council's adviser confirms the requirement for further site investigations, and a condition if permission had been granted. Additionally, I note there is no objection to the proposals from the Highway Authority to utilising the existing access subject to various planning conditions. However, this does not alleviate or outweigh the harm I have found in respect of character and appearance.

Conclusion

24. The proposed development would be contrary to the development plan and the National Planning Policy Framework and there are no other considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR