



Appeal Decision

Site Visit made on 25 October 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2021

Appeal Ref: APP/W1525/W/21/3277346

Land West of Cards Road, Sandon, Easting 574113, Northing 204403

- 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 V Saunders (Conrad Energy (Developments) Limited) against the decision of Chelmsford City Council.
- The application Ref 20/01720/FUL, dated 27 October 2020, was refused by notice dated 21 December 2020.
- The development proposed is erection of a flexible electricity generation facility with associated ancillary infrastructure, access and boundary treatment.

Decision

1. The appeal is allowed, and planning permission is granted for erection of a flexible electricity generation facility with associated ancillary infrastructure, access and boundary treatment at land west of Cards Road, Sandon, Easting 574113, Northing 204403 in accordance with the terms of the application, Ref 20/01720/FUL, dated 27 October 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appellant provided additional information with the appeal including updated plans showing minor changes to the acoustic fencing and access road which do not affect the substance of the proposal before me. Having regard to the principles established in the *Wheatcroft* judgment, I am satisfied that interested parties would not be prejudiced by my accepting this information in my determination of this appeal.
3. The Council has stated that submissions made by the appellant with this appeal have addressed the third and fourth reasons for refusal relating to flood risk and potential ecological harm. I see no reason to disagree with this, and therefore do not need to comment further on these matters.

Main Issues

4. The main issues are therefore:
 - The effect on the character and appearance of the area; and,
 - The effect on non-designated heritage assets.

Reasons

Character and appearance

5. Policy DM8 of the Chelmsford Local Plan 2020 (the LP) allows for new structures in the Rural Area where, amongst other criteria, they would be for to

- other essential infrastructure or would support existing or potential utility infrastructure. Such development must not adversely impact on the identified intrinsic character and beauty of the countryside.
6. The energy generation facility would support existing utility infrastructure and, while not a renewable energy source itself, would assist in the national transition towards an energy network powered principally by low carbon and green energy sources. The Council accepts that the proposal complies with this strand of Policy DM8, and I agree with this conclusion.
 7. However, the appeal site is located on agricultural land at a low point in a relatively open field with clear views particularly from the Public Right of Way (PROW) to the north, as well as from Sandon to the east. The Council's Landscape Character Assessment (the Assessment) describes the surrounding character area as relatively open arable farmland with views to wooded horizons, characteristics that are in evidence in the wider field of which the appeal site is a part. The Assessment notes that the character area includes large areas of dense deciduous and mixed woodland, an intricate mosaic of commons, pasture and heathland and field boundaries (containing several mature trees), all of which are sensitive to changes in land management. I agree with this analysis of the area.
 8. The wider field is crossed by pylons and electrical wires which are discordant features, but even allowing for their presence the proposed development would be an intrusive and incongruous feature in the field, a stark, industrial presence in a predominantly rural and agricultural setting.
 9. Although the pylons within and immediately adjacent to the field are visually intrusive features, they are not in sight in views from the PROW looking south. Pylons beyond the site would be visible from the PROW, but as more distant, background features. In any case, the development would plainly be different in appearance to the pylons and would not appear any less intrusive due to their presence.
 10. The PROW is some distance from the appeal site, and therefore in views from it the proposed development would be seen in the wider context of the backdrop provided by the mature trees and woodland to the west and south of the site. However, during my site visit I saw walkers on the grassed area of the field where the appeal proposal would be sited, as well as in the woodland immediately adjacent to the site which contains two pillboxes. This indicates that the site would be viewed at close range as well as in longer views.
 11. Significant landscape planting is proposed as part of the development, and this could be controlled by a suitably worded condition. However, any planting would take time to establish and mature, and its effects may vary depending on the season and species used. While the landscaping would soften the visual impact of the development, due to the scale and incongruous nature of the proposal it would not be wholly concealed.
 12. Access to the site would be taken along the existing PROW and the edge of the field, with a grasscrete road laid to allow vehicle access. Whilst this would also result in some visual change, the PROW is already visually distinct from the field where it runs along the north boundary. The use of grasscrete would help the access road to blend into the landscape. The access road would divide this field, but overall would result in limited additional visual impact considering that which would result from the energy generation facility.

13. The established trees and woodland to the west and south of the site would provide significant screening of the appeal site from those directions. There would be little visual impact from viewpoints beyond them.
14. Overall, the proposed development would be incongruous and visually intrusive in its setting and would be harmful to the character and appearance of the area. It would therefore be contrary to Policy DM8 of the LP, the relevant requirements of which are set out above.

Non-designated heritage assets

15. The site lies adjacent to a section of the General Headquarters Line, established during the Second World War to provide a line of defence against invasion. In Essex, pillboxes were constructed to defend against forces advancing on London. While not formally recorded on a local list, the Council considers the pillboxes to be non-designated heritage assets given their historic significance. I agree with this conclusion.
16. Of the nearest pillboxes, two are in the adjacent woodland, and one on the far side of the river to the south of the site. The site is therefore within what would have been the fields of fire from these pillboxes. The development would consequently result in harm to the significance of the pillboxes, as their siting would have been intended to provide clear, overlapping, fields of fire. The nearest pillbox is the most central of the three, and the appeal site is clearly visible from it even allowing for its woodland position. There would therefore be a moderate impact to its significance. For the pillboxes further from the appeal site, the impact would be lessened by the greater separation, and the presence of trees and the river between the site and pillbox to the south. Nevertheless, due to the intention that they would support the central pillbox there would be some impact on their significance.
17. Both Policy DM14 of the LP and the National Planning Policy Framework (the Framework) require that a balanced judgment be made when the significance of a non-designated heritage asset would be harmed by a proposed development. I shall address this further as part of the planning balance below.

Other Matters

18. The site is approximately 300 metres from the Sandon Conservation Area (the CA) and the listed buildings within it. The Council state that the site is sufficiently distant and well screened that there would be no adverse impact on the setting of the CA, or the listed buildings within it. I agree with this conclusion.
19. I have had regard to the representations made at application stage. The facility would be gas powered rather than generating renewable energy, but the Overarching National Policy Statement for Energy (the ONPS) recognises that some fossil fuel use is necessary to support the transition to a low carbon economy. Respondents have suggested that additional energy generation from nuclear power would be preferable, but that is not an option that is before me. Applications for similar development elsewhere in the country have been refused, but I have no details of those other proposals and in any case each appeal must be determined on its own merits, which I have done here.
20. Concerns regarding traffic impacts could be addressed through a construction traffic management plan, which could be required by condition. The facility

would not generate a significant volume of traffic once operational. Concerns regarding light and noise pollution are noted, but I am satisfied that these matters could be addressed by appropriately worded conditions. With regards to air pollution, neither the Council nor the Public Health consultee raised concerns and I see no reason to disagree with this. Matters of flood risk have been addressed in the appellant's submissions, as have wildlife and ecological impacts. An alternative site to the south of Sandon Brook has been suggested, but it is not clear that this site is available, would be suitable or would be any more sequentially preferable than the appeal site.

Planning Balance

21. The proposal would cause significant harm to the character and appearance of the area, which is sensitive to change, and moderate to low harm to the significance of the nearby pillboxes. It therefore conflicts with the development plan, taken as a whole.
22. Set against this harm, the development would provide support for the transition to renewable and green energy. Additionally, a local need has been identified by UK Power Networks for additional energy generation in this area given the dependence on the national grid without local backup and the high level of local demand. The proposal is for a flexible energy generation facility, which would be able to respond quickly to spikes in demand. The ONPS states that it is critical that the UK continues to have secure and reliable supplies of electricity, including sufficient electricity capacity to meet demand at all times, and recognises that some fossil fuels will still be needed during the transition to a low carbon economy. I am therefore satisfied that a need for this development exists.
23. There would be an economic benefit from the development, with the equivalent of two full-time jobs created. It is not clear whether these jobs would be available locally, and the scale of benefit would be relatively modest. Accordingly, this attracts little weight in the overall balance.
24. The Council contends that the site is not the most sequentially preferable of all those considered, and questions the methodology employed by the appellant in selecting the appeal site. However, the facility must be located near to the primary substation and the medium pressure gas mains, which limits the number of suitable sites. The site assessment provided by the appellant shows eight possible alternative sites within the search radius. Of these sites, two are on greenfield land immediately next to a Conservation Area and near listed buildings, two are occupied by sports and community facilities, one is greenfield land crossed by gas lines, one is currently in agricultural use with a house also on site, one is immediately next to houses and one is immediately next to a school and already in use by a substation so does not have enough space to accommodate the proposed development.
25. While the appeal site is affected by constraints as identified above, it is relatively distant from any properties such as housing or schools that would be affected by noise and disturbance arising from the facility. The site is of sufficient size to accommodate the facility and is not close to designated heritage assets. I am therefore satisfied that the site is the most sequentially preferable of those set out in the site assessment.
26. The visual harm arising from the development, together with the harm to the significance of the pillboxes, weigh against the appeal proposal. However, there

is an established need for the development, and no sequentially preferable site is available on which the facility could be built. While the proposed landscaping would not wholly conceal the facility, especially at close range, it would provide some screening to soften the visual impact. Cumulatively, these considerations weigh heavily in favour of the appeal proposal, and in this instance outweigh the harm that would result from it.

Conditions

27. I have had regard to conditions suggested by the Council, as well as to the Framework and national Planning Practice Guidance. Some conditions require matters to be approved before development commences. This is necessary as the conditions in question address impacts that would occur during the construction stage. The appellant has agreed to these pre-commencement conditions.
28. Conditions 1 and 2 relating to the commencement of development and confirming the approved plans are imposed for the sake of certainty. For the sake of clarity there are only three site specification plans, with the appellant confirming that references to a fourth are an error.
29. I have imposed conditions 3 and 4 requiring details of landscaping and of the finished levels of all parts of the development, given that the setting is sensitive to change.
30. In the interests of protecting the living conditions of residents, I have imposed conditions 5 and 6 requiring that details of lighting be submitted and approved, and that the noise mitigation measures outlined in the noise impact assessment are complied with.
31. I have imposed conditions 7 and 8 requiring a submission of a badger survey, including mitigation measures as appropriate, and a construction management statement addressing how the development will be built avoiding harm to local water voles and otters. This is to ensure that the development guards against harm local wildlife.
32. Conditions 9 to 13 relate to the management of construction traffic, provision of a vehicle passing point at the entrance to the access road from Card Road and gates to the access, management of surface water and management of traffic arising from the approved development. They are necessary and reasonable in the interests of highway safety and to prevent undue disruption to other road users.

Conclusion

33. There are material considerations that, in this case, outweigh the conflict that arises between the appeal proposal and the development plan.
34. Therefore, for the reasons set out above, the appeal succeeds.

M Chalk

INSPECTOR

**Schedule of conditions for appeal ref: APP/W1525/W/21/3277346
Land West of Cards Road, Sandon, Easting 574113, Northing 204403**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan A3 14 October 2020 SAN-AB-01 Rev A
Existing Site Layout A0 13 October 2020 SAN-EXT-01 Rev B
Proposed Site Layout A1 13 Oct 2020 SAN-PSP-01 Rev F
Proposed Site Layout A3 26 October 2020 SAN-PSP-02 Rev G
Lane Detail Plan A0 16 December 2020 SAN-PSP-03 Rev D
Proposed Elevations A1 16 December 2020 SAN-EP-01 Rev C
Site Specification Sheet 1 of 4 A3 10 October 2020 SAN-SPN-01 Rev A
Site Specification Sheet 2 of 4 A3 10 October 2020 SAN-SPN-02 Rev A
Site Specification Sheet 3 of 4 A3 16 December 2020 SAN-SPN-03 Rev C
Landscape Masterplan A3 16 July 2020 P0467 Rev A
- 3) Details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently these works shall be carried out as approved prior to the first occupation of any part of the development or in the first available planting season following such occupation. The landscaping details to be submitted shall include:
 - a) hard surfacing including pathways and driveways, other hard landscape features and materials,
 - b) existing trees, hedges or other soft features to be retained,
 - c) planting plans including specifications of species, sizes, planting centres, number and percentage mix,
 - d) details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife; and,
 - e) management details and a five year maintenance plan.
- 4) Prior to any construction works, detailed drawings and sections showing the finished levels of all parts of the development in relation to the levels of the surrounding area shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Prior to their installation details of any means of external lighting shall be submitted to and approved in writing by the local planning authority. The lighting shall then be installed in accordance with the approved details and permanently retained as such thereafter.
- 6) The development shall only be carried out in accordance with the recommendations and mitigation measures outlined in the Nova Acoustics noise impact assessment.
- 7) No development shall take place, including demolition, ground works and vegetation clearance until the local planning authority has been provided with a statement in writing to include the results of a badger monitoring survey

and any necessary mitigation including whether a development licence will be required from Natural England for the closure of any sett(s).

- 8) No development shall take place, including demolition, ground works and vegetation clearance until the local planning authority has been provided with a construction methods and management statement to deal with works taking place within the site and potential pollution of the nearby watercourse and the land around it. The approved statement shall be adhered to throughout the construction period.
- 9) No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - a) the parking of vehicles of site operatives and visitors,
 - b) loading and unloading of plant and materials,
 - c) storage of plant and materials used in constructing the development; and,
 - d) wheel and underbody washing facilities.
- 10) Prior to the commencement of the development a metalled haul/access road, which must accommodate simultaneous two vehicle passing, shall be constructed ready for use and provided with a vehicle crossing to enable access from the existing Cards Road carriageway.
- 11) There shall be no discharge of surface water from the development onto the Highway.
- 12) The gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 1 metre from the adopted highway.
- 13) No development shall take place, including any ground works, until a Construction Traffic Management Plan for Abnormal Loads has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - a) the routing of abnormal loads, including monitoring of the approved arrangements, ensuring that all drivers of vehicles under the control of the applicant are made aware of the approved arrangements, and the disciplinary steps that will be exercised in the event of default.
 - b) timings for the delivery of abnormal loads to the site,
 - c) details and location of temporary directional signage for abnormal load vehicles,
 - d) details and location of temporary advance warning signs,
 - e) the method(s) of convoy working and escort,
 - f) the action to be taken in the event of a vehicle breakdown or emergency; and,
 - g) the location of any layover or rest areas.

End of schedule of conditions