
Appeal Decision

Hearing Held on 16 November 2021

Site visit made on 16 November 2021

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2021

Appeal Ref: APP/W1525/W/20/3266141

Bushy Hill Communications Station, Edwins Hall Road, South Woodham Ferrers, Chelmsford CM3 8RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Supported Business Holdings Ltd against the decision of Chelmsford City Council.
 - The application Ref 20/00856/OUT, dated 1 June 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the demolition of the existing buildings, structures and masts; redevelopment to provide 7 detached dwellings together with landscaping, roads, footpath and other infrastructure and ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an Outline proposal with matters of access, layout and scale to be determined at this stage.
3. The Council's 3rd reason for refusal relates to the absence of a mechanism to mitigate harm to a protected site. The appellant has submitted a completed Planning Obligation with the appeal which satisfies the Council in this respect.
4. Since the Hearing, the Council has confirmed that the South Woodham Ferrers Neighbourhood Plan has been 'made' on 8 December.

Application for costs

5. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues in this appeal are;
 - The effects of the proposal in relation to Previously Developed Land and its effects on the character and appearance of the area.
 - Whether the proposal would be in an appropriate location.

Reasons

Previously Developed Land and Character and Appearance

7. Policy DM8 of the LP relates to new buildings and structures within the Rural Area. Part B of the policy addresses the redevelopment of Previously Developed Land (PDL) and states that planning permission will be granted for proposals that would not result in harm to the identified intrinsic character, appearance and beauty of the area, based on matters including: size, scale massing and spread of development; visual impact; impact of the activities/use.
8. The site contains security fencing around the cluster of buildings and also some land outside the fence. This land outside the fence to the east but within the appeal site is of scrub and trees. The wider area (of about 20ha) around the appeal site is owned by the appellant and is open and free from buildings and structures, apart from a few masts sited at the edge of the larger area.
9. The appellant has indicated in the appeal documents that all of the proposed housing would be on land within the security fence (referred to as the Core Development Area (CDA)). However, this is clearly not the case as the land to the east of the security fence which contains vegetation, would accommodate houses numbered 2 and 3 on the submitted drawings, the appellant readily accepted this at the Hearing.
10. The National Planning Policy Framework defines PDL as "*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure...*". Within the submitted written statement the appellant indicates that the 2.25ha within the fenced CDA is PDL and the land outside it is not; although at the Hearing there was a suggestion that the whole larger area within the appellant's ownership is PDL.
11. From my assessment, I am content that the land within the security fencing can be regarded as PDL. However, the open land outside it does not satisfy the definition; it is physically separated from the CDA and appears to have had no functional relationship with the buildings and activities within the CDA. Therefore, the proposal would involve, in part, development of land which is not PDL.
12. In relation to the effects of the proposal, various figures have been presented in relation to the size of the existing buildings and those proposed. The assessments include comparisons of floorspace and, although the precise calculations differ, the appellant and the Council present figures which would suggest an increase of 41% or 44% above that which currently exists. This does not include the basement areas, which would add a whole floor of accommodation to each of the houses. The appellant considers that other figures are more relevant and presents figures for the footprint. I note the appellant's intention to set the buildings partially into the slopes of the site, however I do not have precise details due to the outline nature of the proposal. It seems to me that, even if that were the case, the nature of proposed houses providing accommodation over 3 floors would be apparent, even if some of it were to be partially hidden. Therefore, I consider the comparison of the floor areas, even excluding the basements, to be more helpful.

13. The existing buildings are clustered together and are almost all single storey in height and the appeal site, including the land to the east outside the CDA, contains open grassed/natural areas around its edges. The proposed 7 detached houses would be dispersed around the appeal site, sitting towards its edges. The greater amount of building and the disposition of the buildings around the site would have a greater effect on the character of the site and its surroundings than the existing development due, in part, to the proposed disposition of the buildings around the site, including the development of land to the east, outside the CDA. This would harm the rural qualities of the area and have a negative effect on its character and appearance.
14. I have taken account of the reduction in hard-surfacing that would result from the development and from the intended use of landscaping (although that is not a matter before me). I consider that these would have a beneficial effect on the area of the site that is the CDA. However, when weighed against the negative effects of the proposal that I have identified, including the development of the land outside the CDA to the east which contains trees and scrub, I consider that the negative effects are not outweighed. As a consequence, the proposal would conflict with Policy DM8 and, as far as the part of the site which I exclude from PDL, there is conflict with Policy S11.

Location

15. The appeal site contains buildings and structures connected with its previous use as a radar testing facility. That use has now ceased and it is understood that some of the buildings are used by the appellants. The site sits on top of a hill and contains a number of single storey buildings within a cluster. The site also contains areas of greenery. The site sits outside any identified settlement and is within the countryside.
16. Policy S7 of the Chelmsford Local Plan (LP) adopted in 2020, relates to the spatial strategy and seeks to focus new housing and employment growth to the most sustainable locations by making the best use of previously developed land in Chelmsford Urban Area; sustainable urban extensions around Chelmsford and South Woodham Ferrers; and development around Key Service Settlements outside the Green Belt. The site is outside any identified settlement and falls outside the boundary of the South Woodham Ferrers Strategic Growth Site. The Council indicates that the site was considered for inclusion in the Growth Site but was excluded.
17. Vehicular access to the site is from Edwins Hall Road which is a narrow lane with passing places and along the private drive to the site. The proposal includes for the provision of a new footpath running to the south and joining an existing public right of way and assumes crossing the Burnham Road (B1012). The Council indicates that the footpath would be steep, unlit and the crossing of Burnham Road is included within the Growth Site proposals and may not be provided for some considerable time.
18. The appellant indicates that the proposed path could be constructed of suitable materials and gradient so that it would be usable. I have taken account of the location of the appeal site in relation to the proposed Growth Site and its facilities. Whilst the straight-line distance from the appeal site to education and shops would not be dissimilar to some of the areas within the Growth Site, I consider that the proposed footpath link would not provide an attractive link for residents on the appeal site. In my judgement it would particularly deter

those with mobility issues, parents with young children and cyclists even if it were to be lit. Additionally, the proposal would give rise to development of homes that would be heavily reliant on the use of the private car for day to day needs and is not sited within an area where alternatives are readily available.

19. The employment use of the site would have generated vehicle movements and I have noted the appellant's suggested numbers. The Council seeks to balance this with the argument that the employment use would have been a 'destination' rather than the proposed housing being an 'origin' of vehicle trips. Whilst I have noted the figures put forward, I consider that the proposal would give rise to new homes where there would be no suitable and attractive alternative to the use of a private car for normal day-to-day needs.
20. I have taken account of the appellant's comments in relation to the site being (either within or) close to the Growth Area. The Council has set out that it was excluded from the Growth Area and I can understand the reasons for doing so. I conclude on this issue that the proposal would give rise to houses in an unsuitable location, outside any identified sustainable location, where residents would be heavily reliant on less sustainable transport. Therefore, the proposal conflicts with Policy S7.

Other Matters and Planning Balance

21. I have taken account of the representations in relation to the South Woodham Ferrers Neighbourhood Plan. Taking account of its newly adopted, or 'made' status I consider that full weight can be given to it. Policy SWF MA1 relates to direct, safe and convenient footpaths and cycle routes and in this respect, I consider that the proposal would raise conflict.
22. The appellant refers to paragraph 80 of the Framework (previously para 79) and suggests that the proposal satisfies criteria c) and e). Setting aside that this relates to isolated homes in the countryside, in relation to c) the proposal would not re-use the existing buildings and so is not relevant. Criterion e) relates to design of exceptional quality but this outline proposal reserves for future consideration much of what would be considered as 'design' and so this is not a matter to be considered at this appeal.
23. I also note the intention to use green roofs in the buildings, electric charging points and other sustainable energy measures. Again, noting that some of these would be matters reserved for future consideration, I do not find that these or any of the other suggested benefits, or lack of objections in relation to certain matters, are sufficient to outweigh the harm and policy conflict that I have identified.

Conclusion

24. For the reasons set out above, the appeal is dismissed.

T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

T Collins
R Horley
R Bigwood

FOR THE LOCAL PLANNING AUTHORITY:

S Rogers