



Appeal Decision

Hearing held on 17 November 2022

Site visit made on 17 November 2022

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 02 December 2022

Appeal Ref: APP/X0415/W/22/3303364

Perkin Elmer Ltd, Chalfont Road, Seer Green HP9 2FX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (Act) against a refusal to grant outline planning permission.
 - The appeal is made by BMO Real Estate Partners against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref PL/21/2142/OA, dated 24 May 2021, was refused by notice dated 21 January 2022.
 - The development proposed is the demolition of existing building and development of up to 31 dwellings, car and cycle parking, landscaping and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing building and development of up to 31 dwellings, car and cycle parking, landscaping and associated infrastructure at Perkin Elmer Ltd, Chalfont Road, Seer Green HP9 2FX in accordance with the terms of the application, Ref PL/21/2142/OA, dated 24 May 2021, subject to the attached Schedule of Conditions.

Preliminary Matters

2. The application was made in outline with all matters reserved. I have therefore assessed the appeal on this basis. Two drawings were updated during the appeal process to exclude the words 'indicative' and 'strategy' from the title and update the revision number. The content of the drawings has not altered, and they indicate an area for open space and set parameters for the maximum height of the buildings without providing a layout or elevations of dwellings. Therefore, having had regard to the *Wheatcroft* principles, those who should have been consulted are not prejudiced by these changes. I have therefore determined the appeal on the basis of the Landuse Plan 007 Rev D, Building Heights Plan 010 Rev E and the Site Location Plan 001 Rev B. I have had regard to the other submitted drawings including Illustrative Masterplan on an illustrative but informative basis.
3. I have omitted the words 'outline application (all matters reserved)' from the description of development as they do not relate to acts of development.

Main Issues

4. The appellant has completed a legal agreement under Section 106 of the Act (a S106) in conjunction with Buckinghamshire Council. At the hearing the Council confirmed that the reason for refusal relating to affordable housing would be

addressed subject to the draft S106 being signed and dated. From the evidence I see no reason to disagree.

Therefore, the main issues are:

- whether the proposal would be inappropriate development in the Green Belt including its effect on openness; and
- whether the proposal would accord with the Council's development plan strategy for the loss of employment land.

Reasons

Inappropriate development

5. The appeal site is situated in the Green Belt. Paragraphs 147 and 149 of the National Planning Policy Framework (Framework) indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority is one of the listed exceptions.
6. The S106 legal agreement secures affordable housing in accordance with Policies CS8 and CS10 of the Local Development Framework Core Strategy for Chiltern District adopted November 2011 (CS).
7. The wording of the second part of paragraph 149g requires that development contribute to meeting an identified affordable housing need and there is no specific requirement that the development needs to provide solely affordable housing in order to satisfy the criterion. The main parties agree that this second part of paragraph 149g is relevant to this appeal and for the foregoing reasons I see no reason to disagree. I have therefore considered the appeal on this basis.
8. In spatial terms, the proposed buildings would be likely, as shown from the indicative masterplan, to occupy a smaller footprint and have a smaller volume than the existing building. As such, the proposal would result in a reduction of spatial openness in terms of built development above ground.
9. When viewed from the street the existing building, given its height and massing with flat roof, appears prominent along the site boundary with Chalfont Road and Newbarn Lane despite the trees and vegetation in the area. As such there is limited visibility from the street through the site.
10. However, the proposal would result in buildings being spread across the site rather than forming a single mass in a corner of the site as existing. The proposal would be likely to introduce smaller blocks with pitched roofs that would increase visual openness over the footprint of the existing building.
11. The south-eastern area of the site has limited development above ground with a large extent of hardstanding for car parking and neat lawns. The proposal would introduce two storey dwellings along with fences and domestic

paraphernalia in this area that would restrict views and reduce visual openness across this area of the site.

12. However, the parameters set within the Building Heights Plan and the Land Use Plan would limit the heights of the buildings and secure open space at the boundaries with the street. In addition, there would be an increase in visual openness over the building footprint and an overall decrease in building volume and footprint. Therefore, even if the proposal resulted in a greater amount of hardstanding than existing, any reduction in visual openness in the south-eastern area would not be to a degree that would amount to substantial harm to the visual openness of the Green Belt.
13. As I observed during the site visit, the southern two boundaries of the site have tall vegetation that restrict visibility to the neighbouring residential properties. While there is no certainty that the vegetation would continue to restrict views in the long term, the site in any event does not lie adjacent to open countryside. As such the proposal would not result in encroachment of the countryside or unrestricted sprawl of large built-up areas.
14. I note the comments of the Inspector for the case at Warlingham. The proposal did not include affordable housing such that the first part of Framework paragraph 149g was relevant in that case. The scheme is therefore not directly comparable to this appeal which in any event must be determined on its individual merits.
15. Consequently, the proposal would not be inappropriate development in the Green Belt as it would satisfy the second part of paragraph 149g of the Framework by not resulting in substantial harm to the openness of the Green Belt.
16. Therefore, it would not conflict with Policy GB2 of the Chiltern District Local Plan Written Statement Adopted September 1997 Adopted 1 September 1997 (Including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.
17. CS Policies CS1 and CS4 relate to spatial strategy and sustainability and are therefore not directly comparable to this main issue.

Employment

18. CS Policy CS16 states that the Council will aim to secure the long-term retention of a portfolio of employment sites and premises within the District which are attractive to the market and which will provide a range of jobs to meet local needs.
19. The penultimate paragraph of the Policy relates to areas where an employment site (including sites covered by policies E2 and E3) is within the built-up areas excluded from the Green Belt. The site does not lie within built up areas excluded from the Green Belt, therefore this paragraph is not applicable to this appeal. I have therefore assessed the appeal on the basis of the first and second paragraphs of CS Policy CS16.
20. The Chiltern And South Bucks Housing And Economic Land Availability Assessment January 2020 (HELAA) identified the site as being potentially suitable for redevelopment to residential use. The site was allocated in the Regulation 19 Draft Chiltern and South Bucks Local Plan (draft Local Plan).

However, since the draft Local Plan was withdrawn, I can attribute only limited weight to the HELAA.

21. The existing building was redeveloped in the 1980s specifically to facilitate its current use. As I observed during my site visit, it includes research and development facilities, large open plan office spaces, an unused canteen and storage areas. The building no longer meets the needs of the current occupiers, and it is likely that substantial investment would be required to alter the layout to make it attractive to other prospective tenants. I also note the existing condition of the building and current maintenance costs as discussed during the hearing.
22. Evidence regarding alternative uses for the building has indicated that office, industrial and data centre uses would not be viable. The evidence also indicates that the dominant market for employment uses is in business park environments such as Uxbridge Business Park.
23. However, as well as lack of marketing evidence, there is no detailed information before me such as building surveys or viability assessments which demonstrate the extent of cost required for such works. In addition, there is no substantial information regarding possible subdivision of the building to smaller units or redevelopment of the site for employment uses or a mix of uses as supported by the second paragraph of CS Policy CS16.
24. Given the above, it has not been demonstrated that the site and premises would not be attractive to the market and would not provide a range of jobs to meet local needs.
25. I note the comments of the Inspector for a case in Chesham. However, the planning officer's report for that case states that the site is located within the built-up area of Chesham and the previous Inspector appears to have applied the pen-ultimate paragraph of CS Policy CS16. As such, I am unable to draw a direct comparison with this appeal.
26. Consequently, the proposal would not accord with the Council's development plan strategy for the loss of employment land. Therefore, it would not accord with the aims of CS Policy CS16 which seeks the long-term retention of a portfolio of employment sites and premises within the District.

Other Matters

27. I note local concerns including highway safety and the effect on horses. The proposal would be likely to result in fewer trips to and from the site than the existing building, albeit I recognise that the current building has not been operating at full capacity for some time. The Highway Authority has not objected to the proposal and for the foregoing reasons I see no reason to disagree.
28. I acknowledge concerns regarding loss of and damage to trees, drainage and flooding, noise and disturbance, pollution, wildlife and asbestos in the existing building. However, since landscape and layout are matters for future consideration, I see no reason why suitably worded conditions could not address these matters.
29. The Landuse Plan would set parameters for the site including public open space and an area of rear gardens retaining existing landscape and tree planting.

Therefore, the proposal would not result in undue harm to the living conditions of the occupiers of Peaceful Cottage and Newbarn Farmhouse.

30. Peaceful Cottage, Newbarn Farmhouse and farm buildings associated with Newbarn Farmhouse are Grade II listed buildings, the significance of which lie in the evidence of historic rural vernacular architecture. Layout is a matter reserved for future consideration. However, the Indicative Masterplan Layout demonstrates that it is possible to develop 31 dwellings on the site with sufficient distance between the dwellings and the site boundaries to avoid harm to the setting of these heritage assets. Therefore, the proposal would not adversely affect the setting or significance of these heritage assets and as such would not conflict with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
31. I also note the comments of the Inspector for the case in Great Missenden. However, that case was for conversion of a building to a single detached dwelling and the appeal decision was made in 2017 under a previous version of the Framework. Therefore, the case is not directly relevant to this appeal.

Planning Obligation

32. The appellant has completed a legal agreement under Section 106 of the Act (a S106) in conjunction with Buckinghamshire Council which includes a number of obligations to come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. They relate to the following matters.
33. Affordable Housing: CS Policy CS8 requires at least 40% of new dwellings to be affordable. The agreement makes for this provision of affordable housing with 70% of the affordable housing units being social or affordable rented units and 30% of the affordable housing units being intermediate housing in accordance with CS Policy CS10. Accordingly, I consider it is fairly and reasonably related to the development proposed and as such passes the statutory tests.

Planning Balance

34. The Council are able to demonstrate 2.1 years housing land supply. In this situation the policies which are most important for determining the application are deemed to be out of date. Therefore, the provisions of paragraph 11d)ii of the Framework are engaged.
35. The proposal would not accord with the Council's development plan strategy for the loss of employment land. It would therefore, conflict with the aims of the development plan as a whole.
36. The Council are unable to identify the effect of the loss of the employment use on the supply of employment land in the district. It has therefore not been demonstrated that the existing building use is necessary for the portfolio of employment sites and premises within the District to meet local needs. No long-term marketing of the site was carried out by the appellant. However, the proposal would not result in the loss of designated employment land. Furthermore, the existing building would be likely to require substantial investment to make it suitable for other occupiers, thus reducing its attractiveness to the market. For these reasons, I attribute modest weight to the conflict with CS Policy CS16.

37. Turning to the benefits, the proposal would contribute up to 31 dwellings to the local housing supply including affordable homes. There would be associated economic and social benefits from the contribution of future occupiers to the local community. In addition, there would be some temporary benefits during the construction phase. I note paragraph 84 of the Framework which supports growth and expansion of all types of business in rural areas. However, I am also mindful of the Government's objective of significantly boosting the supply of homes. Given the significant shortfall of housing land and the moderate number of dwellings proposed, I attribute moderate weight to these benefits.
38. Therefore, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, these material considerations justify a decision other than in accordance with the development plan.

Conditions

39. Conditions relating to commencement of development, submission of reserved matters and specifying plans are necessary in the interests of certainty.
40. A condition relating to ecological enhancement is necessary to safeguard biodiversity.
41. Conditions relating to ecological and construction management plans are necessary in the interests of biodiversity and conditions relating to contamination are necessary given the existing use of the site. These need to be pre-commencement as they would affect the early stages of construction.
42. Conditions relating to surface water drainage and maintenance plan are necessary in the interests of flood risk.
43. The suggested condition relating to external lighting is not necessary as it relates to layout which is a reserved matter.

Conclusion

44. For the reasons given above, the appeal should be allowed.

R Sabu

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall take place not later than [2] years from the date of approval of the last of the reserved matters to be approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than [3] years from the date of this permission.
- 3) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 4) The development hereby approved shall be carried out in accordance with the following approved plans and documents:
Landuse Plan 007 Rev D, Building Heights Plan 010 Rev E and the Site Location Plan 001 Rev B.
- 5) The development hereby approved shall be implemented in accordance with the agreed ecological enhancement detailed in Pages-21 & 22 of the Ecological Impact Assessment Report prepared by CSA Environmental (Report Number CSA/5194/03, dated August 2021).
- 6) Prior to commencement of development (including ground works and vegetation clearance) a full Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The LEMP shall include the following:
 - a) Description and evaluation of features to be managed
 - b) Ecological trends and constraints on site that might influence management
 - c) Aims and objectives of management
 - d) Appropriate management options for achieving aims and objectives
 - e) Prescriptions for management actions
 - f) Preparation of a work schedule (including annual work plan capable of being rolled forward over a five year period)
 - g) Details of the body or organisation responsible for implementation of the plan
 - h) Ongoing monitoring and remedial features

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the result from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The

approved plan shall thereafter be implemented in accordance with the approved details.

- 7) Prior to commencement of development (including ground works and vegetation clearance) a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 8) No works, other than demolition, shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
- Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components
 - Existing and proposed discharge rates and volumes
 - Infiltration in accordance with BRE365
 - Geotechnical ground investigations to investigate the presence of solution features
 - Demonstration of sufficient buffer distances within redline boundary if required
 - Discharge rate limited to 2.1l/s if infiltration is unviable
 - Full construction details of all SuDS and drainage components
 - Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components
 - Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite

flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site.

- Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.

- Flow depth
- Flow volume
- Flow direction

9) Prior to the occupation of the development a whole-life maintenance plan for the site must be submitted to and approved in writing by the local planning authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component), with details of who is to be responsible for carrying out the maintenance. The plan shall also include as as-built drawings and/or photographic evidence of the drainage scheme carried out by a suitably qualified person. The plan shall subsequently be implemented in accordance with the approved details.

10) Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

i) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.

iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any

changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

- 11) Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the local planning authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 12) Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Ian Penfold	Facilities Manager (PerkinElmer)
Daniel Plummer	BMO Real Estate
Morag Ellis KC	Counsel (FTB Chambers)
James Waterhouse	Planning Consultant (Iceni Projects)
Silke Gruner	Landscape Consultant (Iceni Projects)
Tim Traynor	Development Consultant (Knight Frank)

FOR THE LOCAL PLANNING AUTHORITY:

Dipanwita Chatterjee	Planning officer - Buckinghamshire Council
Graham Mansfield	Principle Planning officer - Buckinghamshire Council

DOCUMENTS

Appeal decision – Appeal ref: APP/X0415/W/16/3161324
Legal Agreement dated 30 November 2022

DRAWINGS

Landuse Plan 007 Rev D
Building Heights Plan 010 Rev E