



Appeal Decision

Hearing held on 20 February 2024

Site visits made on 20 and 21 February 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2024

Appeal Ref: APP/W1525/W/23/3332013

Jackletts Farm, Slough Road, Danbury, Chelmsford, Essex CM3 4LX

- 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 N Halls against the decision of Chelmsford City Council.
 - The application Ref 23/00528/FUL, dated 27 March 2023, was refused by notice dated 5 July 2023.
 - The development proposed is redevelopment of existing commercial site to comprise the erection of new buildings for Class E(g) and Class B8 use following cessation of an existing external storage yard (Class B8 use); conversion of a former agricultural building for Class B8 use; associated parking, landscaping and other infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. My decision is made in the context of the revised Framework and both main parties have been given the opportunity to comment on it. I am satisfied that no interested party has been prejudiced by my approach.
3. In response to my Pre-Hearing Note the Council provided an employment land trajectory and delivery statement. The appellant did not have the opportunity to consider this evidence prior to the Hearing. In the interests of fairness, it was agreed that the appellant would be given time after the Hearing to submit a written response. I have taken the submission into account in determination of this appeal.

Main Issues

4. The main issues are:
 - Whether the site is an appropriate location for the development proposed having regard to relevant development plan policies and the Framework;
 - The effect of the proposed development upon the character and appearance of the area;
 - Whether it has been adequately demonstrated that the existing barn is no longer required for agricultural purposes; and

- Whether the site is an appropriate location for the proposed development with regard to accessibility to and from nearby settlements.

Reasons

Appropriate location

5. Policy S1 of the Chelmsford Local Plan (2020) (LP) outlines the spatial principles for new development and seeks to direct new development to Chelmsford City Centre and its Urban Area. The areas outside of Urban Areas and Defined Settlements is defined as the Rural Area. LP Policy DM8 permits new buildings and structures in the Rural Area in certain circumstances. Part A criterion ii. sets out that development for agriculture and forestry or the sustainable growth and expansion of an existing, authorised and viable business, where it can be demonstrated that there is a justified need, will be granted and Part B allows the redevelopment of previously developed land subject to a number of generic design criteria.
6. The appeal site comprises a storage yard occupied by a sand and ballast company and a large agricultural building. Whilst not forming part of the appeal site a number of buildings in commercial use, within the appellant's control, neighbours the site.
7. A Lawful Development Certificate (LDC) has been previously issued for the use of the commercial buildings and part of the yard for a mix of employment uses. There is no disagreement that the area defined by the red line plan under the LDC comprises previously developed land. The appeal proposals would extend beyond the area considered to form previously developed land and into countryside. The proposal would essentially redevelop the commercial buildings, yard and agricultural building to form a single rural employment site.
8. At the hearing the appellant advised that Jackletts Farm is a key component of their business, and the proposed development would facilitate its growth and expansion and on this basis it would align with Policy DM8.
9. Having regard to the context of Policy DM8 and objectively considering the language used it is apparent that the policy seeks to support the sustainable growth of individual rural businesses rather than expansion of multi-business employment sites. Consequently, I concur with the Council that the proposed development would essentially be a speculative venture and largely intended to attract new business rather than to consolidate existing businesses on the site. There would also be a technical breach of policy as the proposal would extend beyond the area defined as previously developed land. It would, therefore, conflict with Part A of LP Policy DM8.
10. The LP was adopted in 2020 setting out a requirement of 55,000 sq.m of employment floor space over the plan period. The Authority Monitoring Report (AMR), from December 2023, indicates that there has been a net gain of 2,692 sq.m during the period 2021/22 – 2022/23.
11. There was some discussion at the hearing regarding a number of allocated employment sites that the appellant contends that the delivery rates are somewhat optimistic. I recognise that the delivery of large scale and strategic sites will invariably be subject to delay for a number of reasons, however, there is nothing substantive before me to suggest that these sites will either be

significantly delayed or that any planning or technical requirements would render the sites undeliverable.

12. Even if there were to be slippage in the delivery of such sites in the early part of the plan, the plan period runs to 2036 which one would expect would give the Council sufficient time to rectify any deficiencies. Whilst the appeal scheme could potentially start to contribute to the local target for employment land in a short timeframe this would not outweigh the conflict I have identified with the development plan.
13. In coming to my decision, I have also paid regard to the supplied list of enquiries from businesses interested in the units at Jackletts Farm and the proportion of employment floorspace in Rural Employment Areas. However, there is no substantial indication that there is limited availability of employment floorspace in the Rural Area resulting in a negative effect on local economic growth so as to justify the scheme. Moreover, whilst the proposed development would create employment opportunities there is no evidence to indicate that the scheme is needed to specifically support the social and economic regeneration of the Rural Area.
14. Whilst the scheme would contribute to the supply of employment land in the Rural Area the principle of the proposed development would not be acceptable having regard to the location of the site and development plan. It would therefore conflict with Part A of LP Policy DM8.

Character and appearance

15. The appeal site comprises a yard occupied by a sand and ballast company located to the south of Slough Road that sits within a wider agrarian landscape. The site is largely laid out to hard surfacing and contains an informal parking area, storage pens containing aggregates of varying heights, a bank of storage containers and miscellaneous items including farm machinery scattered along the peripheries of the site. Located towards the south of the site is a large agricultural building and concrete apron constructed a few years ago.
16. The Council's Landscape Character Assessment (LCA) states that the site falls within the Woodham Wooded Farmland area. The area is characterised by an open arable farmland landscape defined by gappy hedgerow field boundaries and wooded areas. The LCA indicates that the area overall has a relatively high sensitivity to change.
17. The large field pattern contributes to the open and rural appearance of the surrounding landscape. That said, sporadic residential development is present along Slough Road and agricultural buildings are dotted across the landscape.
18. Whilst the site sits within a pleasant rural landscape it is somewhat anomalous on account of its commercial nature and the contribution it makes to the surrounding landscape is undermined by its disparate appearance formed of storage bays, storage containers, machinery and extensive hardstanding.
19. There is no doubt that there would be a degree of urbanisation and formalisation of the site through the introduction of new built form and associated infrastructure. However, the proposed development would appear visually coherent on account of consistent material and colour palettes. Moreover, the new built form would be largely contained within the parameters of the building fronting Slough Road and the existing agricultural barn. The

- heights of the buildings proposed would not be out of kilter being consistent with the ridge heights of the commercial buildings and sitting lower than the existing barn.
20. Whilst there would be some encroachment beyond the area defined by the LDC the contained nature of the built form and proposed landscaping creating a soft and verdant edge would assist in assimilating the proposed development into the local landscape.
21. I do not share the Council's view that the soft landscaping proposed would appear overtly man-made or unnatural. In my view it would provide a visual link and a transition between the built form, the neighbouring field and the wider landscape. Native hedgerow and tree planting would be in keeping with field boundaries found locally and a comprehensive landscaping scheme and its long-term management could be secured by condition, if I were minded to allow the appeal.
22. At the time of my site visits I walked along Slough Road and the public footpaths that extend across the surrounding landscape. The proposed development would be most evident in localised views and when travelling along the road the proposed development would be visible, but it would not be prominent due to the set back of the built form from the roadside and views would be glimpsed, filtered by the existing hedgerow and proposed landscaping. The experience for local residents would evidently change through the introduction of new buildings and hardstanding, however, it would be seen in the context of existing commercial buildings and views would be filtered by intervening vegetation.
23. Although the surrounding fields are open the proposed buildings would not be highly visible from the public footpaths due to the distances involved, even during autumn or winter when most of the foliage would not be present. Therefore, there would not be any significant appreciation of the proposed development and the encroachment into the rural landscape from the wider area.
24. In my judgement the proposed built form would not be highly discernible, particularly to the casual observer due to the colour, position and height of the buildings and existing and proposed vegetation. Moreover, the proposal would have the appearance of a modern farm complex and would not be unduly conspicuous when viewed from the surrounding footpaths.
25. In this regard my judgement largely aligns with the conclusions of the appellant's Landscape Statement in that the proposal would have a beneficial impact on the site itself. The effect of the construction works would be temporary and since the visual impacts of the development would not be significant in the short term, I am satisfied that visual harm would not arise whilst the planting becomes established.
26. At the time of my site visits I observed numerous vehicle movements taking place along Slough Road including commercial and heavy goods vehicles. I noted that a number of these movements including tipper and grabber trucks were associated with the appeal site.
27. The appellant's Transport Statement (TS) indicates that the proposal would generate 9 additional AM peak and 7 additional PM peak vehicle movements

compared to the existing situation. There is no disputing that the proposed development would result in increased vehicle movements, however, I am not persuaded that this increase would be unduly intensive so as to undermine the character of the area, when taking into account Slough Road is not devoid of traffic, and that this increase would be offset by the reduction in large commercial vehicles travelling along the road and visiting the site.

28. The Council contest the findings of the TS on the basis that the end users are unknown. The TS used the TRICS database to estimate the number of trips that would be generated which is based on real world data. Despite the Council questioning the accuracy of the trip information there is nothing substantive before me to dispute the methodology used or its conclusions. As such, I am satisfied that the TS provides a robust assessment of the likely traffic conditions and which in turn would not unduly affect the character of the area.
29. There was some discussion at the Hearing regarding the potential to utilise permitted development rights available. I have no information before me in relation to the extent to which the buildings could be extended or altered. Furthermore, it is likely that such rights would be limited to areas immediately next to the existing buildings. Therefore, I am not persuaded that the use of permitted development rights is materially comparable to the appeal scheme. That said, as I have found the appeal proposal acceptable on its own merits in respect of character and appearance the use of permitted development rights is not a determinative matter in this case.
30. I conclude that the proposed development would not unduly affect the character and appearance of the site and would accord with LP Policies S1, S11 and Part B of Policy DM8 which, amongst other things, require new development to respect the character and appearance of landscapes and not to adversely impact on the identified character and beauty of rural areas and the countryside.
31. It would also accord with paragraphs 135 and 180 of the Framework which, amongst other things, seek developments that are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; sympathetic to local character and history, including the surrounding built environment and landscape setting and recognise the intrinsic character and beauty of the countryside.

Whether it has been demonstrated that the barn is no longer required for agricultural purposes

32. The appellant advised that prior to the passing of his grandmother Jackletts Farm formed some 150 hectares of arable farmland. Following the granting of probate in 2019 the estate was split between the appellant and the other side of the family. Mr Halls inherited the commercial units and 8 hectares of land whilst the vast majority of the holding is farmed by the other side of the family.
33. The agricultural building in question was granted planning permission in 2017 and constructed in 2018. The appellant advised that following the division of the estate the building has largely remained vacant. In terms of the retained land, the appellant advised that farming it is not viable, either by him or a third party, due to its limited size and yield and the costs of modern farming. Moreover, use of the building would involve manoeuvring vehicles and machinery through an active commercial yard which in practical terms could

lead to conflict between commercial and agricultural vehicles undermining the functionality of the building.

34. I acknowledge that the wider estate is being farmed and the building appears to be fit for purpose. However, it is apparent that the building is now divorced from the farm and the appellant's need for an agricultural building has essentially ceased. It is not for me as part of this appeal to comment on how the wider Jackletts Farm is managed but there is nothing before me to suggest that other parties have an interest in making use of the building for agricultural purposes in the short or long term.
35. Therefore, based upon the evidence before me, notably the particular circumstances of the appellant, and in the absence of any clear indication from the Council as to what information would be required to satisfy the requirements of Policy DM10 C) part iv. I am of the view that it has been satisfactorily demonstrated that the existing barn is no longer required for the purposes of agriculture.

Accessibility to nearby settlements

36. The site is located within the Rural Area and the nearest settlement is Bicknacre located some 800m to the west. Slough Road and surrounding roads are devoid of footpaths and streetlighting making walking to and from the site to Bicknacre impractical and undesirable particularly so during the hours of darkness and inclement weather.
37. Whilst bus stops are located on Bicknacre Road they are some distance from the site and would involve walking along country lanes devoid of footpaths and lighting. Therefore, the use of public transport would not present a reasonable or practical alternative option for employees or customers.
38. Despite the appellant's contention the rural nature of roads, absence of lighting and prevailing road speeds would not make cycling to the site a practical option for many people irrespective of their proficiency. As such, it is likely that there would be a reliance on the use of private vehicles.
39. It is recognised in the Framework that transport solutions will vary between urban and rural areas. As such, there will be a tension and a balance to be struck between the desirability of supporting sustainable rural development and maximising sustainable transport opportunities. Furthermore, the Framework recognises that local business needs in rural areas may need to be found beyond settlements and in locations not well served by public transport.
40. Whilst most employees and visitors would be reliant on private vehicles, I am mindful that this is the case for some of the existing businesses at Jackletts Farm.
41. Whilst there would be some conflict with the spatial strategy set out in LP Policies S1 and S7, when taking into account the established use, that existing vehicular movements are already taking place and the relatively short driving distance from nearby settlements and the site, I find that a reliance on vehicles in this instance would not render the location of the proposed development unacceptable in terms of its accessibility to nearby settlements.

Planning Balance

42. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
43. I have found that the proposed development would essentially be a speculative commercial development in the Rural Area largely intended to attract new business conflicting with the development plan.
44. In my judgement the proposed development would not unacceptably harm the character and appearance of the area and the accessibility of the site to and from nearby settlements would not be unacceptable. I am also of the view that it has been demonstrated that the existing barn is no longer required for the purposes of agriculture. However, these are largely matters of neutral consequence in the overall balance.
45. I conclude that the proposal conflicts with the development plan, when read as a whole. There are no other considerations that outweigh that harm. The appeal is therefore dismissed.

Conclusion

46. For the reasons set out above the appeal is dismissed.

B Thandi

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Ward – Planning Consultant

Lee Melin – Planning Consultant

Robert Browne – Landscape Consultant

Mr N Halls – Appellant

Mr R Halls – Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jadvyga Balsevic - Planning Officer

Sally Rogers - Principal Planning Officer