



Appeal Decision

Site visit made on 9 April 2024

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024

Appeal Ref: APP/X1545/W/23/3328628

Workshop, Scatterbrook Farm, Rectory Lane, Latchingdon, Essex CM3 6HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs I Khan, CVC Components Ltd against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/22/01179.
 - The development proposed is erection of warehouse.
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Decision

1. The appeal is allowed and planning permission is granted for 'erection of a warehouse' at Workshop, Scatterbrook Farm, Rectory Lane, Latchingdon, Essex CM3 6HB in accordance with the terms of the application, Ref FUL/MAL/22/01179, subject to the conditions in the attached schedule.

Preliminary Matter

2. The appeal submission includes a Landscape Plan (plan No. MJ/SBF/01) which was not before the Council or interested parties when the planning application was determined. The plan shows existing soft landscaping around the site and some details of proposed new planting. This is additional detail that I am satisfied does not result in a substantial difference or fundamental change to the application or the development applied for. The Council has also had the opportunity to comment on the plan as part of its appeal evidence and given the nature of the detail shown on the plan, I am satisfied that my consideration of it would not cause unfairness to any party. I have therefore taken it into account.

Main Issue

3. The main issue is whether or not the development would be in a suitable location having regard to its location in the countryside and relevant development plan policies and:
 - i) the accessibility of the site;
 - ii) the effect of the proposal on the character and appearance of the area; and
 - iii) the effect of the proposal on the living conditions of occupiers of the dwelling at Scatterbrook Farm.

Reasons

4. The Scatterbrook Farm complex includes a detached dwelling and a variety of buildings including former agricultural buildings in commercial use as

storage/warehousing and offices. The appeal proposes a warehouse on a parcel of land at the west of the complex between a barn in use as a warehouse and a grassed paddock which includes a wind turbine.

5. The appeal site and wider Scatterbrook Farm complex are located in the countryside to the south of Latchingdon. Within such areas, Policy S8 of the Maldon District Local Development Plan 2017 ('the DP') indicates that permission will only be granted where, amongst other things, it is for specified forms of development. These include at b) 'employment generating proposals (in accordance with Policy E1)'.
6. Scatterbrook Farm is not a designated employment area. Be that as it may, Policy E1 of the DP does not specifically preclude employment proposals on sites which are not designated employment areas. Indeed, it provides that outside of the designated employment allocations, new provision for high quality employment space or the expansion of existing employment areas will be considered favourably subject to design, environment and infrastructure considerations.
7. The Council refers to restrictions placed on the Scatterbrook Farm complex through planning conditions, including on the types of use that may occur and on outdoor storage, as well as linking the commercial use to the occupation of the dwelling. However, these restrictions do not negate the fact that the complex has an established commercial use providing for employment. As a result and given the extent of the site in this use, I consider it could reasonably be described as an employment area, and I have not been directed to any definition or other guidance that would indicate differently. Based on the evidence before me and my observations at my visit, I also have no firm reason to doubt the requirement of the appellant for additional warehouse capacity to serve existing operations. Nor that provision of such space on the site would benefit the business, supporting its viability and economic role in the area as well as the employment opportunities that it offers.
8. Policy E1 does set out that proposals for employment uses will generally be directed to designated employment areas prior to considering other sites within the District. However, while the Council suggests that there are other sites available should the appellant wish to expand their business, it seems to me in this case that either a separate warehouse or wholesale relocation of the existing operations to another site could well result in inefficiency and detriment to productivity and viability with risk to the sustainability and retention of the business. In any event, the policy as written does not specifically require it to be demonstrated that there would be no potential alternative before considering proposals outside of designated employment areas. Nor is there compelling evidence to demonstrate that the provision of employment space in this location would cause detriment to employment sites elsewhere before me.
9. On that basis, I consider a concession to the general direction of proposals for employment uses to designated employment areas may be justified in this case and I see no reason that the proposal would necessarily conflict with Policy E1. However, this would be subject to design, environment and infrastructure considerations being found acceptable. Of relevance to these considerations, the Council has raised concerns in respect of the site's accessibility, the effect of the proposal on the character and appearance of the area and the effect of

the proposal on living conditions for occupiers of the dwelling at Scatterbrook Farm.

Accessibility

10. Policy S8 of the DP identifies Latchingdon as a 'smaller village'. These are described as defined settlements containing few or no services and facilities with limited or no access to public transport and very limited or no employment opportunities. In addition, the majority of the route between the appeal site and the edge of Latchingdon would be along Rectory Lane which is a fairly narrow rural road lacking in footways and lighting. In combination with the distance, I consider that this would significantly inhibit the attractiveness of options for travel on foot or by cycle (including to reach bus stops in Latchingdon). In my view, access to the site would therefore be likely to be highly reliant on travel by private vehicle.
11. This would be contrary to the National Planning Policy Framework ('the Framework') insofar as it seeks to promote use of sustainable transport modes and reduce emissions, including through the location of development. It would also be contrary to Policies S1 and T2 of the DP insofar as they generally seek to minimise the need to travel and prioritise sustainable modes of transport with safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate.
12. However, the nature of warehousing and the intended use of the development alongside existing space on the site mean that I consider any increase in traffic movements would be likely to be relatively low. This would limit the magnitude of any consequent harm including through emissions. Furthermore, the Framework seeks to support a prosperous rural economy including through the sustainable growth and expansion of all types of business in rural areas. It also advises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that sites to meet business and community needs in rural areas may have to be found in locations that are not well served by public transport. It continues that the use of previously developed land and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist. Nevertheless, I have already noted the potential for inefficiency and detriment to viability if the existing business at Scatterbrook Farm were to rely on alternative locations. Having regard to the specific circumstances of this proposal and the evidence before me, it is not clear that there would be such suitable opportunities elsewhere.
13. In my judgement, the benefits of the proposal in supporting employment and economic activity and the growth of the business in the rural area are sufficient to outweigh the limited harm that would arise in this case from the lack of sustainable transport options to access the site and the consequent reliance on vehicles contrary to Policies S1 and T2 of the DP and the Framework. In this context, I find on balance that the accessibility of the site would be acceptable.

Character and Appearance

14. The area near to the appeal site predominantly comprises a broad agricultural landscape. It includes loose groups or individual buildings set close to roads as well as dispersed farmstead clusters of varying scale which are set back from roads, typically amongst open agricultural fields and paddocks. This contributes

a distinctly rural character to the area, albeit one that could reasonably be described as 'working'.

15. The Scatterbrook Farm complex is set back from Rectory Lane within surrounding open paddocks and fields. While the complex includes buildings in commercial use, their appearance is generally reminiscent of modern agricultural structures and together with the dwelling, give the impression of a farmstead cluster. The Council has raised concerns about effects of outdoor storage on the character and appearance of the area and I note reference to restrictions imposed by planning conditions on previous permissions. However, the development applied for does not include outdoor storage. Existing storage that may be occurring is not a matter for this appeal and there are other mechanisms that would be open to the parties to pursue in respect of this.
16. The proposed warehouse would be of significantly greater footprint, height and overall scale than 6 shipping containers that were present on the site at the time of my visit. Moreover, the Council indicates that there is no record of planning permission for the containers. The appellant asserts that they have been in place for approximately 15 years, but while this has not been disputed by the Council, no substantive evidence such as a certificate of lawfulness is before me to confirm that they would in fact be lawful. I cannot therefore be sure of their status, and I have accordingly considered the appeal on the basis that the warehouse would occupy an area shown on plans approved under previous planning permissions as remaining open and undeveloped.
17. There would also be views of the development occupying this site including from a footpath which runs around much of the perimeter of the wider site within the appellant's control, and I agree with the Council that planting would be unlikely to provide effective screening.
18. However, while there would be a spread of built form, extending the Scatterbrook Farm complex further from Rectory Lane, this would be relatively small and the development would be located within an existing boundary fence around buildings in the main complex. In my judgement, the resulting impression of encroachment of development into the countryside would be very modest.
19. Moreover, the alignment, form and materials of the development would reflect those of the adjacent warehouse giving it a very similar overall appearance, albeit smaller, to this converted former agricultural building. In this context, I find that the development would not appear out of place or unexpected as part of either the complex or the wider countryside where similar modern agricultural style buildings are often in my experience present. It would also appear well-related to the wider complex, and the increase in the size of the complex would not appear disproportionate or uncharacteristic.
20. I appreciate that the development would occupy a slightly elevated position relative to the footpath around the wider site, but the intervening fields and paddocks provide for separation. Where it would be seen, it would also be appreciated together with the backdrop of the existing complex of buildings. Despite the proposed use for warehousing, I find given the above factors that the development would not appear unduly prominent or incongruous but would instead integrate sympathetically with its surroundings. While it would not screen the building, new planting could further soften the appearance of the

development to further reduce its visual impact which would not in any event be inappropriate.

21. The Council highlights that conditions were imposed on previous permissions intending to ensure that no further encroachment to the countryside would occur. However, while these mean that planning permission would be required for the activity covered by the conditions, they do not establish that further development would inevitably be unacceptable. The Council has also raised concern that even with the proposal, there may be overspill storage and further planning permission could be sought for additional warehousing in future. However, the proposal is intended to accommodate the overspill storage that is occurring on the wider site and a planning condition could restrict additional outdoor storage on the appeal site. Regardless of the outcome of this appeal, any future planning application would need to be considered on its own specific merits.
22. Having regard to the particular circumstances in this case, I find that the proposal would not be out of place in the local landscape or its rural setting. In my assessment, the development would not detract from the character or appearance of the area and I find that the intrinsic character and beauty of this part of the countryside would be adequately maintained. As a consequence, I find no conflict with Policy D1 of the DP which requires development to, amongst other things, respect and enhance character and local context and distinctiveness or Policy S1 of the DP insofar as it seeks high quality design and to maintain the rural character of the District. Nor would the proposal be contrary to the Framework insofar as it seeks good design and requires development that is sympathetic to local character and recognition of the intrinsic character and beauty of the countryside.

Living Conditions

23. Given the proposed use of the development as warehousing in association with the existing business on the wider site, I consider that any increase in activity and traffic movements would be likely to be relatively modest. The dwelling at Scatterbrook Farm is also set back from the shared access road, and noting the location of the development beyond the current buildings on the wider site and a suggested condition which could restrict hours of use, I consider that the proposal would not result in a significant increase in levels of noise or disturbance experienced at the dwelling so as to have any meaningful effect on living conditions for occupiers.
24. I therefore find that the proposal would not cause unacceptable harm to living conditions for occupiers of the dwelling at Scatterbrook Farm. Despite comments in the Council's evidence referring to the dwelling, I further note that effects of the proposal on occupiers do not expressly form part of either of the Council's reasons for refusal, and its evidence does not clearly allege conflict with any relevant policy or guidance in this respect.

Conclusion on Main Issue

25. Policy E1 of the DP sets out that new provision for high quality employment space or the expansion of existing employment areas will be considered favourably subject to design, environment and infrastructure considerations.

26. For the reasons given above, I am satisfied that the proposal would not cause harm to the living conditions of occupiers of the dwelling at Scatterbrook Farm, detract from the character or appearance of the area or adversely affect the intrinsic character or beauty of the countryside. Although there would be a reliance on private vehicles contrary to Policies S1 and T2 of the DP, I have also found that the harm arising would be modest and that the accessibility of the site would be acceptable.
27. In this context, I find that design, environment or infrastructure considerations would not weigh against the proposal. I also have no firm reason to find that the employment space provided would not be suitably high quality. As a result and having regard to my findings above, I conclude that the proposal would be in accordance with Policy E1 of the DP.
28. This would therefore be an employment generating proposal in accordance with Policy E1. As a result and given my finding that the proposal would not adversely impact the intrinsic character or beauty of the countryside, it would be a form of development that, while located outside of defined settlement boundaries, Policy S8 of the DP indicates may be granted permission.
29. The Council has asserted conflict with Policy E4 of the DP which relates to Agricultural and Rural Diversification. However, its officer report on the application confirms that the proposal is for an employment use and is not related to activities associated with agriculture or other land-based rural businesses. I agree. In this context and noting also that the proposal does not entail change of use of existing rural buildings to employment uses, it seems to me that the provisions of Policy E4 would not be directly applicable here and I do not find conflict with Policy E4 that would weigh against the proposal.
30. Drawing matters together, there would be some conflict with Policies S1 and T2 of the DP insofar as they seek to minimise the need to travel and prioritise sustainable modes of transport. However, the harm would be modest and outweighed by other considerations and I have found that the proposal would otherwise accord with Policies S1, S8, E1 and D1 of the DP. In addition, the proposal would contribute to a healthy and competitive local economy as sought by one of the key principles outlined in Policy S1 of the DP. Despite some limited conflict with aspects of Policies S1 and T2 of the DP, I consider overall that the proposal would accord with the development plan when it is read as a whole. Even if that were not the case, the economic benefits of the proposal would in my judgement be sufficient to outweigh the conflict that I have identified with Policies S1 and T2 such that material considerations would indicate a decision being made other than in accordance with the development plan.

Conditions

31. I have considered suggested conditions against the tests within the Framework and made amendments where necessary. I have also made minor amendments for clarity, brevity, consistency or to avoid duplication.
32. I have imposed the standard time limit (1), and a condition specifying the approved plans (2) for the avoidance of doubt and in the interest of certainty.
33. Details of drainage (3) are necessary to ensure adequate provision, although I have omitted extraneous detail of matters which would be more properly

considered as part of the assessment of the submitted scheme.

Notwithstanding the plan submitted with the appeal, I consider that further details of landscaping on the site (4) including of planting implementation are necessary to secure a satisfactory appearance. To ensure that the condition is suitably precise and effective however, I have amended the suggested condition to make clear that a timetable for planting works is required and to secure adherence to this timetable as well as the implementation of the approved hard landscaping works. Conditions to secure biodiversity enhancement (5) and details of lighting (6) are necessary to address requirements within the Framework and in the interests of biodiversity and the character and appearance of the area. Given the terms of condition 6, a separate suggested condition to restrict external illumination is not necessary and I have not imposed it.

34. A condition restricting outdoor storage (7) is necessary in the interests of the character and appearance of the area. Given this condition and noting my comments above about the existing containers on the site and that they would in any case need to be removed to carry out the development, I am not persuaded that a separate condition to require removal of these containers would be necessary. I have however imposed a condition restricting hours of operation (8) which is necessary in the interests of living conditions for nearby occupiers.
35. The Council also suggested a condition purporting to authorise development as specified in the application for use by CVC Components Ltd for storage purposes. However, I am concerned that a condition imposing a personal permission would not be reasonable here given that the proposal is for a permanent building which would be likely to remain should use by that occupier cease. That said, my findings on the main issue have been reached on the basis that the proposal would be used for warehousing to supplement existing space on the Scatterbrook Farm complex which is itself associated with the dwelling. Given the relevance of the proposed use and the common occupation across the site to my findings, I consider that there would in this case be clear justification for conditions requiring that the use remains as warehousing (9) and by the same occupier as the wider site (10). The main parties were invited to comment on these conditions and I have taken the comments made into account.

Conclusion

36. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved

plans: 22/2607/00, 22/2607/01, 22/2607/02, 22/2607/03, 22/2607/04 and 22/2607/05.

- 3) No development works above proposed ground level shall take place until details of a surface water drainage scheme to serve the development have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details to demonstrate that:
- i) The development would be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
 - ii) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1/l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield).

The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.

- 4) Notwithstanding the details shown on the submitted plans, no development works above proposed ground level shall take place until full details of the provision and subsequent retention of both hard and soft landscape works on the site have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- i) Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities.
 - ii) Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support and timescales.
 - iii) Details of the aftercare and maintenance programme.

The hard landscape works shall be carried out in accordance with the approved details before the development hereby permitted is first occupied. The soft landscape works shall be carried out in accordance with the approved details and the timescales in the approved planting scheme implementation programme. If within a period of five years from the date of the planting of any tree or plant, or the planting of any replacement tree or plant, is removed, uprooted, destroyed, dies, or becomes seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place.

- 5) No development works above proposed ground level shall take place until a Biodiversity Enhancement Strategy for protected and Priority species has been submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include:
- i) details of the purpose and conservation objectives for the proposed enhancement measures;
 - ii) detailed designs or product descriptions to achieve the stated objectives;
 - iii) details of the locations, orientations, and heights of proposed enhancement measures by reference to appropriate maps and plans;

- iv) details of persons responsible for implementing the enhancement measures; and
- v) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details before the development hereby permitted is first occupied and shall thereafter be retained in accordance with the approved details.

- 6) The development hereby permitted shall not be first occupied until a lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications). It shall include identification of those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and shall clearly demonstrate that areas to be lit will not disturb or prevent bats using their territory.

No external lighting shall be installed other than in accordance with the specifications and locations set out in the approved scheme. Any lighting installed shall thereafter be maintained in accordance with the approved scheme.

- 7) No goods, materials, plant, machinery, skips, containers, packaging or other similar items shall be stored or kept on the site outside of the building hereby permitted other than in accordance with a scheme including details of screening which has first been submitted to and approved in writing by the Local Planning Authority. Areas of storage and related screening shall thereafter be retained only in accordance with the approved details.
- 8) The use hereby permitted shall only take place between 0730 and 1800 Mondays to Saturdays, and not at any time on Sundays or Public Holidays.
- 9) The development hereby permitted shall only be used for warehousing under Class B8 of the Schedule to the Town and Country Planning (Use Classes) order 1987 (as amended) (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and for no other purpose whatsoever.
- 10) The development hereby permitted shall not be used or occupied at any time other than by an occupier occupying buildings on the wider site known as Scatterbrook Farm as shown within the blue line boundary on plan No. 22/2607/00.