



Appeal Decision

Site visit made on 27 February 2025

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 April 2025

Appeal Ref: APP/W1525/W/24/3348983

Silver Ash, Cranham Road, Little Waltham, Chelmsford, Essex CM3 3NB

- 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 Van Diemans Property Company against the decision of Chelmsford City Council.
 - The application Ref is 23/01866/FUL.
 - The development proposed is redevelopment of the existing site to provide B2 employment space with ancillary E(g) use and B8 open storage, with associated parking, landscaping and infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The updated version of the National Planning Policy Framework (the Framework), which came into force on 12 December 2024, introduces no changes that would materially affect the outcome of this appeal.

Main Issues

3. The main issues are:
 - whether the development would have an acceptable effect on the character and appearance of the area; and
 - whether the development would be suitably located in terms of the spatial strategy of the development plan, with particular regard to sustainable transport.

Reasons

Character and appearance

4. The appeal site lies to the north of Cranham Road. It sits outside of any defined settlement and is not within the Green Belt. As such, the development plan defines it as part of the 'Rural Area'.
5. The site itself is a long, narrow, roughly rectangular plot. Apart from its relatively narrow frontage onto Cranham Road, the site is largely surrounded by open fields, with boundaries marked by trees and hedgerows that provide varying levels of screening. The land is currently unused but contains a vacant building that was previously occupied for Class B2 and B8 purposes. The building has remained unused since suffering fire damage in 2021. It is common ground between the main parties that the site qualifies as previously developed land (PDL).

6. Planning permission has been granted for works intended to restore the building to its pre-fire condition. Copies of the decision notice and approved plans have been submitted, and the permission remains extant. Whilst the Council argues that implementation of this scheme is unlikely and unrealistic, the evidence before me suggests otherwise. The scheme appears relatively simple, subject to straightforward planning conditions, and could be implemented quickly and with minimal complexity. I therefore consider it to represent a realistic fallback position, with a greater than theoretical possibility of implementation. It is thus reasonable to treat this as the baseline position against which to assess the current proposal.
7. The appeal proposal involves the complete demolition of the existing buildings and the comprehensive redevelopment of the site. The proposal includes two identical buildings, each comprising two units (Units 1-4) with a maximum height of 9 metres. These would be sited toward the southern end of the plot, occupying a similar footprint to the fire-damaged structure. A separate building containing a single unit (Unit 5), with a maximum height of 8.6 metres, is proposed on the northern part of the site.
8. Policy DM8 of the Chelmsford Local Plan, Adopted 27 May 2020 (the CLP) addresses new buildings and structures in the Rural Area. Part A) covers new buildings and structures, Part B) relates to PDL, and Part C) deals with replacement buildings. Part D), which concerns residential outbuildings, is not relevant in this case.
9. The overarching aim of Parts A) and B) of DM8 is to support proposals that do not adversely impact on the intrinsic character and beauty of the countryside, alongside meeting other objectives. Part C) supports replacement buildings, provided certain criteria are met, including that the new building would not be out of keeping with its context and surroundings, and would not result in any other harm.
10. Unit 5, sited to the north of the plot, would be positioned furthest from the road frontage. However, due to its width, which spans much of the plot, it would remain visible from the site entrance. Its height would also significantly exceed any existing or consented structures on site. Whilst some screening is provided by existing boundary vegetation, there is insufficient evidence to demonstrate that this would effectively obscure the building from outside views, particularly from Drakes Lane to the north. Even with additional planting as proposed, this would take time to mature and may not fully mitigate the visual impact.
11. Unit 5 would be located on land not currently occupied by or consented for buildings. Whilst the appellant notes this area was previously used for external storage, limited information has been provided on the nature, extent, or scale of that use relative to the proposed building. Due to the building's scale, massing and encroachment onto undeveloped land, it would result in a significant increase to the site's built form. This would fail to reflect the intrinsic character and beauty of its countryside location, contrary to Policy DM8 A) and B).
12. Units 1-4 would be located on the southern part of the site, near the entrance and more visible from Cranham Road. These buildings would not extend significantly beyond the footprint of the existing and consented structure, and would leave a portion of the current footprint undeveloped. However, their overall height would substantially exceed that of the current and consented buildings. Consequently,

their scale and massing would fail to meet the criteria set out in Policy DM8 A) and B). Furthermore, as replacement buildings out of keeping with their context and surroundings, they would also conflict with DM8 C).

13. The appellant has submitted revised drawings showing reduced building heights for Units 1-4, whilst retaining the proposed footprint and roof plan. These plans were not before the Council when determining the planning application, and the main parties disagree on whether they should be considered as part of the appeal.
14. The revised drawings show a height reduction of approximately 2.8 metres, or about 31%, effectively removing an entire floor from the proposed buildings. Even considering that the amendments seek to reduce the scale of development, having regard to the *Holborn Studios* judgment¹, I consider these changes to be substantial. Accepting them would also deprive those entitled of the opportunity to comment. Therefore, I do not find it appropriate to consider these revised plans as part of the appeal. Moreover, even if I were to accept the amended plans for Units 1-4, they do not alter the proposals for Unit 5, which I have separately found to be harmful. As such, the amended plans are not determinative to the appeal.
15. Reference has also been made to the emerging Chelmsford Garden Community (CGC), which the appellant notes will deliver over 3,000 homes and additional infrastructure on land south of Cranham Road. During my visit, I observed fencing, earthworks, and the construction of a new junction opposite the appeal site, which appear related to the CGC.
16. However, there is limited information before me about the specific details of the CGC proposals or how the development opposite the appeal site is to progress. Whilst the appeal site may be close to the CGC, it remains designated as part of the Rural Area. Furthermore, any changes along the Cranham Road frontage would not necessarily alter the site's character when viewed from other locations, such as Drakes Lane to the north, where I have identified harm. Accordingly, the CGC does not lead me to alter my previous findings.
17. The appellant also draws attention to a nearby appeal that was allowed for a flour and feed mill. Whilst the sites may share some contextual similarities, I note the reference to the previous appeal's location near to the Drakes Lane Industrial Estate, which is not closely related to the current appeal site. Furthermore, that development was specifically linked to a rural or agricultural enterprise, which was deemed appropriate to the rural landscape. The current proposal is for non-specific Class B2 and B8 purposes. Although such uses are sporadically found in rural areas, I do not consider them typical of a functioning rural landscape. Therefore, the considerations between these proposals differ, and my previous findings are not altered.
18. The appellant refers to the potential for additional floorspace that could be created under permitted development rights. However, no substantive evidence, such as existing consents or lawful development certificates, have been provided to demonstrate how such proposals would compare to the appeal scheme. Moreover, it is not the purpose of this appeal to consider whether such development would be lawful. As such, this consideration carries limited weight.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

19. I acknowledge that the proposal includes measures to enhance landscaping and biodiversity, to implement sustainable drainage, and incorporate sustainable design through both the construction and operational phases. Nonetheless, the benefits associated with these elements, along with any compliance with other development plan policies, do not outweigh the harm previously identified.
20. For the reasons given above, including the potential fallback position, I conclude that the proposed development, due to its size, scale, massing and spread, would harm the character and appearance of the area. It would therefore conflict with Policy DM8 of the CLP, the aims of which have previously been set out. In respect of this issue, it would also conflict with Policies S1 and S11 of the CLP, which collectively seek to respect the character and appearance of landscapes and the built environment, and to preserve the intrinsic character and beauty of the Rural Area.

Suitability of location

21. Policy S1 of the CLP outlines the development plan's spatial principles that seek, among other objectives, to optimise the use of suitable PDL in sustainable locations. CLP Policy S7 sets out the spatial strategy and outlines strategic allocations for employment floorspace. Whilst it promotes new employment growth on appropriate PDL in the urban area, it also recognises that not all development needs can be met on such land, and the loss of some agricultural land to development is inevitable.
22. A Transport Statement (TS) has been submitted, comparing the transport and access implications of the proposal against the baseline conditions established through the extant planning permission. The TS concludes that the proposal would not result in an intensification of use at the existing Cranham Road access point, and therefore could be accommodated without compromising highway safety. The local highway authority (LHA) confirmed no objection to the proposal on this basis.
23. However, the Council considers the proposal to be akin to the creation of a new rural employment area, and views it as a speculative venture primarily intended to attract new businesses. Given that the development plan already allocates sites for such purposes, the Council argues that the proposal would undermine the planned system.
24. The appeal site is not well connected to public transport, with no bus or rail services within easy walking distance. Nevertheless, I have previously found it reasonable to treat the extant permission as a realistic fallback position. Whilst neither proposal has secured end occupiers, if this appeal was allowed, either scheme could be implemented. If occupied to capacity, as assessed in the TS and accepted by the LHA, their transport and sustainability impacts would be broadly comparable.
25. In this context, I consider there to be a clear distinction between the current appeal proposal and the case cited by the Council at Jackletts Farm. As explained in the decision letter for that appeal, the development would have extended beyond PDL and intensified the use of the site. In contrast, the current appeal site comprises PDL, both the appeal scheme and fallback are speculative, and there is a realistic prospect of the fallback being implemented. Moreover, the available evidence suggests that both schemes would have broadly similar sustainability implications.

26. Accordingly, for the reasons given above, I conclude that the proposed development would be suitably located and would not undermine the spatial strategy of the development plan. In respect of this issue, it would accord with Policies S1 and S7 of the CLP, the aims of which have previously been set out. It would also accord with the relevant provisions of the Framework, which have similar aims.

Other Matters

27. The proposed development could contribute positively to the economic element of sustainable development, as set out in the Framework, by creating jobs during the construction and operational phases. However, these potential benefits do not outweigh the previously identified conflict with the development plan.

Conclusion

28. Although I have identified no harm in respect of the suitability of the location, the proposal conflicts with the development plan as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with the plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

P Storey

INSPECTOR