



Appeal Decision

Hearing held on 9 July 2013 and 10 September 2013

Site visit made on 9 July 2013

by I Radcliffe BSc(Hons) MCIEH DMS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 October 2013

Appeal Ref: APP/W0530/A/13/2192228

Land adjacent to Meridian Court, Comberton Road, Toft, Cambridgeshire CB23 2RY

- 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 Mrs V Saunders & Miss J Wisson against the decision of South Cambridgeshire District Council.
 - The application Ref S/0824/12/FL, dated 14 April 2012, was refused by notice dated 2 August 2012.
 - The development proposed is the erection of buildings and conversion of barn to provide 3 dwellings with access and gardens including demolition of existing workshop, store and pro shop.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 dwellings and conversion of barn to bin store, following demolition of existing buildings on land adjacent to Meridian Court, Comberton Road, Toft, Cambridgeshire CB23 2RY in accordance with the terms of the application, Ref S/0824/12/FL, dated 14 April 2012 subject to the conditions in the schedule at the end of this decision.

Procedural matters

2. The description of the development that appears on the decision notice and on the appeal form is the 'erection of 3 dwellings and conversion of barn to bin store, following demolition of existing buildings.' I am content that this amended description adequately describes the proposal and I shall use it in the determination of this appeal.
3. I have had regard to the National Planning Practice Guidance which supports the National Planning Policy Framework. However, as this guidance is in draft form and subject to change I have accorded it little weight. As a consequence, it has not altered my reasoning or conclusions in relation to the appeal.

Main Issues

4. The main issues in this appeal are;
 - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework ('the Framework') and the effect of the proposal on the openness of the Green Belt

- whether the housing proposal would otherwise comply with the development plan in terms of its location;
- whether the proposed development would preserve or enhance the character or appearance of Toft's Conservation Area and countryside;
- other material considerations, including sustainability considerations, the need for affordable housing, the effect of the proposal on local infrastructure and housing land supply issues.

Reasons

Inappropriate development

5. The Green Belt boundary cuts through the appeal site. Approximately 25% of the site closest to the eastern site boundary is within the Green Belt and the remaining 75% of the site lies outside it. The proposed development has been designed so as to limit the amount of development in the Green Belt. The scheme would result in the demolition of a large agricultural building that extends into the Green Belt. It would also involve the removal of a large area of hard standing and an earth mound from the same portion of the site. In their place 4 car parking spaces and an associated turning area would be laid. A post and rail fence along the site boundary within the Green Belt would also be erected.
6. The Council and the appellant have historically approached development on the site by assessing what is proposed just on that part of the site that lies within the Green Belt in relation to inappropriateness. The alternative is to treat the whole of the proposed development as being in the Green Belt. Given that the new houses would be outside the Green Belt, and only ancillary development would take place within it, in my assessment, it would be wrong to adopt the latter approach. In relation to inappropriateness, I have therefore assessed just that part of the site that lies within the Green Belt.
7. Paragraph 90 of the Framework advises that certain forms of development, other than buildings, within the Green Belt are not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This is consistent with policy GB/1 of the Council's Development Control Policies Development Policy Document (DCPDPD). I consider that the most relevant purpose in this case relates to the safeguarding the countryside from encroachment. Paragraph 79 also advises that the essential characteristics of Green Belts are their openness and permanence. I regard this to be the absence of development rather than being primarily about visual effects.
8. Based upon the definitions contained within the Act the construction of parking spaces, a turning area and the removal of an earth mound are engineering operations, whilst a fence is a building. Paragraph 89 of the Framework does not identify fences as a type of building that is not inappropriate development within the Green Belt.

Fence

9. The fence therefore represents inappropriate development and such development would, by definition, be harmful to the Green Belt as described in paragraph 87 of the Framework. This harm would be added to by the post and

rail style of fence which would be constructed from timber and whose dimensions have a greater physical presence than other forms of fencing. The approximate 60m length of this type of fencing would serve to reduce openness. However, an alternative boundary treatment could be identified that would either not reduce openness (e.g. planting), or would have less of an adverse impact upon it. As this could be required by condition, inappropriate development would therefore not take place.

Parking and turning areas and mound removal

10. The removal of the earth mound, hard standing and the agricultural building would improve openness. In contrast the proposed hard standing for parking and its occupation by cars would reduce openness and harm the Green Belt. Whilst there would be an overall improvement in openness as a result of the development, it was agreed that there was sufficient space within the appeal site for the parking to be located outside of the Green Belt. I agree with that position. This matter could also be required by condition.
11. The use of the majority of the land as a private garden to the proposed dwelling in building B through the erection of structures could significantly reduce openness. However, this could also be controlled by condition.
12. My overall assessment in relation to parking and turning areas and mound removal is that openness would be improved. As such these proposed engineering operations do not constitute inappropriate development.

Overall conclusion on the first main issue

13. I therefore conclude that subject to the use of conditions that I have described the proposal would not constitute inappropriate development.

Location

14. The site is located outside the Toft village framework and is therefore, in planning policy terms, located in the countryside. In accordance with the Framework policy DP/7 of the DCPDPD strictly controls new housing in such a location. Only development which is essential to agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside is normally supported. An exception to this policy is housing schemes consisting entirely of affordable housing that adjoin villages. However, as the proposed development would be market housing this exception does not apply. For these reasons, the location of the proposed development would be contrary to the development plan and harm the spatial vision for settlements in rural areas.
15. Work has begun on a replacement Local Plan. However, the thrust of the existing policies that relate to the development of land adjacent to the villages remain unchanged. As a result, this does not alter the planning assessment of the proposal.

Character and appearance

16. The Toft Conservation Area boundary follows the same line through the site as the Green Belt boundary. Therefore the 3 dwelling houses proposed would fall within the Conservation Area. Paragraph 126 of the Framework advises, amongst other matters, that the conservation of the historic environment can bring wide social, cultural, economic and environmental benefits. It also identifies that heritage assets, such as Conservation Areas, are irreplaceable

resources. Paragraph 132 advises that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation.

17. Policy CH/5 of the DCPDPD seeks to conserve heritage assets and designated built environments in accordance with the Framework. In the exercise of planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. A character appraisal has not been prepared for the Toft Conservation Area. Nevertheless, it is clear that it is characterised by the linear development of buildings along the B1046 and a considerable amount of open undeveloped land, particularly along Church Road. As a result, the village has a distinctly rural character.
18. The appeal site is located adjacent to the eastern boundary of the settlement. It is dominated by 3 former agricultural buildings which occupy the site. The 2 largest buildings are grey utilitarian buildings. Other than in signalling the rural nature of the village these 2 buildings contribute little to the Conservation Area. This view is supported by the Council's decision to grant Conservation Area Consent for their demolition without requiring that they are then replaced by new buildings (refs S/1163/09/CAC & S10827/12/CA). The remaining building is a narrow single storey former cart shed. Its agrarian character and appearance contributes to Conservation Area. It is proposed that it would be refurbished and retained so that it can be used as a bin store.
19. The proposed development is based upon an extant permission for office development on the site. In the absence of any substantive evidence that this permission would not be implemented if the appeal was to fail, it is a fallback position to which I attach significant weight. It was established that the foot print and dimensions of the office buildings would be essentially the same as the proposed residential development. As such, the existence of an extant planning permission for these buildings, although for a different use, is a reference point for assessment of the appeal proposal.
20. The proposed development, in keeping with the extant scheme, would be for 3 buildings arranged in a courtyard arrangement. A similar layout is found neighbouring the appeal site and slightly further on within the village to the west. As such the proposed layout is in keeping with the pattern of development in the area. The predominantly single storey height of the development, with 2 storey elements confined to the south eastern corner, would result in a more human scale development than the far bulkier agricultural buildings that they would replace. In terms of height, the maximum height of the proposed buildings would be 1m shorter.
21. On the approach to the village from the east, the trees in front of the development, and the tall hedge along the road, would have the effect of partly screening the development until close by. On the approach from the west the adjacent courtyard would have a similar effect. As a consequence, in comparison to the existing buildings on the site, it would not be a particularly prominent development.
22. The proposed development essentially differs from the extant permission in that there would be some additional gables on building C and a small number of additional windows and doors. However, building C is a single storey in

height and the additional gables would be on to its rear elevation. As a consequence this greater detail would not be visible in views from the road or courtyard. Furthermore, the additional openings in the buildings would be small, few in number and would not significantly alter their appearance. I recognise that the domestic paraphernalia would result in the site having a more urban appearance than would otherwise be the case. However, this is offset to a significant degree by the large amount of car parking that would not be provided as part of the appeal proposal, but would be provided as part of the office scheme. Whilst this parking would not be visible from within the public realm it would be visible to workers and visitors to the offices.

23. Taking all these matters into account, I therefore conclude that the proposed development would not materially harm the character and appearance of the Toft Conservation Area or countryside. As a consequence, the objective of preservation of the Conservation Area would be achieved. The proposal would therefore comply with the statutory test, the Framework and policy CH/5 of the DCPDPD.

Other material considerations

Sustainable development

24. Sustainable development and the presumption in its favour are at the heart of the Framework. The appeal site is located within walking distance of the centre of the village and the facilities and services that it has to offer. This includes a post office, village shop, takeaway, restaurant, hairdressers, church and village hall. A cycleway connects Toft with Comberton, which is approximately 1km away. Toft's neighbour is therefore within walking distance and comfortably within cycling distance. Comberton has further facilities including a secondary school and a leisure centre. As a consequence, Toft, in combination with Comberton, is capable of meeting a number of the day to day needs of its residents. In terms of public transport an hourly bus service operates on every day of the week apart from Sundays. It connects the village with Cambridge and other settlements in the locality such as Cambourne.
25. Turning to the economic aspects of sustainability, the construction of the proposed development would generate employment. Post completion the spending of an additional 3 households would benefit the economy of the village and the area. In terms of the social aspect of sustainability, the proposed development would help address the shortage of housing generally in the District and the shortage of affordable housing. The increase in the spending power of the local economy would also help support the services and facilities within the village and in Comberton. In relation to the environment, I earlier found that the loss of the site would not cause harm to the Green Belt, or the character and appearance of the area.
26. Taking all these factors into account, I conclude that the proposal would be a sustainable development. As such the presumption in favour of sustainable development, as set out in the Framework, applies in this case.

Housing land supply

27. Paragraph 47 of the Framework advises that Local Planning Authorities should have sufficient deliverable sites to provide 5 years of housing against their housing requirements. The housing target for the District contained within the Local Development Framework (LDF) is 20,000 houses between 1999 and

2016. This target was calculated some years ago and originated from the Regional Spatial Strategy which has now been revoked. Nevertheless, it was agreed at the hearing it remains the most up to date for the District that has been publicly tested. On the basis of the development plan it was agreed that the Council had a 2.4 year housing land supply. This is explained by the loading of housing delivery towards the end of the plan period and the recession significantly reducing house building.
28. The LDF plan period is coming to an end. A proposed submission Local Plan (PSLP) to cover the period 2011 to 2031 has recently been out to public consultation. Of the three growth options consulted upon in 2012 it proposes a housing target between the low and medium options of 19,289. This is based upon a recently completed Cambridge Sub Region Strategic Housing Market Assessment (SHMA) which identifies a need for 19,000 houses. The SHMA was prepared jointly by 7 District Councils. It is based upon a comprehensive assessment of the most recent relevant data. Its housing figures were also tested against the 'How Many Homes' toolkit. As a consequence, on the basis of the available evidence, I find that it contains a more up to date and thus more reliable assessment of housing need in the District than the housing target contained within the LDF.
29. Based upon the PSLP the District would have a 4.9 year housing land supply for 2013 to 2018 and in excess of a 5 year supply for the remainder of the plan period. However, this is predicated on the basis that there has not been a persistent under delivery of housing in recent years and that a 5%, rather than a 20% buffer, should apply. In the absence of data presented to the hearing on annual house completions, it is not possible to determine whether the higher buffer should apply, and if it did what effect it would have on housing land supply.
30. Furthermore, the public consultation on the PSLP and the housing target it contains closes on 14 October 2013. The analysis of responses, including objections, has not yet begun. It will not be until early 2014 that the Council will have formally agreed a response to the key issues identified by the consultation. Only at that point will a decision be made as to whether the plan is ready to be submitted for examination. As a consequence, in accordance with paragraph 216 of the Framework, I find that only limited weight should be attached to the PSLP.
31. For the purposes of this appeal, I therefore consider that whilst the housing need identified by the SHMA is the basis upon which the housing land supply for the District should be calculated, a 5 year supply of housing land has not been shown to exist. Even if I found differently, and assessed the appeal on the basis of the PSLP, there would still be less than a 5 year housing land supply for 2013-2018. Whilst it would be a small shortfall the Framework seeks to significantly boost supply and its position is that a housing land supply of less than 5 years would not do so.
32. Taking all these matters into account, I therefore find that a shortfall in housing land supply exists. There is a development plan which seeks to deliver a 5 year supply but is not doing so. At present, subject to no delays, it is expected that a final version of the Local Plan will be adopted in 2015, over a year away. Against this background this is a deliverable site which would contribute towards the housing shortfall.

Affordable housing and local facilities

33. A signed and dated unilateral undertaking in relation to affordable housing, outdoor play space, indoor community facilities and household waste bins was submitted after the close of the hearing. The provisions sought have been assessed having regard to the tests in paragraph 204 of the Framework and the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).
34. In accordance with Policy HG/3 of the DCPDPD provision for affordable housing needs to be made and no onsite provision is proposed. Where this is not practical, as in this case, a financial contribution towards off site provision is required. In this instance a sum calculated in accordance with the supplementary planning document '*Affordable Housing*' of £87,500 is sought. Having regard to tests of the Framework and the requirements of the Regulation I find that the provisions in the agreement relating to affordable housing are necessary, relate directly to the development and fairly relate in scale and kind to the proposed development. This provision therefore satisfies the tests in the Framework and accords with the Regulation.
35. Policies SF/10 and SF/11 of the DCPDPD advises that in relation to small housing developments, such as the appeal proposal, where it is not practical to secure on site provision of outdoor play space, a financial contribution towards off site provision will be sought. In this instance the sum is £10,467.65. A qualitative assessment of outdoor play space in 2011 showed that Toft has a deficit. As a result, a contribution is necessary to mitigate the impact of the new development on already substandard local provision. On the basis of the 'Open Space in New Developments' supplementary planning document the sum sought would be fairly related in scale and kind to the development. It would also be spent locally to address the shortfall.
36. Policy DP/4 of the DCPDPD identifies that new development will generate a need for the provision or improvement of indoor community facilities. The monies sought would be spent on refurbishing the kitchen in the village hall and improving the sound system serving this community facility. The provision of waste receptacles to each property is necessary to facilitate the collection and disposal of household waste.
37. In relation to indoor community facilities and waste receptacles there is evidence that contributions are necessary, either because existing provision and facilities are not able to meet current demand, or to mitigate the effects of development. The contributions sought are calculated based upon the additional demand that the development is likely to generate and the cost of providing or upgrading the infrastructure necessary. The sums sought are therefore reasonably related in scale and kind to the proposed development.
38. As a consequence, all the sums sought, satisfy the tests in the Framework and accord with the Regulation. All the provisions of the section 106 agreement should therefore be taken into account in order to mitigate the harm that the development would otherwise cause.

Conclusions: The Planning Balance

39. For the reasons that I have set out earlier the proposal would be contrary to the development plan. This is because it would not comply with policy DP/7 of the DCPDPD which seeks to strictly limit new housing within the countryside.

Such contraventions are considerations that normally weigh heavily against the proposal. However, the Council does not have a 5 year housing land supply. As a consequence, paragraph 49 of the Framework directs that development plan policies governing housing land supply, such as policy DP/7 of the DCPDPD, should not be considered up to date. Furthermore, on the evidence before me, I find that there is more than a limited degree of conflict between the Framework and the approach of the development plan on the issue of residential development and housing land supply. In these circumstances, full weight may not continue to be given to relevant policies of the development plan, as paragraph 215 of the Framework makes clear. This is an important material consideration in this appeal.

40. The Framework further states that housing proposals should be considered in the context of the presumption in favour of sustainable development. I have found that the development would constitute a sustainable development. Where relevant policies, as in this instance, are out of date paragraph 14 of the Framework is clear. It states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
41. I have found that the character and appearance of the area would not be demonstrably harmed by the proposed development. The openness of the Green Belt would also be improved. The principle of housing on the appeal site, which would remain outside the development limits for the town and lie within the countryside, would be contrary to the emerging and existing local plan policies for the area. However, given the conflict between the Framework and the approach of the development plan on the issue of residential development and housing land supply, and the early stage on the road to adoption of the emerging Local Plan, these considerations are therefore of limited weight in favour of dismissing the appeal.
42. The proposed development would be a sustainable development in a relatively sustainable location. It would also make a contribution towards addressing the undersupply of housing in the District and contribute towards the provision of affordable housing. Collectively these factors weigh heavily in favour of allowing the appeal.
43. My overall conclusion in this case, having considered all the matters raised, is that the adverse impacts of the proposal are small and they do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The appeal should therefore be allowed.

Conditions

44. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans. This is for the avoidance of doubt and in the interests of proper planning. In order to ensure that the development complements its surroundings further details on materials and landscaping are required. To ensure development does not encroach into the Green Belt and harm openness car parking to the east of building B needs to be relocated and an alternative boundary treatment decided upon. To ensure that any planting becomes well established it needs to be well maintained. To preserve the contribution that building D makes to the character and appearance of the Conservation Area further details on its conversion are necessary.

45. As the site has been used for a variety of purposes the possibility of contamination on the site needs to be fully assessed in order to safeguard future residents and the environment. In order to protect highway safety, the proposed access needs to be widened to allow two vehicles to be able to pass each other clear of the highway. Adequate visibility splays also need to be provided and, along with the parking spaces that are to be provided, they need to be retained.
46. The appeal site is within a Conservation Area and the open countryside on the edge of the village. The site is also partly within the Green Belt. The development has been carefully designed to reflect its sensitive location. As a consequence, in order to protect the character and appearance of the area and the integrity of its design permitted development rights in relation to enlarging the dwellings, the creation of the addition of a porch, additional openings and oil containers should be removed. Given the limited space around the dwellings and that the rear garden of building B is within the Green Belt rights for the erection of outbuildings should also be removed. To protect privacy the glazing to certain bedroom windows in buildings B and C need to be obscurely glazed. I have required all these matters by condition, revising the Council's suggested conditions where necessary to better reflect the requirements of Circular 11/95 '*The Use of Conditions in Planning Permissions*'.

Ian Radcliffe

Inspector

Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: WD/2302/1 and WD/2302/200 rev A date stamped 16 April 2012; SCDC1 (elevations as proposed, external), SCDC2 (ground and first floor plans as proposed) and WD/2302/203 rev B (elevations as proposed, internal) date stamped 26 July 2012.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include car parking, at a rate of 2 parking spaces per dwelling, and turning area layouts none of which shall be located to the east of the rear elevation of building B; pedestrian access and circulation areas; hard surfacing materials; indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development; specification of all proposed trees, hedges and shrub planting, which shall include details of species, density and size of stock. The hard landscaping works shall be completed before the dwellings are first occupied in accordance with the approved details.

- 5) The area identified and laid out for the parking of vehicles in accordance with condition 4 shall not thereafter be used for any purpose other than the parking of vehicles.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwellings are first occupied and shall be carried out in accordance with the approved details.
- 8) No development shall commence until full details of the conversion of Building D is submitted to and approved in writing by the Local Planning Authority. This shall include a schedule and timetable of works including the retention of as much local fabric as practically can remain, details of materials for the internal and external changes, and the details of doors and fenestration. Work shall take place in accordance with the approved details.
- 9) No development shall take place until a site investigation has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before the development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 10) Notwithstanding condition 2 no development shall take place until revised details of the site access, incorporating a 5m wide access into the site and 2.4m x 70m visibility splays, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the commencement of the development and the visibility splays shall thereafter be kept free of any obstruction over a height of 600mm.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows, doors or openings of any

kind other than those expressly authorised by this permission shall be constructed.

- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no development within Classes A,B,C,D, E and G of Schedule 2, Part 1 of the Order shall take place.
- 13) Before the first occupation of the building/extension hereby permitted apart from any top hung vent, the ground floor window in the east elevation of the master bedroom to building C and the ground floor window of bedroom 4 in the west facing elevation of building B shall be fitted with obscured glass and shall be permanently retained in that condition.
- 14) The first floor window in the south elevation of the master bedroom of building B shall have a cill height no lower than 1.7m above the finished floor level of the room.

APPEARANCES

FOR THE APPELLANT:

Mr Mead
MRTPI

Partners in Planning

FOR THE LOCAL PLANNING AUTHORITY:

Mr Koch
DipTP MRTPI

South Cambridgeshire District Council

Mrs Hunt
BA (Hons) MRTPI

South Cambridgeshire District Council

Mr Fisher
Section 106 officer

South Cambridgeshire District Council

INTERESTED PERSONS:

Mr Yeadon
Mrs Dolman

Toft Parish Council
Toft Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 5 year Housing Land Supply – Proposed Submission Local Plan.
- 2 Policies GB/1, GB/2 , GB/3 and CH/5 of the DCPDPD.
- 3 Policy ST/7 of the Core Strategy DPD.
- 4 Draft National Planning Practice Guidance, Assessment of land availability, Stage 5: Final Evidence Base.
- 5 Toft Parish Plan.