
Appeal Decision

Hearing Held on 26 June 2018

Site visit made on 26 June 2018

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2018

Appeal Ref: APP/W0530/W/17/3186104

Eternit UK, Whaddon Road, Meldreth SG8 5RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Munnery (c/o Footprint Land & Development Ltd) against the decision of South Cambridgeshire District Council.
 - The application Ref S/1901/16/OL, dated 22 July 2016, was refused by notice dated 7 September 2017.
 - The development proposed is described as 'proposed mixed use development (up to 150 dwellings, public open space, and new technology plant; new car park and access for Sports and Social Club and associated infrastructure. Outline all matters reserved except for access'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal concerns an application that was made in outline, with all matters other than access reserved for later determination. I have considered the appeal on this basis, treating the masterplan¹ drawing as indicative.
3. The original planning application was made in the name of James Munnery (c/o Footprint Land & Property) but the name on the appeal form is given as James Munnery (c/o Footprint Land & Development Ltd). The appellant has confirmed that this was a typographic error on the application form and I am therefore satisfied the appeal can proceed. I have used the appellant's name and company name given on the appeal form in the heading above.
4. I have been referred to policies of the South Cambridgeshire Local Plan Proposed Submission 'with illustrated changes' 2014 and Main Modifications published 5th January 2018 ('the ELP'). The ELP has been through independent examination and main modifications have been published and consulted on with the Inspector's final report imminent.
5. Paragraph 216 of the National Planning Policy Framework ('the Framework') states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the

¹ Drawing 130(PI) 100 E.

- emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
6. There are currently unresolved objections and the examination process has not been completed but it seems to me that it is unlikely that the relevant policies will require further significant changes, although they may still be subject to change as a result of the consultation process. Furthermore, the approach taken appears to be consistent with the Framework and having regard to such considerations the relevant policies of the ELP should be afforded moderate weight.
 7. A number of additional documents were received both prior to and during the hearing as set out at the end of this decision. The parties agreed that such evidence was integral to the main issues and the documents were discussed with third parties who were also given an opportunity for an adjournment. I therefore find there would be no prejudice to any party from my consideration of these documents in determining the appeal and I have therefore taken them into account.
 8. An executed planning obligation by way of a Unilateral Undertaking ('the UU') was submitted following the close of the hearing². The submitted planning obligations would secure contributions towards 25% affordable housing, leisure space, sustainable drainage, household waste, education, children's play space, off site sports, indoor community space, libraries and lifelong learning and healthcare contributions.
 9. The Council and Cambridgeshire County Council have justified the various sums sought and the measures in the UU are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework. The pooling restrictions of Regulation 123 of the regulations are also met and I have therefore taken these obligations into account in my decision.

Background and Main Issues

10. At the time of their decision the Council could not demonstrate a 5 year supply of housing land. Consequently, relevant policies for the supply of housing were considered to be out of date by virtue of Paragraph 49 of the Framework, and the fourth bullet point of Paragraph 14 therefore applied. This states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, subsequently taken in established case law to also include development plan policies.
11. Members of the Council disagreed with the officer's recommendation to grant planning permission on this basis and refused permission on the grounds of its encroachment into the countryside, distance to services and facilities and reliance on private car journeys given the lack of regular public transport. As of the 21 May 2018 the Council considered that it was able to demonstrate a supply of 5.0 years and that the so called 'tilted' balance no longer applies.

² Dated 10 July 2018.

12. The appellant disputes this but also confirmed at the hearing that regardless of my findings in terms of supply, the 'tilted balance' should be applied because Policy ST/2 'Housing Provision' of the South Cambridgeshire Local Development Framework Core Strategy 2007 ('the CS') is out of date because the time period for delivery of the homes it refers to has ended. This is a matter to which I return to below.
13. The Council confirmed that it was not part of their case that the proposal would have a harmful impact on the character and appearance of the area. On the evidence before me I have no reasons to disagree with this assessment and consequently, the main issues are:
 - Whether the proposed development would provide a suitable site for housing, having regard to location, proximity of services and the extent to which the site is accessible by a range of modes of transport.
 - Whether the Council can demonstrate a 5 year housing land supply.

Reasons

Suitable site

14. The site lies outside of any settlement and is in the countryside for planning purposes. There is no dispute that a residential scheme outside the locations identified for the focus of new development would conflict with Policies DP/1 (a) and DP/7 of the South Cambridgeshire Development Control Policies DPD 2007 ('the DPD') and Policy ST/2 of the CS. Amongst other things, these policies seek to concentrate development in the district's more sustainable locations and require that outside urban and village frameworks, only development for agriculture, horticulture, forestry, outdoor recreation or other countryside specific uses will be permitted.
15. There was also no dispute that one of the government's core planning principles is that planning should actively manage patterns of growth to make the fullest use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable.
16. Circumstances vary depending on the nature and location of the site and decisions should take account of whether the opportunities for sustainable transport modes have been taken up so as to reduce the need for major transport infrastructure and should ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes should be maximised. A mix of uses should be promoted in order to provide opportunities to undertake day-to-day activities including work on site and, where practical, key facilities such as primary schools and local shops should be located within walking distances of most properties. These principles are integral to the approach taken in Policy DP/1 of the DPD.
17. Given the location of the Eternit Sports and Social Club ('the ESSC') the site is not isolated insofar as it is 'far away from other places, buildings or people; remote', its ordinary meaning³. Nonetheless the closest local facilities, including a primary school, a public house, convenience and farm shops and train station lie within the village of Meldreth. It is a 'Group Village' identified in Policy ST/6

³ Oxford Concise English Dictionary.

of the CS as being the least sustainable locations in the spatial hierarchy, only allowing some of the basic day to day requirements.

18. To my mind new residential development of the scale proposed should not be detached from being part of a viable and vibrant community, where there would be an immediate social network and ready access to some day-to-day services and employment opportunities without the need to travel. The ESSC would provide a social facility close by for future residents albeit that it may not be attractive to all and membership beyond the proposed free 2 year period cannot be assumed or secured.
19. A comfortable walking distance is around 800m but only 3 of the amenities referred to are less than this distance from the centre of the site⁴. Trips less than 2km may well offer the greatest potential to replace car trips but that does not mean such a distance is acceptable and in this case walking and cycling times range from a 15 to a 20 minute walk. That may well be satisfactory for an active adult individual or cyclist, but young children and older people would find the journey more onerous and time consuming. This is particularly the case for the primary school where it is doubtful parents would choose to walk children of a primary school age especially in inclement weather. A shorter public footpath across an adjoining field would also only be attractive in good weather and in the day time.
20. My observations at the visit were that even if future residents chose to access such a limited range of services, they would not consider them to be within a reasonable walking distance and would instead use private motor vehicles. This would be more attractive given the proposed parking improvements at the village hall. The findings of National Travel Surveys in 2015 and 2016 are a snapshot in time, are now of some age and are not determinative.
21. Local bus services are very limited and I find that even with an improvement to the nearest bus stops 800m away and real time information boards, they would not provide a regular and suitable alternative option to the car given their frequency and destinations.
22. Having heard Councillor van de Ven at the hearing, who appeared to have an in depth knowledge of local bus services due to involvement with local user groups⁵, I also have some reservations regarding the future of such services and their effectiveness due to prohibitive costs and restricted funding. This includes amalgamation of the 128 and 127 services with a return journey between Meldreth and Royston costing £6.50, a somewhat expensive and less attractive option. Whilst a sum of £30,000 is proposed for 'Dial-a-Ride' journeys as part of a community bus scheme the details of the scheme are vague and I have no commitment from the provider. Moreover, at a cost of 50p per mile and a minimum charge of £4.50 this is also expensive. Even if such a scheme were to be implemented then it is likely to only be available in the short term.
23. Other than the Eternit site there would be very few employment opportunities within an acceptable walking distance, let alone a distance that would be attractive to cycle or walk. Although some of these areas such as College Farm Business Park and Melbourn, a larger settlement, would be a 10-15 minute

⁴ Table 1 Statement of Common Ground on Transport and Accessibility Matters June 2018.

⁵ Chair of Cam Vale Bus User Group and regular attendee at Royston and District Community Transport Board.

cycle journey such a journey would also not appeal to all. The location of existing employees does not automatically mean the jobs would be for local people and it is likely a number of employees would live further afield with limited public transport options. Consequently, the proposal would give rise to a significant need to travel for work.

24. Funding is proposed for additional cycle stands at Meldreth station, site wide vehicle charging and a Green Travel Plan for the new plant and residential uses, both of which include car share schemes and 12 month discounted rail ticket schemes. As such there would be some promotion of sustainable transport modes but at this outline stage there is little for me to be confident in its likely coverage and uptake. Furthermore, it would be normal for any development of this nature anywhere to include such measures and they do not indicate an accessible or sustainable location.
25. I am mindful that the Framework advises that all aspects of sustainability should be considered in planning decisions, that local circumstances should be taken into account, and that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. However, this is a major development and a central plank of sustainable development in the DPD is to minimise the need to travel and reduce car dependency.
26. In my view, this is not a location which is, or would be as a result of the proposal, adequately served by sustainable transport for the scale of development proposed. Future occupiers would be heavily reliant on private motor vehicles to access the majority of their day to day services, leisure, retail and employment needs further afield, which is the least sustainable mode of transport. In any reasonable assessment the number of trips, including from deliveries and servicing would be considerable and such reliance on the private car would cause substantial environmental harm. In reaching this view I have had regard to the fact that the site is allocated for an employment use and has a current occupier but the site appeared to be relatively low key in its scale and activity. There is also nothing substantive before me to suggest the existing use or any likely future employment use would have similar effects.
27. Overall, the proposal would give an illusion of social inclusion given the ESSC but the reality of its location would result in a major housing development that is functionally and physically separated from the village and lacking any real alternative to access day to day facilities other than by private motor vehicles. For these reasons, the proposal would not provide a suitable site for housing in terms of its location, the proximity of services and extent to which the site is accessible by a range of modes of transport. Accordingly, it would conflict with Policies ST/2 of the CS and DP/1 and DP/7 of the DPD which, amongst other things, only allows for countryside uses outside the urban and village frameworks and require development to minimise the need to travel and reduce car dependency and contribute to the creation of socially inclusive communities.

Housing land supply

28. Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against their housing requirement. It is not my place in determining a section 78 appeal to undertake a detailed assessment of housing requirements or supply as such matters are best left for the Local Plan

process. However, what follows is an assessment based upon the evidence before me at the time of my determination.

29. The Council's submitted Annual Monitoring Report ('AMR') is for the period 1 April 2016 to 31 March 2017 and predicted a 4.8 year housing land supply for 2018 – 2023. The Council contend that comparing the anticipated rate of delivery with the number of homes necessary to achieve a 5 year supply results in a shortfall of 288 dwellings. Furthermore, 505 additional dwellings can be delivered in the period 2018-2023 because of a number of sites not accounted for in the housing trajectory that have been approved recently or allowed on appeal. This includes removal of 150 dwellings at Sawston as none of those will now be delivered within the period. This gives a surplus of 67 dwellings, including a 10% reduction for non-delivery in line with the AMR.
30. There were essentially 2 strands to the appellant's case, that allocated sites in the ELP should not be included in the deliverable land supply and overall that the Council's evidence base is not sufficiently robust for me to conclude a deliverable supply of 5.0 years. The appellant considers that it is 'approximately 4.2 years' and my attention has also been drawn to the findings of an Inspector in March 2018 that the supply was 'at least 4.1 years and no more than 4.5 years'⁶.
31. I adopt some caution with the figures given to me by the Council because although 'health checked' the actual completions are for 2017-2018 are not available. However, for the last 5 years actual completions have been more than predicted and despite the undoubted challenges of bringing forward development, including those sites where legal agreements are still outstanding the Council's approach and assessment seems reasonably robust in the current circumstances.
32. Turning to the allocated sites, having regard to the judgements in St Modwen⁷ and Wainhomes the consideration of housing land supply should not be expected to provide certainty that sites will be brought forward, but it should give a realistic assessment of deliverability. Sites may be included if there is no greater than a realistic prospect of housing being delivered within the five year period. The Wainhomes judgement⁸ also confirms that an allocation in an emerging local plan may be evidence in support of a conclusion that such sites are deliverable, albeit that this is a starting point.
33. On my reading what is clear is that such judgements do no more than to re-emphasise that footnote 11 of the Framework means exactly what it says that, for a site to be deliverable, it should be available now, offer a suitable location for development now, and be available with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. For a site to be deliverable, it should be capable of being delivered not that it will be delivered as this is subject to number of factors. Thus as the appellant accepted the decision maker has to have clear evidence to show that there is not simply doubt or improbability but rather no realistic prospect that the sites could come forward within the 5 year period.

⁶ APP/W0530/W/17/3187048.

⁷ St Modwen v SSCLG & ERYC [2017] EWCA Civ 1643.

⁸ Wainhomes(South West) Holdings and (1) The Secretary of State for Communities and Local Government (1) Wiltshire Council (2) Christopher Ralph Cornell and Sarah Cecilia Cornell. [2013] EWHC 597 (Admin).

34. The sites in dispute⁹ have passed the examination stage and the ELP is at a very advanced stage. The levels of objections do not appear to be significant and relate to the details within the policy allocations not the allocations themselves. I am mindful that the number of homes could go up or down given the requirement for a design led approach but I am satisfied that the totality of the Council's evidence and the absence of specific evidence to the contrary that they are not deliverable, means that the inclusion of these sites is reasonable.
35. Thus, I am satisfied on the balance of the evidence before me and in my planning judgement that there is a reasonable prospect that housing, of around the quantum projected by the Council, will be delivered on the allocated sites in the ELP within 5 years. This may not remain the case but, for the purposes of this appeal they should be included and that in this particular case the Council is therefore able to demonstrate a 5 year supply of deliverable housing sites.

Other Matters

36. I have had regard to the appeal decisions¹⁰ put before me by the parties insofar as some of the general issues they raise may be applicable to this appeal. However, they clearly required different judgements to be made based on the site specific circumstances of that case and evidence as put before the Inspector by the parties. I also note that the appellant revised his position on the level of supply¹¹ and I have not been provided with the full details. Consequently, I cannot be certain that they are directly comparable and they do not alter my findings in relation to the main issues. In any event each case must be determined on its own merits.
37. I have taken into account all the other matters raised in the representations, including the draft conditions which could have been appropriate had a grant of planning permission been appropriate, but do not find that they alter my findings and conclusions in relation to the main issues.

Planning balance and overall conclusions

38. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states decisions must be made in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposal would not provide a suitable site for housing, having regard to its location, the proximity of services and extent to which the site is accessible by a range of modes of transport.
39. The conflicts with Policies ST/2 of the CS and Policies DP/1 and DP/7 of the DPD are such that it should be regarded as being in conflict with the development plan as a whole. The proposal would also be in conflict with Policies S/7 and HQ/1 of the ELP which are also consistent with the Framework. The question that follows is whether there are material considerations which indicate that permission should be granted, notwithstanding the conflicts.
40. Given my findings above the tilted balance via Paragraph 49 is not engaged, but as set out above the appellant considers Policy ST/2 is out of date as it refers to a period and requirement that has expired. The fact that a particular development plan policy may be chronologically old is, in itself, irrelevant for

⁹ Listed in 1.4.1 of 'Appellant's Statement on Response to LPA 5YHLS Briefing Note'.

¹⁰ Page 15 of statement of case and Appendices FP10, FP11 and FP9 and LPA's appendices 9 and 11.

¹¹ Approximately 4.2 years' in 'Appellant's Statement on Response to LPA 5YHLS Briefing Note'.

the purposes of assessing consistency with the Framework and the weight to be attached to any conflicts with it.

41. Sites outside the settlement frameworks have been granted permission to get to a 5 year supply but this is not determinative as there is nothing to enable me to understand why planning permission was granted for development that has been considered on its own planning merits and subject to site specific considerations and judgements.
42. Policies ST/2 and DP/7 should not be considered out of date simply because the settlement boundaries to which they relate were drawn up prior to the Framework or in the context of a different housing requirement. Provided those boundaries are not preventing the delivery of a supply of housing in line with the Framework, which in this case they are not due to the proven existence of a 5 year supply; they should not be considered out of date. There is also no significant departure from the Council's spatial approach in the adopted CS and DPD in the ELP.
43. Even if there was a not a supply Policy DP/7 affects the supply of housing, as opposed to being a policy for the supply the housing so only Policy ST/2 is relevant as there was no dispute that Policy DP/1 is entirely consistent with the Framework. Furthermore, having regard to Paragraph 215 of the Framework the policies form part of an overall strategy that seeks to promote sustainable development and a sustainable location of development recognising the intrinsic character and beauty of the countryside. I find they are not inconsistent with the approach in the Framework and are not out of date.
44. Turning to the benefits, the proposal could provide up to 150 dwellings, including approximately 38 affordable housing units some of which are for local people. Whilst these are substantial benefits the weight to be attached is moderated by the fact that the housing needs of the area, including affordable housing are being met through the delivery of other sites as part of the 5 year supply.
45. I give little weight to the economic benefits of construction jobs and the additional patronage of village services during construction, given their short term nature. The proposal could help to maintain local services and facilities, albeit that would also be some conflict with the economic dimension of sustainability which seeks to ensure, among other things, the delivery of housing land in the right place and at the right time. The development would trigger payment of a New Homes Bonus but there is no evidence of a connection between the payments and the development to enable it to be taken into account in accordance with the advice in the Planning Practice Guidance. It therefore carries little weight.
46. I am unable to be conclusive but having visited the appeal site it appeared to me to that it is probably Previously Developed Land ('PDL') the effective re-use of such land is encouraged in local and national planning policy. Investment in the new technology plant is a benefit, along with the creation of an additional 25 jobs. I give little weight to the protection of jobs as there is nothing substantive to suggest further jobs would be lost were the appeal to fail. Furthermore, the site is allocated as an Established Employment Area in the ELP which suggests residential development is not the only option.

47. The appellant considers that some of the obligations are not simply mitigation but serve a dual purpose, for example, in terms of accessibility and connectivity and should be considered as benefits. Whilst the obligations may be substantial there is nothing tangible to suggest junction improvements, libraries, healthcare, education, on-site and play contributions are anything other than mitigation for the impact of the development. Off-site open space improvements may however benefit others and is a small social benefit.
48. The enhancement of facilities at Meldreth Village Hall is secured and there would be an increased attractiveness to the ESSC as a result of the new cycle/footway. The weight I give to this is limited given I have reservations as to whether any meaningful number of residents would walk to the club given improved parking and access arrangements. Although some of the existing buildings would be removed I am not entirely convinced that replacement of these structures with the likely density, coverage and height of up to 150 dwellings would necessarily result in an overall landscape or ecological improvements, not least given the outline form of the application. The absence of harm in terms of other normal development management matters weighs neutrally in the planning balance and given the draft status of the revised Framework it does little to alter my views.
49. Paragraphs 6 - 8 of the Framework make it clear that the role of the planning system is to contribute to the achievement of sustainable development, and that economic, social, and environmental gains should be sought jointly and simultaneously in order to guide development to sustainable solutions. In this case the proposal would fail to fulfil the environmental and social dimensions of sustainable development.
50. Drawing my conclusions together, there are clearly a number of benefits that weigh in favour of the proposal but I attach considerable and greater weight to the adverse impacts in terms of social and environmental harm and the conflicts with the policies of the CS, DPD and the Framework that I have identified. Even if Policy ST/2 was out of date or I were to conclude there is a shortfall in the 5 year housing land supply on the scale suggested by the appellant¹² and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole. As such the proposal would not be the sustainable development for which Paragraph 14 indicates a presumption in favour.
51. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that in this particular case the appeal should be dismissed.

Richard Aston

INSPECTOR

¹² 'Approximately 4.2 years' in 'Appellant's Statement on Response to LPA 5YHLS Briefing Note'.

APPEARANCES

FOR THE APPELLANT:

Mr Andy Frost	Frost Planning Ltd
Mr Ian Ponter	Kings Chambers
Mr James Munnery	Appellant
Mr Andrew Tebb	Marley Eternit
Dr Nigel Pennington	Marley Eternit
Mr Andrew Lightfoot	Calder Peel
Mr Gareth Davis	Vectos
Mr Nick Atherton	On behalf of DEP Landscape Architecture Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr Luke Simpson	Adams Hendry
Mr Douglas Edwards QC	Francis Taylor Building
Jenny Nuttycombe	South Cambridgeshire District Council
Mr James Fisher	South Cambridgeshire District Council
Mr David Roberts	South Cambridgeshire District Council

INTERESTED PARTIES:

Cllr Susan van de Ven	Cambridgeshire County Council
Susan Hodgson	Marley Eternit
Cllr Joe Swales	South Cambridgeshire District Council
Mr Colin Stapleton	Eternit Sports and Social Club
Mr Paul Norman	Eternit Sports and Social Club
Cllr Philippa Hart	Meldreth Ward District Councillor
Mr Richard Goddin	Local resident
Mr Phillip Kratz	Birketts LLP on behalf of Meldreth Parish Council
Mr Colin Fitzsimons	Cambridgeshire County Council

DOCUMENTS AND PLANS SUBMITTED PRIOR TO AND AT THE HEARING

1. Update on South Cambridgeshire's Five Year Housing Land Supply 21 May 2018.
2. South Cambridgeshire Local Plan – Position Statement 25 June 2018.
3. South Cambridgeshire Local Plan Proposed Submission July 2013.
4. Policy ST/2 of the CS.
5. CIHT Planning For Walking April 2015 (also submitted in appellant's evidence).
6. Meldreth Regeneration Limited 'Summary of Planning Obligations'.
7. Five Year Housing land Supply briefing note – received by email 4 June 2018.
8. South Cambridgeshire Annual Monitoring Report 2016-2017.

9. Joint Cambridge and South Cambridgeshire Local Plan Proposed Modifications 2017 Joint Housing Land Supply Update received 4 June 2018.
10. Summary note of planning obligations received 21 June 2018.
11. Appellant response to LPA 5 YHLS Briefing Note received 22 June 2018.
12. St Modwen v SSCLG & ERYC [2017] EWCA Civ 1643.
13. Gladman Developments Limited v Daventry District Council [2016] EWCA Civ 1146.
14. APP/W1715/W/16/3156702 - Land to south of Mallards Road, Burlesdon, Hampshire SO31 8EH.
15. Statement of Common ground on Transport and Accessibility received 25 June 2018.
16. Planning conditions received 25 June 2018.
17. Statement of Common Ground (Final Agreed Version) received 25 June 2018.