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## Appeal Decision

Site visit made on 6 November 2018

**by Andrew Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 January 2019**

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**Appeal Ref: APP/W0530/W/18/3208246**

**Moat Farm, East Hatley, Hatley SG19 3HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M. Adler against the decision of South Cambridgeshire District Council.
  - The application Ref S/4601/17/FL, dated 27 December 2017, was refused by notice dated 9 July 2018.
  - The development proposed is the change of use of domestic outbuildings to two dwellings.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of domestic outbuildings to two dwellings at Moat Farm, East Hatley, Hatley SG19 3HY, in accordance with the terms of the application, Ref: S/4601/17/FL, dated 27 December 2017, subject to the conditions set out at the end of this decision.

### Procedural Matters

2. Since the submission of this appeal, the South Cambridgeshire Local Plan September 2018 (the Local Plan) has been adopted by the Council and the policies therein can now be afforded full weight in decision making. The main parties were written to inviting comments on what bearing the adoption has on this appeal, and I have taken into consideration the comments received.
3. The description of development stated on the Council's decision notice differs to that stated on the application form. The words 'part-retrospective' have been added. The appellant has stated that a revised description was not agreed with them and that planning permission is not being sought for any retrospective works. In any event, as the term part-retrospective is not an act of development, I have dealt with the application as a proposal for the change of use of domestic outbuildings to two dwellings.
4. The proposal involves alterations to existing buildings, the demolition/removal of existing buildings and a static caravan, and works to increase the width of the existing driveway. Whilst these works/measures are not included in the description of development, it is clear that they formed part of the Council's consideration of the scheme. The appeal is therefore considered on this basis.
5. The inlet site plan located to the top right hand corner of the submitted plans referenced A120, A400 dated 21/12/17, A500, P010, P100, P320, P325 contains a factual error. The labelling of Units 4 and 5 are transposed, i.e. Unit

4 is in fact Unit 5 and vice versa. The title of the submitted plan referenced A400 and dated 12/21/17 also contains a factual error; it should refer to Unit 6 rather than Unit 4. The appeal has been considered on the basis of these corrected understandings.

### **Main Issues**

6. The main issues are the effect of the proposed change of use on the availability of local employment opportunities; and whether the appeal site represents an appropriate location for housing.

### **Reasons**

#### *The effect of the proposal upon the availability of local employment opportunities*

7. The appeal site contains a complex of 6 outbuildings that are understood to have formerly been used for agricultural purposes. The planning history at the appeal site however indicates that permissions have been granted in the more recent past for light industrial, storage and canine therapy centre uses. I noted, from site inspection, no apparent current commercial activity at the site and the presence of only a small extent of domestic storage. The outbuildings were otherwise vacant.
8. Criterion (a) of Policy H/17 of the Local Plan makes it clear that any potential change of use of redundant or disused rural buildings will only be permitted where the buildings are unsuitable for employment use. Furthermore, Policy E/14 of the Local Plan requires that proposals to change the use of existing employment sites will be resisted unless one of a number of set criteria is met, i.e. it is appropriately demonstrated that the site is inappropriate for any employment use to continue; the overall benefit to the community outweighs any adverse effect on employment opportunities and the range of available employment premises; or the existing or any alternative employment use generates/would generate environmental problems. Policy E/14 also confirms that redevelopment proposals that propose the loss of all employment uses will need to include evidence as to why it is not possible to deliver an element of employment as part of the scheme.
9. From the evidence before me it would appear that none of the outbuildings on the appeal site have recently operated successfully, or for any extended period of time, in an employment/commercial capacity. Indeed the Council acknowledges that the canine therapy centre use never commenced and the appellant has stated that no light industrial use of the appeal site ever commenced either, and I have not been provided with any evidence to clearly indicate otherwise.
10. The planning permissions that were granted for light industrial and storage use (S/0999/02/F) and for a canine therapy centre (S/0812/07/F) are highly restricted in terms of the planning conditions that were imposed. For example, both permissions are restricted to the specific use that was granted, specify a very low number of maximum employees that can be on site at any one time (i.e. 2 and 4 respectively) and restrict hours (with respect to either general operation or to deliveries and the operation of power operated machinery). These restrictions give a clear indication that only a very narrow spectrum of potential employment/commercial uses would likely be considered appropriate

upon the appeal site so as not to cause environmental problems for immediately adjoining residential occupiers.

11. Although there may be other employment uses, such as offices, that are potentially more compatible alongside existing residential properties (i.e. when compared to the previous light industrial use permitted), separate planning permission would appear to be required. This is given the heavily restricted nature of past employment/commercial uses permitted, meaning that the appeal site is not readily available to be openly marketed for employment uses. It is also fair to assume that the previous restrictions applied at the site would significantly reduce its potential attractiveness to local employers. The Council has also referenced that the outbuildings could be compatible with tourist uses, although no further details have been provided and I am unclear as to what these would potentially entail. In any event, whilst no evidence of marketing the appeal site for employment purposes has been provided, the outbuildings are realistically, I consider, unsuitable for employment use.
12. The appeal site contains a relatively small complex of outbuildings and, as discussed above, past planning permissions for employment/commercial uses at the appeal site were heavily restricted. Furthermore, there is presently no apparent active employment use on site. In this context it would be unreasonable to require that any residential use of the site brings forward an element of employment development.
13. For the above reasons, I consider that the proposed change of use would cause only minimal harm with respect to the availability of local employment opportunities. The proposal would not conflict with Policies H/17 and E/14 of the Local Plan in so far as they require that the change of use and adaptation of redundant or disused buildings in rural areas to residential use will only be permitted where the buildings are unsuitable for employment use.
14. Policy S/11 of the Local Plan is not relevant to my considerations as it applies to development inside designated development frameworks. I acknowledge that the proposal conflicts with Policy S/7 of the Local Plan, in the sense that the site is located outside of the District's development frameworks. However, Policies H/17 and E/14 relate to the reuse of buildings in the countryside for residential uses and to the loss of employment land to non-employment uses, and therefore I consider that these policies carry greater weight in the determination of this appeal than the more general and strategic Policy S/7. This is because the appeal relates specifically to rural buildings that were previously granted planning permission to be used for employment purposes. The proposal therefore accords with the development plan when read as a whole.

*Whether the appeal site represents an appropriate location for housing*

15. The appeal site is located outside and directly adjacent to the village of East Hatley's development framework, and therefore is in open countryside. The site is isolated in the sense that it is beyond the defined development limits of the village in an area where no other similar development is expected. Whilst the revised National Planning Policy Framework (the revised Framework) states that decisions should avoid the development of isolated homes in the countryside, the proposal would re-use redundant or disused buildings in accordance with paragraph 79 c) of the revised Framework.

16. Policy S/7 requires that, outside of the designated development frameworks, only development for uses which need to be located in the countryside or, importantly, where supported by other policies in the Local Plan will be permitted. In the explanatory text beneath Policy S/7 it is made clear that development frameworks have been defined to ensure that the countryside is protected from gradual encroachment on the edge of villages and to help guard against incremental growth in unsustainable locations.
17. The explanatory text beneath Policy H/17 recognises that the reuse of existing rural buildings provides an opportunity for development without the impact that new buildings have on the landscape and that such schemes may therefore potentially be allowed in situations where new buildings would not.
18. On the basis that the proposal is focussed upon the conversion of existing outbuildings involving only limited external alterations, and that any external paraphernalia associated with the proposed residential use would be expected to have only a minimal visual effect, I am satisfied that the proposal would not represent a gradual encroachment in to open countryside. Indeed, within the Council's officer report, it is acknowledged that clearing up the site from its previous storage use will enhance the setting of the open countryside and will better integrate the development with its surroundings.
19. In this instance the proposal is situated outside and on the edge of East Hatley's development framework and is within potential walking distance of Hadley St George (albeit along a route that is not lit and there is no footpath), which contains some basic amenities such as a Post Office and village hall. The proposal, I note, involves the reuse of existing outbuildings that, even if used in their existing capacity as domestic outbuildings, or in their previously permitted employment/commercial capacity, could generate additional journeys in any event. I also note that the wider area is predominantly rural such that car travel would often be essential and, at times, unavoidable for local residents. In this context I am satisfied that the proposals would not represent undue incremental growth in an unsustainable location. Furthermore, I note that the principle of reusing buildings in the countryside for residential use is supported by Policy H/17.
20. For the above reasons, I consider that the proposal would not cause harm by virtue of the appeal site representing an appropriate location for housing. I once again acknowledge that the proposal conflicts with Policy S/7. However, the proposal accords with Policy H/17 in so far as this policy is supportive of allowing rural buildings to be adapted to make a contribution to meeting local housing needs. In this instance, as Policy H/17 relates to the reuse of buildings in the countryside for residential uses, I consider that it carries greater weight in the determination of this appeal than the more general and strategic Policy S/7. This is because the appeal relates specifically to the reuse of rural buildings. The proposal therefore accords with the development plan when read as a whole.

### **Other Matters**

21. It has been stated by interested parties that works to convert the outbuildings have commenced and that there are concerns that such works have involved increases in the heights and footprints of some of the buildings. However, the concerns raised by interested parties have not been substantiated and the appellant has stated that recent works have been purely to undertake repairs

and maintenance. Furthermore, the Council has not raised the potential enlargement of existing buildings as an issue and the suite of existing plans submitted appear to accurately depict the scale and position of the existing buildings on site.

22. I consider that a structural report (dated 22 December 2017) submitted in support of the original planning application provides appropriate assurances (alongside my own external observations at the site) that the buildings intended to be converted are capable of conversion through their retention and repair. This has not been disputed by the Council.
23. The proposal is to change the use of existing outbuildings with limited external alterations. In the context of previous employment/commercial permissions granted, of the separation distances in place and of the ground floor level position of new openings (where proposed), I do not consider that the living conditions of neighbouring occupiers would be unduly affected by the proposal due to an overbearing relationship, loss of privacy, undue noise or light pollution.
24. The car parking requirements that would be generated by the proposal would be expected to be modest in light of only two dwellings being proposed. Indeed such requirements and traffic movements would potentially be less when compared to previous employment/commercial uses permitted at the site. I am content that the site can appropriately accommodate car parking to serve the 2 dwellings, as indicated upon submitted plan C552/P-02.
25. Furthermore, notwithstanding that it has been commented by interested parties that traffic can move at speed by the site's access given its proximity to where the national speed limit applies and I note that there are a number of other vehicular access points nearby, I am satisfied that the proposal would not prejudice highway safety. This is particularly on the basis that the access would be wide enough to accommodate both entering and exiting vehicles simultaneously. Notwithstanding this, the proposed improvements/widening to the access track would be relatively modest in scale and full details of all intended hard surfacing can be appropriately secured via planning condition.

### **Planning Balance**

26. Notwithstanding that the proposed change of use would mean that the outbuildings would no longer offer the potential to be occupied by employment uses, I am not aware of any existing employment activity and the buildings, I consider, are not realistically available for employment uses in any event. When weighed against the provision of two additional residential dwellings in a District where the five year supply of housing is currently marginal, I consider that the overall benefit of the proposal to the local community significantly outweighs any minimal adverse effect upon local employment opportunities. This is particularly as, notwithstanding that the appeal site falls outside of East Hatley's development framework, I have identified that the appeal site represents an appropriate location for housing.
27. For the avoidance of doubt, I have not applied the tilted balance as set out within paragraph 11 of the revised Framework. I have found that the development proposals accord with an up-to-date development plan.

## Conditions

28. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the revised Framework and Planning Practice Guidance. As a result I have amended some of them for consistency and clarity and have omitted others. Pre-commencement conditions have only been applied where agreed to by the appellant and where necessary to guide initial works on site.
29. In the interests of certainty, a condition specifying the approved plans is required.
30. In the interests of protecting the character and appearance of the area and to guard against encroachment into the open countryside, planning conditions are required to ensure that existing units and a static caravan are indeed demolished/removed from the site prior to the development's first occupation, as proposed. In recognition that the caravan is readily moveable, in the interests of prudence, it is considered that this condition should refer to its permanent removal.
31. I note that refurbishment work is already underway with respect to buildings to be retained. I am uncertain of the intended final finishes. I therefore also consider it necessary, in the interests of protecting the character and appearance of the area, for full details of the external surfaces of the dwellings to be approved. For the same reason, a planning condition is to be applied to secure full details of intended hard and soft landscaping and boundary treatments before their implementation. Further, the condition would ensure the proper maintenance of new landscaping and that appropriate protection measures are in place with respect to existing trees and hedgerows whilst existing buildings on site are converted/demolished.
32. As set out in the revised Framework, conditions restricting the future use of permitted development rights should only be used where there is clear justification to do so. In this instance the appellant has suggested that a condition be attached to remove permitted development rights within the curtilage of dwellings. I see clear justification for such a condition to be applied that pertains to any buildings incidental to the enjoyment of a dwellinghouse, such as garages, outbuildings or other ancillary structures. This would protect against undue built development on the site in the interests of protecting the character and appearance of the area.
33. Notwithstanding that the Environment Agency has confirmed that the appeal site has low permeability, the Council's Sustainable Drainage Engineer has confirmed that they consider the proposed development to be acceptable subject to a condition requiring full details and subsequent implementation of the intended methods of surface and foul water disposal. As the proposal primarily relates to the change of use of existing buildings, I find no reason to disagree that this is an appropriate approach. Alongside this finding I acknowledge the proximity to the site of a local watercourse.
34. I consider that conditions requiring follow-up great crested newt surveys (and a subsequent amended mitigation strategy if necessary), the approval and subsequent implementation of a scheme of biodiversity enhancement and the full implementation of ecological recommendations (as already set out in an Ecological Assessment document commissioned by the appellant) are

commensurate with the scale and potential effect of the proposal upon surrounding ecology/biodiversity. The Ecological Assessment was carried out in June 2018 and therefore potentially after repair/maintenance works commenced to the existing buildings on site. I must however consider the appeal on the basis of the evidence before me. I note that no evidence of bat roosts was identified, but that a number of bat-related recommendations are put forward to ensure that any potential adverse effects from the proposed development are properly mitigated.

35. So as to ensure no adverse impact on archaeological deposits, a programme of archaeological works is required to be approved and undertaken. A condition ensuring that potential contamination at the appeal site is properly investigated, and then remediated if required, is also required in the interests of protecting human health. Construction and associated deliveries are to be restricted in accordance with the Council's suggested hours so as to protect the living conditions of neighbouring occupiers. A planning condition requiring no burning of materials on the site is not necessary, particularly given the relatively limited extent of construction/demolition works proposed. In any event, if such activities were to occur they could be investigated/enforced against outside of the planning process.
36. In the interests of securing sustainable construction, further conditions securing the use of on-site renewable energy/low carbon technologies to reduce carbon emissions and the installation of water efficiency measures are required. Full details of the water efficiency measures to be utilised are to be secured to ensure that the relevant condition is enforceable.
37. In the interests of highway safety, conditions are required to secure full details and the subsequent implementation of the intended site access and appropriate pedestrian visibility splays before first occupation (i.e. when the access would be used by future occupants). In light of the submitted plan C552/P-02 making it clear that the access is to be 5m in width for its first 10m measured in to the site, it is not necessary for a condition to be applied to specifically require that a certain width be achieved. The site access details are, however, to specifically include measures to ensure that surface water does not drain on to the public highway and full details of intended surfacing. The requirement for full surfacing details is also in the interests of guarding against undue encroachment into the open countryside. A further condition to ensure the appropriate positioning of gates is also required in the interests of highway safety.
38. In light of the scale of development proposed, i.e. two dwellings, and the length of ducting that would be required, I do not consider that it would be reasonable to insist that ducting for fibre optic cabling be provided as part of the proposed development. The need to carry out such works, in this instance, should be based on the needs of any future occupiers.

## **Conclusion**

39. For the reasons set out above, the appeal is allowed.

*Andrew Smith*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (scale 1:1250); CS552/P-02; A100; A120; A200 Rev 2; A300; A320 Rev 1; A400 dated 21/12/17; A400 dated 12/21/17; A500; P010; P100; P320; P325; 17668\_TOPO; 17668\_MBS.
- 3) Development shall not proceed above damp proof course level until details of external facing and roofing materials have been submitted to and approved in writing by the local planning authority. The 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 landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include 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. The details shall also include specification of all proposed trees, hedges and shrub planting, which shall include details of species, density and size of stock; details of boundary treatments, including materials and locations; and details of hardstanding across the site. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing by the local planning authority. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
- 5) The development hereby permitted shall not commence until:
  - a) the site has been subject to a detailed desk study and site walkover, to be submitted to and approved in writing by the local planning authority;
  - b) the site has been subject to a detailed scheme for the investigation and recording of contamination and remediation objectives have been determined through risk assessment and agreed in writing by the local planning authority;
  - c) detailed proposals for the removal, containment or otherwise rendering harmless any contamination (the Remediation Method Statement) has been submitted to and approved in writing by the local planning authority;
  - d) the works specified in the approved Remediation Method Statement have been completed and a Verification Report has been submitted to and approved in writing by the local planning authority, in accordance with the approved scheme; and
  - e) if, during remediation works, any contamination is identified that has not been considered in the Remediation Method Statement, then



remediation proposals for this material shall be agreed in writing by the local planning authority.

- 6) No demolition/development shall take place until a written scheme of investigation (WSI) for a programme of archaeological works has been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI which shall include:
  - a) the statement of significance and research objectives;
  - b) the programme and methodology of site investigation and recording and the nomination of (a) competent person(s) or organisation to undertake the agreed works; and
  - c) a programme of post-excavation assessment (PXA) and subsequent analysis, publication and dissemination, and deposition of resulting material.
- 7) Prior to any development above existing ground level a scheme for the disposal of surface and foul water shall be submitted to and agreed in writing by the local planning authority. The scheme shall thereafter be carried out and maintained in accordance with the approved details.
- 8) No development shall occur and no construction related deliveries shall be taken at or despatched from the site except between the hours of 0800 and 1800 on Monday to Friday (inclusive), 0800 and 1300 on Saturdays and at no time on Sundays or Bank or Public Holidays.
- 9) Prior to the commencement of the development follow-up population surveys shall be undertaken during the months of March – June (inclusive) to determine whether great crested newts are breeding within adjacent water bodies and, should this be the case, an amended mitigation strategy shall be modified as appropriate based on the results of the surveys and be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 10) Prior to the first occupation of the development hereby approved a scheme of biodiversity enhancement shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme of biodiversity enhancement in accordance with a timeframe that shall make up part of the approved scheme.
- 11) The development hereby permitted and all ecological measures shall be carried out in full accordance with the Recommendations (Section 6) contained in the submitted Ecological Assessment (Green Environmental Consultants, June 2018).
- 12) The development hereby permitted shall not be occupied until a scheme has been submitted to and approved in writing by the local planning authority that demonstrates that a minimum of 10% of carbon emissions (to be calculated by reference to a baseline for the anticipated carbon emissions for the property as defined by the Building Regulations) can be reduced through the use of on-site renewable energy and low carbon technologies. The approved scheme shall be implemented prior to the

- first occupation of the development and maintained in accordance with the approved details.
- 13) Prior to the first occupation of each dwelling hereby permitted, full details of water efficiency measures to ensure that a maximum of 110 litres of water is consumed per person, per day shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, which shall be implemented in full prior to the first occupation of the development. Thereafter the installed water efficiency measures shall be retained at all times.
  - 14) Notwithstanding the site access details depicted upon approved plan C552/P-02, prior to the first occupation of the development hereby permitted, full details of the intended site access shall be submitted to and approved in writing by the local planning authority. The approved details, which shall include full details of intended surfacing and measures to ensure that surface water does not drain on to the public highway, shall be implemented in full prior to the first occupation of the development and thereafter maintained at all times.
  - 15) Prior to the first occupation of the development hereby permitted, full details of 2m x 2m pedestrian visibility splays to be provided on either side of where the site access meets the highway boundary shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter the splays shall at all times be kept clear of all planting, fencing, walls and any other obstruction exceeding 600mm in height.
  - 16) Prior to the first occupation of the development hereby permitted, any gate or gates to the vehicular access shall be setback a minimum of 5m from the near edge of the highway boundary and thereafter retained at all times at this minimum setback distance. Any access gate or gates shall be hung to open inwards in to the site.
  - 17) Prior to the first occupation of the dwellings hereby permitted, the existing static caravan to be removed and the buildings to be demolished, as depicted in emboldened dashed outlines on the approved plan referenced C552/P-02, shall be permanently removed from the site and demolished in full, and the local planning authority shall be informed of such in writing.
  - 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no building or structure incidental to the enjoyment of a dwellinghouse shall be erected other than those expressly authorised by this permission.