



Appeal Decision

Site visits made on 23 February and 6 April 2022

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 17 May 2022

Appeal Ref: APP/W0530/W/21/3282482

Land at West Street, Comberton, Cambridgeshire CB23 7DS

- 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 The Abbey Group Cambridgeshire Ltd and the Co-operative Food Group Ltd against the decision of South Cambridgeshire District Council.
 - The application Ref 20/03339/FUL, dated 30 July 2020, was refused by notice dated 27 July 2021.
 - The development proposed is "erection of a convenience food retail store with associated car parking".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a convenience food retail store with associated car parking on land at West Street, Comberton, Cambridgeshire CB23 7DS, in accordance with the terms of the application Ref 20/03339/FUL, dated 30 July 2020, subject to the conditions in the attached schedule.

Clarification

2. For the avoidance of doubt, the appeal site lies adjacent to No 80 West Street, between that dwelling and the nearest of the recently-built new dwellings at Burdleys Way (part of the development known as Bennell Farm or 'The Birdlings').
3. Although the appeal site is within the civil parish of Toft, physically it is within the built-up area of the village of Comberton. For planning purposes, the site is within the Comberton development framework boundary, as defined on the Policies Map for South Cambridgeshire District.

Main issues

4. From the submissions before me, the main issues in the appeal are:
 - whether the proposed development would accord with the relevant planning policies relating to retail development in the area;
 - and the development's effects on highway safety.

Reasons for decision

Accordance with retail policies

5. The development plan for the area includes the South Cambridgeshire Local Plan (the SCLP), adopted in September 2018. Policy E/21 of that plan requires any new retail provision to be in scale with the District's retail hierarchy. Comberton, as a Minor Rural Centre, is placed within the third tier of the

- hierarchy. The explanatory text, at paragraph 8.70 states that the role of Minor Rural Centres, in terms of retail provision, is to serve the shopping needs of very localised catchment areas.
6. SCLP Policy E/22 states that new shops will only be permitted where their scale is appropriate to the size and function of the village. Where possible, retail uses should be located close to each other in the village centre. In Minor Rural Centres, the threshold size above which a retail impact assessment will be required is 250 sq m. Paragraph 8.71 of the accompanying text states that, wherever possible, new retail facilities of an appropriate scale will be supported.
 7. The National Planning Policy Framework (NPPF), at paragraph 84, supports the sustainable growth and expansion of all types of businesses in rural areas. Paragraph 89 advises on the need for a sequential test for some types of development, including retailing, but states that this should not be applied to small scale rural developments.
 8. In the present case, Comberton is a medium-sized village, with a population said to be in the region of 2,500, and with further development planned. The appeal proposal is for a retail unit with a gross floorspace of around 400 sqm, and a net retail sales space of just over 250 sq m. In the context of modern food retailing patterns, this seems to me a fairly modest size, reasonably well related to the likely requirements of Comberton itself and the immediately surrounding villages. In the evidence before me, there is no suggestion that a unit of this size would draw trade from beyond this local catchment area, or that it would need to do so. In the absence of any other evidence therefore, I see no reason to doubt that the proposed development would be appropriate to the location, in terms of its scale and position in the local retail hierarchy.
 9. The appeal site is not in the village centre, where there is an existing small Costcutter supermarket and a butcher's shop, nor is it close to any other existing shops. However, the site is directly opposite the Comberton Village College, which is a large secondary school and sixth-form college, serving a wide area and incorporating a range of general community uses, including a public library, a sports and leisure centre, a squash club, and an arts centre. As such, this is a well-frequented location, which attracts significant numbers of people throughout the day and evening, with consequent potential for linked trips. In addition, the appeal site is within easy walking distance of at least half of the village's residents. In the context of the particular settlement, this seems to me an acceptable location for the development now proposed.
 10. The new retail unit would compete with the two existing shops in Comberton, and with the Toft Shop, which provides a range of range of food and general convenience goods, as well as some more specialist items. The submitted retail assessment statement does not quantify the effects on these businesses, and on that basis I accept that some impact on the existing retailers in Comberton and Toft cannot be ruled out. But nevertheless, there is no basis in local or national planning policies for seeking to protect existing businesses from legitimate commercial competition.
 11. In this context, I am fully mindful of the importance of local shops and services to rural communities, and of the difficulties faced by small businesses in such areas. However, the way that the relevant policies seek to tackle issues of competition is primarily to allow for innovation and enhanced consumer choice,

by giving equal support and encouragement to all types of rural enterprises, including new entrants as well as established businesses. In the present case, the new retail unit would add to the range of food shops available in the Comberton area. I accept that there is no certainty that all of these shops would then survive. But that cannot be not guaranteed anyway, irrespective of the appeal proposal. Nationally, many villages have struggled to hold onto any retail provision at all. Having regard to the medium and longer term prospects, it seems to me that the development now proposed would add to the range of choice, and thus strengthen the chances that the area will continue to be served by one or more viable convenience stores well into the future.

12. In so far as the relevant planning policies are also designed to protect the role of the existing town and city centres, and other higher-order shopping centres, the appeal scheme would clearly not pose any threat in that regard due to its small size.
13. In the light of all the above considerations, I conclude that the proposed development would advance and safeguard the continuing provision of essential retail facilities in Comberton and the surrounding parts of South Cambridgeshire District. In this respect it would accord with the aims of the relevant planning policies, including SCLP Policies E/21 and E/22 and NPPF paragraph 89.

Highway safety

14. West Street forms part of the B1046, which runs from St Neots to Cambridge, and serves a number of intervening villages. I saw on my visits that it is a busy and well-used route at some times of day. The section of the road that passes the appeal site is fairly straight, and level, with good forward visibility. However, these conditions do little to encourage drivers to slow down, and at the time of my visit, it appeared to me that most of the vehicles that were passing through were travelling at least at or around the speed limit of 30mph.
15. The Village College is said to have just under 2,000 pupils, plus staff and visitors. At the start and finish of the school day, the College clearly generates a large number of vehicles, including buses as well as cars, all either entering or exiting the campus at one of three access points along the site frontage. At these times there are also significant numbers of pedestrian and cycle movements, of which the majority will be school pupils.
16. From the evidence before me, this section of West Street does not have any serious accident record in recent times, and I see no reason to regard the location as inherently dangerous. But nevertheless, it is not without risks, due to the numbers of children and young people using it, concentrated at certain times of day, together with the potential for relatively fast-moving traffic, and the number of turning movements.
17. Given its proximity, the retail store now proposed would be likely to attract a significant amount of visits from school pupils and staff. Not all such visits would necessarily involve additional crossing movements across West Street; some might be incorporated into pupils' existing walking routes, to or from school. But it seems likely that a significant number would involve crossing movements that would otherwise not be needed. This would include pupils who visit the shop immediately after arriving by bus or car and setting down within the school campus, or before being picked up there afterwards. It would

also include pupils walking to school from the main part of the village, given that the only continuous footway in that direction is on the south side of the road. Many of these additional crossings would take place during the College's peak travel times, at the start and finish of the day, when the numbers of vehicle movements associated with the College itself are at their highest. In the case of the morning peak, this would also coincide with the busiest period for through traffic. And in addition, the shop would be likely to attract visits at lunchtime. In total, it seems to me that the number of additional crossing movements generated would be substantial. Overall, this increase would add significantly to the risk of future accidents in this part of West Street.

18. The existing facilities to help pedestrians cross West Street in safety are limited. Towards the western end of the College campus there is a central refuge with bollards and road markings. But this is about 120m to the west of the appeal site, and would not be on the most convenient route from most parts of the campus. In any event, the refuge is very small, and would not accommodate any significant number of pedestrians crossing at the same time. Just beyond the campus's eastern access there is a designated 'informal crossing' point, marked by dashed lines across the carriageway. But these markings are difficult to see from a moving vehicle, and as a result the facility does not offer the same degree of protection as would a more conventional 'zebra' crossing point, with black-and-white stripes, belisha beacons and appropriate signage. Consequently, the existing pedestrian facilities in the vicinity of the site are not sufficient, in my view, to adequately mitigate the additional danger that would arise from the development now proposed.
19. However, there seems no reason to doubt that a more suitable crossing facility, based on the familiar zebra-type design, could be located and installed somewhere close to the appeal site. Nor do I have any doubts that such a facility would be capable of significantly improving pedestrian safety, and thus substantially reducing the risks that I have identified in relation to the proposed development. Neither the appellants nor the Council disputes that an acceptable form of crossing could be secured by condition. In the circumstances, I consider that such a condition would be both reasonable and necessary, and would meet all of the other tests set out in NPPF paragraph 56.
20. I therefore conclude that, subject to an appropriate condition to secure a new crossing, the proposed retail development could be carried out without unacceptable harm to highway safety. In this respect there would be no conflict with any relevant policies, including the requirement in SCLP Policy HQ/1 and NPPF paragraph 110, that developments should provide safe and convenient access for all users.

Other matters

21. I note the concerns of some local residents regarding the effects of delivery vehicles, in terms of both traffic congestion and noise; and indeed regarding other possible sources of noise, including cooling equipment, other machinery, trollies, and vehicle doors. However, the submitted plans show that larger vehicles of the required size could be accommodated within the site, and acoustic barrier fencing is proposed. In addition, these issues are addressed in the suggested conditions, including limits on the hours within which deliveries would be permissible. I see no reason why these measures should not be effective.

Reasons for conditions

22. I have considered all of the suggested conditions against the tests contained in NPPF paragraph 56. Those that I consider should be imposed are set out in the attached schedule. Where appropriate, I have edited and consolidated these, in the interests of clarity and concision, and to avoid undue prescriptiveness. Whilst I note that the appellants have agreed to a number of conditions which would require actions to be taken prior to the start of construction, I have nonetheless amended some of these, to ensure that obstacles to commencement are not imposed unnecessarily, and also so that the 'trigger-points' in all cases are not unduly onerous. In those cases where I have nevertheless imposed conditions which take effect prior to commencement, the pre-commencement element is necessary, for those conditions to serve their stated purpose effectively.
23. Condition 1, which specifies the time limit for commencement, is necessary to reflect the relevant legislation. Condition 2, identifying the approved plans, is needed to ensure certainty as to the nature of the development permitted.
24. Condition 3, which requires a Construction and Environmental Management Plan (a CEMP), is necessary to protect the local environment during the construction period. Separate conditions relating to hours of working, traffic management, and other measures during construction are not necessary, as these can all be controlled through the CEMP.
25. Condition 4, requiring further details of foul and surface water drainage, is needed to minimise the risks of flooding or pollution. In the case of surface water, the Council's suggested list of specific requirements seems to me excessively detailed, as the authority will have the power to refuse details which they consider to be inadequate or insufficiently justified. I have therefore amended the condition accordingly.
26. Condition 5, controlling the external materials, and Condition 6, relating to landscaping, are both necessary to secure a satisfactory appearance. A separate condition relating to trees is unnecessary, as this can be covered within a landscaping scheme under Condition 6. Condition 7, requiring the provision of bat and bird boxes, is needed to secure a net gain to biodiversity, but it is not necessary for this condition to require any other enhancements, as provision for native planting can again be incorporated into the landscaping scheme that is required by Condition 6.
27. Conditions 8, 9 and 10, relating to the existing and proposed accesses, and the provision of a new pedestrian crossing, are all needed for reasons of highway safety. It is unnecessary for Condition 8 to require any further details of drainage or materials, as these details can already be required under Conditions 4 and 5 as discussed above. In the case of Condition 9, it is reasonable for the existing access to be closed prior to the opening of the development, to avoid confusion and danger to users. The reasons for the new crossing which is required by Condition 10, are explained fully elsewhere in this decision. Condition 11, which requires the provision of cycle parking, is necessary to ensure that the development provides adequately for sustainable travel.
28. Condition 12 relating to waste management, and Condition 13 regarding noise barriers, are both needed to minimise adverse impacts on neighbouring

residents and the environment. Conditions 14 and 15, restricting delivery hours and external lighting, are imposed for these same reasons. However, in the case of the former, it is not necessary to require any further details, as the specified hours are already agreed between the Council and the appellants, and I agree with those details.

29. A condition preventing the burning of waste is unnecessary, as there is no reason to expect this to occur, and in any event such activities can be controlled under other legislation. A restriction against future changes to other Class E uses is not justified, as there appears to be no reason why the amenity or safety impacts of any such other uses would be materially different from those associated with retail use.

Conclusion

30. For the reasons set out above, I have concluded that the proposed development would accord with the relevant planning policies relating to retail development in Comberton. Subject to the provision of a new zebra crossing, it would also comply with the most relevant policy relating to highway safety. The scheme therefore accords with the development plan.
31. Having considered all the other matters raised, I have found no material considerations which justify a contrary decision. The appeal therefore succeeds.

J Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:
18/59/101 – Rev A: Proposed Floor Plans and Elevations
18/59/102 – Rev A: Proposed Site Section
18/59/103 – Rev B: Proposed Block Plan
4696-138: 'Site Layout Amends to Address Highway Comments'
- 3) No development, including site clearance or site preparation, shall be commenced until a Construction and Environmental Management Plan (CEMP) has been submitted to the local planning authority and approved in writing. The CEMP shall include details of:
 - limits on the hours during which construction work and construction-related deliveries may take place, and during which construction-related machinery may be operated;
 - traffic management measures to be implemented during the construction period, including the arrangements for parking, loading and unloading, disposal of waste, and the control of dust and mud;
 - measures for the protection of existing ecological features and habitats on the site boundaries, during construction; and
 - any external lighting to be used during construction.Thereafter, the CEMP shall be adhered to throughout the construction period, in accordance with the details thus approved.
- 4) No development shall take place until a scheme for the disposal of foul and surface water drainage has been submitted to the local planning authority and approved in writing. The scheme shall include details of how the foul and surface water systems are to be managed and maintained throughout the life of the development. The development shall not be occupied or brought into use until the approved foul and surface water drainage infrastructure has been installed and brought into operation, and thereafter the systems shall be managed and maintained in accordance with the approved details.
- 5) No construction work above ground floor slab level shall take place, until details of the materials to be used on the external surfaces of the building have been submitted to the local planning authority and approved in writing. Thereafter, the development shall be carried out using the materials thus approved.
- 6) The development shall not be occupied or brought into use until a landscaping scheme has been implemented, in accordance with details to be submitted to the local planning authority and approved in writing. The scheme shall include:
 - details of the existing boundary trees and hedges, and of any felling, removal, cutting-back, pruning or other works to these;
 - details of all proposed new tree and shrub planting, and seeding of any grassed areas;

- details of the surfacing materials to be used on the proposed car park, delivery bay, vehicular and pedestrian circulation areas, and all other hard surfaced areas;
- all boundary treatments;
- any changes to the existing ground levels;
- a timetable and programme for the implementation of these landscaping works;
- a management plan for the future maintenance of the landscaped areas, including the replacement of any trees or plants which die or are lost for any other reason.

Thereafter, the landscaping scheme shall be managed and maintained in accordance with these approved details.

- 7) The development shall not be occupied or brought into use until a scheme for the provision of bat and bird boxes has been implemented, in accordance with details to be submitted to the local planning authority and approved in writing. The scheme shall also include details of how the approved measures are to be managed and maintained in the future. Thereafter, the bat and bird boxes shall be managed and maintained in accordance with these approved details.
- 8) The development shall not be occupied or brought into use until the proposed vehicular access has been completed and marked out in accordance with the details shown on the approved plans 18/59/103 – Rev B and 4696-138, including the provision for visibility splays of 2.4m x 43m in both directions. Thereafter, the access shall be retained as built, and the splays shall be kept clear of any obstruction above a height of 600mm.
- 9) The development shall not be occupied or brought into use until the existing access to the site has been permanently closed, and the footway reinstated, in accordance with details to be submitted to the local planning authority and approved in writing.
- 10) The proposed retail unit shall not be occupied or brought into use until a pedestrian 'zebra crossing' facility, with appropriate road markings and signage, has been installed in the vicinity of the development, in accordance with a detailed scheme to be submitted to the local planning authority and approved in writing.
- 11) The development shall not be occupied or brought into use until the proposed cycle parking facility shown on drawing 18/59/103 – Rev B has been installed and made available for use, in accordance with further details to be submitted to the local planning authority and approved in writing. These further details shall show how the cycle parking is to be covered and secured, and shall include details of the design, materials and means of enclosure. Thereafter, the cycle parking shall be retained, maintained and kept available in accordance with the approved details.
- 12) The development shall not be occupied or brought into use until provision has been made for the storage and handling of all commercial waste, including waste for recycling, in accordance with a waste management scheme to be submitted to the local planning authority and approved in writing. The scheme shall include details of the locations for the stationing of wheeled bins or containers, both when in use and when awaiting emptying or collection, and the proposed arrangements for such collections. Thereafter, the approved facilities shall be provided, retained and maintained, and all waste shall be managed, in accordance with the approved scheme and details.
- 13) The development shall not be occupied or brought into use until acoustic barrier fencing has been provided on the site's northern and eastern boundaries, in general accordance with the Noise Assessment report by WSP Consultants, dated July 2020, and in accordance with further details to be submitted to the local planning authority

and approved in writing. Thereafter, the acoustic fencing shall be retained and maintained in accordance with these approved details.

- 14) After the proposed retail unit has been brought into use, no deliveries (except for deliveries of newspapers and magazines) shall take place outside the following hours:

Mondays to Fridays 07.00 - 08.00; 09.30 - 14.30; and 18.00 - 20.00

Weekends: 07.00 - 20.00

With regard to deliveries of newspapers and magazines, where such deliveries are received outside these permitted hours, they shall be made using a vehicle no larger than a large Transit-sized van.

- 15) After the proposed retail unit has been brought into use, no external lighting of any kind shall be installed or used in connection with the development, other than in accordance with a detailed lighting scheme which shall have been submitted to the local planning authority and approved in writing. Any such scheme shall include an assessment of the impacts of any such lighting, both on neighbouring occupiers and on wildlife. Thereafter, the external lighting shall be maintained in accordance with the approved details and operated only in accordance with those details.

[END]