



Appeal Decision

Site visit made on 24 January 2023

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2023

Appeal Ref: APP/W0530/W/22/3302928

The Oaks, Blacksmiths Lane, Shudy Camps CB21 4RH

- 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 John and Stephen Wilkinson against the decision of South Cambridgeshire District Council.
 - The application Ref 21/02235/FUL dated 13 May 2021, was refused by notice dated 16 March 2022.
 - The development proposed is demolition of existing dwelling and industrial buildings and erection of two x 3 bedroom bungalows and associated garages and alteration of access.
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Decision

1. The appeal is allowed and outline planning permission is granted for demolition of existing dwelling and industrial buildings and erection of two x 3 bedroom bungalows and associated garages and alteration of access at The Oaks, Blacksmiths Lane, Shudy Camps CB21 4RH in accordance with the terms of the application, Ref 21/02235/FUL dated 13 May 2021, and subject to the conditions at Schedule A below.

Main Issue

2. The main issue in this case is whether the proposed dwellings in their countryside location would be sustainable development in the context of the development plan.

Reasons

3. The land the subject of this appeal lies immediately to the south of Blacksmith's Lane approximately 500 metres from Shudy Camps. The triangular plot has one existing brick and tile two storey dwelling which is occupied but reportedly in a poor state of repair and a number of largely redundant single storey buildings previously used for livestock, industrial and storage uses. At the time of the site visit these were partially used for storage. The site is accessed from Blacksmith's Lane at its east and west ends.
4. Permission was previously granted on the site for the same development as now proposed (ref S/4579/17/FL) but which expired in February 2021.

The appropriateness of the location for residential development

5. The site is outside the development framework defined for Shudy Camps which is identified as an infill village in Policy S/11 of the *South Cambridgeshire Local Plan* (SCLP).

6. Being outside a defined development framework the site lies within the countryside and is therefore subject to more restrictive policies. SCLP Policy H/4 whilst allowing replacement dwellings in the countryside does so on a 'one for one' basis. Thus, whilst one dwelling could be allowed as a replacement for the existing dwelling at The Oaks the second dwelling could not be permitted in this way and must be considered separately.
7. SCLP Policy S/7 generally restricts development to that requiring a countryside location such as agriculture and forestry. However, in the period since the adoption of the SCLP the *National Planning Policy Framework* (the Framework) has been reviewed twice and protecting the countryside for its own sake is not a stated policy although paragraph 174, does require decisions to recognise the intrinsic character and beauty of the countryside. The consensus arising out of recent appeal decisions and with which I concur, is that policies protecting the countryside for its own sake and restricting development only to that needed or appropriate to the countryside are no longer entirely consistent with the Framework.
8. Paragraph 79 of the Framework, whilst promoting the principle of housing supporting services and facilities in villages goes on to state that isolated homes in the countryside should not be permitted other than in a limited number of circumstances and none of these apply in this case. It has been put to me that the site is not isolated as although the site is detached from Shudy Camps it is not a location where development would be unsustainable and where development could not support facilities in nearby settlements. The Framework does not define the meaning of isolated and court decisions have determined that it is a matter of fact and degree for the decision maker to decide.
9. Although the site is reasonably close to Shudy Camps, the dwelling on the appeal site stands alone on a rural lane, with no housing around it and without the benefit of a bus service, the nearest bus stops being in Shudy Camps on the bus route to Haverhill. Both Shudy Camps and Castle Camps themselves have little in the way of services that development might support and, whilst Haverhill with a full range of services is only 4 miles from the site, the reality is that anyone resident on the site would have no option but to be heavily dependent on the private car as a means of transport.
10. In the circumstances I do consider the site to be relatively isolated and not one where the housing would clearly contribute to supporting services and facilities in nearby settlements. Moreover, the site itself is not well related to those settlements. In that respect the principle of the additional house beyond the replacement dwelling would be contrary to SCLP Policy S/7 and fail to be a sustainable location for development in the context of policy TI/2.
11. Notwithstanding my finding in this regard there are a number of material circumstances which need to be considered in this case. Legislation requires that decisions should be made in accordance with the development plan except where material circumstances would justify an exception being made to policy.
12. First, the buildings on site have a permitted use for B2 industrial purposes and in that regard, whilst they are currently not extensively used, they could be reused for B2 uses to a more intensive level of use resulting in more traffic in the countryside than would arise from one additional dwelling.

13. The replacement dwelling and an additional dwelling would in part occupy the footprint of the industrial buildings so I am satisfied that the risk of the buildings being retained is minimal. In any event a reoccurrence of an over-intensive use of the site could be prevented by a condition requiring the demolition of the existing dwelling and all industrial/agricultural buildings and hardstandings prior to occupation of the dwellings. With a condition in place and all buildings removed and only one additional dwelling over what could be permitted as a replacement, the potential level of use, activity and traffic on site would be reduced. It has been put to me that the permitted development would be incremental growth in the countryside but the addition of one new house over and above what could otherwise be permitted needs to be considered in the context of what alternative use could take place on the site.
14. Secondly, the site is dominated by a number of run-down buildings and hardstandings and their removal to accommodate one replacement dwelling and one additional dwelling would constitute an important enhancement of a brownfield (possibly contaminated site) and an improvement in the character and appearance of the countryside setting. Whilst I note the site is quite well screened to Blacksmith's Lane and the west it is more open on the east and south sides. The proposed development would be single storey and, subject to the imposition of controlling conditions in respect of materials, landscaping and biodiversity net gain, the countryside setting would certainly be respected and arguably enhanced in compliance with SCLP Policy NH/2.
15. Although the Council can demonstrate over 5 years supply of housing and has delivered over the housing delivery target over the last 3 years and paragraph 11 and the 'tilted balance' is not engaged the additional net gain of one dwelling would make a minor contribution to housing supply.

The Balance, Conclusion and Conditions

16. In considering the planning balance in this case and, bearing in mind that one dwelling in replacement for the Oaks would accord with SCLP Policy H/4, although the additional dwelling would not be in accordance with SCLP Policy S/7, the material considerations outlined above would outweigh the harm and warrant an exception to policy S/7 in this case.
17. It has been put to me that there are other benefits in respect of high quality design, highway safety (as a result of relocating the access) and prevention of flooding but as these are requirements that would be expected in respect of any development they would be neutral in the balance.
18. In reaching my decision I have had regard to the matters before me. The above assessment shows that, in the particular circumstances of this case, one additional unit over that which could be allowed in replacement for the dwelling at the Oaks is justified by the material considerations. The appeal should be allowed and planning permission granted for the two dwellings on the appeal site subject to conditions.
19. The Council's consultees have suggested conditions in their respective fields but the Council itself proposed no conditions in the event that the appeal was allowed. Accordingly, both the Council and appellant were consulted on a proposed list of conditions and offered the opportunity to comment. The appellant responded agreeing with the imposition of the proposed conditions in the event the appeal is allowed and permission granted. The Council has chosen not to respond.

20. I have considered the resulting conditions in the light of the advice in the Framework and *Planning Practice Guidance*. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty.
21. In order to prevent flooding it is necessary to ensure the satisfactory storage/disposal of surface water from the site. The Council's consultee proposes a condition requiring the submission of a surface water drainage scheme.
22. In the interests of helping to enhance the development in its setting conditions are necessary relating to submission of details and samples of materials to be used on the exterior of the buildings and the submission and implementation of a landscaping scheme as minimal details have been provided of the latter. In addition, in order to ensure protection of the trees on the boundaries of the site a tree protection condition is also necessary.
23. The Highway Authority has requested a number of conditions to be added in the interests of securing highway safety. These are necessary to control the provision of access, visibility splays and crossings within the highway, the closure of existing access points and the provision of a construction management plan (CMP) controlling traffic associated with the construction. In the interests of reducing the number of conditions overall I have amalgamated those relating to provision of the access. Also, in the interests of promoting more sustainable transport a condition requiring the provision of secure cycle storage for the development is also necessary.
24. The Council's environmental health consultee has proposed conditions in relation to contamination on site and the need for a desk-based assessment. These are necessary given the known prior use of hydrocarbons on the site etc. The consultee also proposes a condition to control hours of operation during construction. This is necessary to prevent nuisance.
25. The Council's ecology consultee proposed three conditions to deal with ecological and biodiversity matters one controlling the biodiversity mitigation and enhancement, one requiring submission and approval of a lighting strategy to avoid adverse impacts of lighting on wildlife using the site and one requiring biodiversity enhancement and a net gain. All three are necessary to protect and enhance biodiversity.
26. Finally, as referred to above, in order to prevent existing buildings being retained and a more intensive use of the site being recommenced a condition is necessary requiring the removal of all buildings and hardstandings prior to occupation of the dwellings.
27. Although pre-commencement conditions are generally to be avoided, five of the proposed conditions need to be pre-commencement conditions relating to the submission of a surface water drainage scheme, the landscaping scheme, tree protection, the CMP and the contamination assessment. This is either because details submitted may affect the final layout for example surface water drainage or because they must be in place to control construction from the very start, for example the CMP and tree protection. In agreeing to the wording of the conditions when consulted on them the appellant has agreed to the necessity of these being pre-commencement conditions.

P. D. Biggers INSPECTOR

Schedule A Conditions

1. The development hereby permitted must be begun no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans: Plan E1; 1199-12-01B; 1199-12-02B; 1199-12-03E; 1199-12-04B; 1199-12-05B.
3. Prior to commencement of development a scheme for the disposal of surface water that can be maintained for the lifetime of the development shall be provided to and agreed in writing with the local planning authority.
The scheme shall include:
 - a) The existing drainage arrangements of the site including discharge location and rate where appropriate;
 - b) The proposed discharge location in accordance with the drainage hierarchy and reasonable evidence this can be achieved;
 - c) A site plan identifying indicative locations for sustainable drainage features;
 - d) Evidence to support b) which must include infiltration/percolation testing or written confirmation from the appropriate water authority/third party that a discharge to its drainage system is acceptable; and
 - e) Details of foul discharge locationThe scheme shall be subsequently implemented in accordance with the approved details before the development is completed.
4. No development above floor slab level shall take place until details and samples of all external facing and roofing materials have been submitted to and approved by the local planning authority in writing. The permitted works shall be carried out in accordance with the approved details and samples.
5. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and new planting.
6. All planting, seeding or turving comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings 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.
7. Before any works on site commence a detailed Arboricultural Method Statement and Tree Protection Strategy shall be submitted to and approved in writing by the Local Authority, including details of timing of events, protective fencing and ground protection measures.
This should comply with BS5837. The tree protection measures shall be installed in accordance with the approved tree protection strategy before any works commence on site. The tree protection measures shall remain in place throughout the construction period and may only be removed following completion of all construction works.

8. Prior to the first occupation of the development the vehicular access where it crosses the public highway shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification. The access shall be a minimum width of 5m, for a minimum distance of 5m measured from the near edge of the highway carriageway.
9. Prior to the first occupation of the dwellings hereby permitted two pedestrian visibility splays of 2m x 2m shall be provided each side of the vehicular access measured from and along the highway boundary . Such splays shall be within the red line of the site and shall thereafter be maintained free from obstruction exceeding 0.6m above the level of the adopted public highway.
10. The proposed access hereby permitted shall be constructed using a bound material to prevent debris spreading onto the adopted public highway and constructed so that its falls and levels are such that no private water from the site drains across or onto the adopted public highway. Any gate or gates to the vehicular access shall be set back a minimum of 5m from the near edge of the highway boundary and shall be hung to open inwards.
11. Prior to the first occupation of the dwellings hereby permitted the existing accesses to The Oaks shall be permanently and effectively closed and the highway verge shall be reinstated in accordance with a scheme to be agreed with the Local Planning Authority in consultation with the Highway Authority.
12. Prior to first occupation of the dwellings hereby permitted secure cycle storage for a minimum of 2 cycles per dwelling shall be provided and retained thereafter.
13. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority in consultation with the Highway Authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works
 - contact details for site manager, including how these details will be displayed on site.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

14. No construction site machinery or plant shall be operated, no noisy works shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 0800-1800 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public holidays.
15. No development shall take place until:
 - a. The application site has been subject to a detailed desk study and site walkover, to be submitted to and approved by the Local Planning Authority.
 - b. The application 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 including any asbestos in buildings (the Remediation method statement) have been submitted to and approved in writing by the Local Planning Authority.

16. Prior to the first occupation of the dwellings hereby permitted, the works specified in any remediation method statement detailed in Condition 15 must be completed and a Verification Report submitted to and approved in writing by the Local Planning Authority.
17. If, during remediation or construction works, any additional or unexpected contamination is identified, then remediation proposals for this material should be agreed in writing by the Local Planning Authority before any works proceed and shall be fully implemented prior to first occupation of the dwellings hereby approved.
18. All ecological measures and/or works shall be carried out in accordance with the details contained in the Updated Preliminary Ecology Appraisal (Skilled Ecology, April 2021) as already submitted and agreed in principle with the local planning authority prior to determination.
19. Prior to occupation a "lighting design strategy for biodiversity" shall be submitted to and approved in writing by the local planning authority. The strategy shall:
 - a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specification) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.
20. Prior to the commencement of development above slab level a scheme of biodiversity enhancement shall be supplied to the local planning authority for its written approval. The scheme must include details as to how a positive net gain in biodiversity has been accomplished. The approved scheme shall be fully implemented within an agreed timescale unless otherwise agreed in writing.
21. Prior to the first occupation of the dwellings hereby permitted the existing dwelling known as the Oaks and the industrial /agricultural / storage buildings on the site, together with their hardstandings, shall all be removed from the site.