

Appeal Decision

Site visit made on 8 May 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th June 2024

Appeal Ref: APP/H0520/W/23/3334460

Top Farm, Top Lane, Abbotsley, Cambridgeshire PE19 6UH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs J Dell against the decision of Huntingdonshire District Council.
- The application Ref is 23/00130/FUL.
- The development proposed is construction of a detached dwelling with attached garage.

Decision

1. The appeal is allowed and planning permission is granted for construction of a detached dwelling with attached garage at Top Farm, Top Lane, Abbotsley, Cambridgeshire PE19 6UH in accordance with the terms of the application, Ref 23/00130/FUL, and subject to the conditions in the attached schedule.

Application for costs

2. An application for an award of costs has been made by Mr and Mrs J Dell against Huntingdonshire District Council. This is the subject of a separate decision.

Preliminary Matter

3. The appellant has responded to the Council's second reason for refusal with the submission of a completed unilateral undertaking. The Council is satisfied that this overcomes its concerns. Accordingly, I have not treated it as a main issue, but I briefly address it as an other matter below.

Main Issue

4. The main issue is whether the proposal would represent a suitable location for housing, having regard to relevant local and national policies.

Reasons

5. The appeal relates to a residential dwelling set within spacious grounds at the end of Top Lane, a small lane leading south from the main road through the village of Abbotsley. The wider grounds contain a second, recently constructed dwelling in a modern barn style, which replaced a former barn in the same location under planning permission granted in 2022.¹ The area to the east of the main dwelling, where the proposal would be located, was confirmed as residential garden under a lawful development certificate.²

¹ Council Ref 21/00412/FUL

² Council Ref 20/01803/CLED

6. Abbotsley is identified as a 'small settlement' under the Huntingdonshire Local Plan (June 2019) (the HLP). Policy LP9 supports development within the built-up area, subject to certain conditions, and also development on land well-related to the built-up area where it accords with specific opportunities allowed for through other policies of the plan.
7. There is no doubt that Abbotsley may be regarded as a built-up area, which is defined under the HLP as a distinct group of buildings that includes 30 or more homes. Paragraph 4.84 adds that *'land which relates more to the group of buildings rather than to the surrounding countryside is also considered to form part of the built-up area.'*
8. The HLP goes on to set out a number of specific scenarios to aid interpretation of what is included or excluded from the built-up area. The Council points to the built-up area excluding *'undeveloped land that affords important views from a public vantage point to or from a Listed Building or Conservation Area connecting the building or area to its countryside setting.'* It also adds that *'large curtilages with grounds stretching away from the rest of the built up area are excluded to prevent sub-division of the plot for new development.'*
9. Conversely, the appellant points to the definition including *'elements of large curtilages that relate closely to the buildings, for instance formal gardens, ancillary parking and hard tennis courts.'* I draw from these different examples that certain sites may exhibit elements of more than one definition, due to their particular location, size, layout and characteristics. Therefore, judgement is required having regard to the particular evidence in each case.
10. The site is undoubtedly large and has a rural character owing to the expansive lawns and adjacent agricultural land which extends for some distance beyond the eastern and southern boundaries. However, to the other two sides, the roofs of neighbouring dwellings are glimpsed through the tree cover, with Top Lane Cottage and the new dwelling on site both in close proximity. Top Farm is also well-aligned with development to the west on Blacksmiths Close and Blacksmiths Lane, together forming the southern extent of development in Abbotsley.
11. Moreover, this southern edge of the built form is marked by a dense tree line which extends along the rear boundary of the appeal site and returns along the eastern side. This creates a clear separation between the open countryside to the south and east and the built form and areas of residential curtilage within the village to the north and west of the site. It also screens views of the site and village beyond from public footpaths to the south. Therefore, whilst Top Farm is slightly more detached from its neighbours owing to its larger grounds, it sits within the existing extremities of what is an organic, dispersed built form, and is not physically or visually isolated from the built-up area. The site is also not publicly accessible and does not afford important views towards a listed building or conservation area owing to the surrounding tree cover.
12. The area where the dwelling is proposed is part of a residential garden, being adjacent to the tennis court and maintained as a lawn. From my observations, it forms part of the residential curtilage of the existing dwelling. Notably, it is physically separated from the agricultural land beyond by the mature boundary hedgerow, with a distinct difference in appearance and use to either side of it. Therefore, whilst the proposal would extend the spread of the built form slightly, it would still be contained within these natural boundaries.

13. In light of this, I find that the appeal site most closely reflects *'elements of large curtilages that relate closely to the buildings, for instance formal gardens, ancillary parking and hard tennis courts'* and that it would present a rounding-off opportunity on land which is physically, functionally and visually related to existing buildings. Therefore, it is my judgement that the appeal site should be considered as part of the built-up area.
14. Consequently, the proposal would gain support under Policy LP9 where the amount and location of the development is sustainable in relation to:
 - a. the level of service and infrastructure provision within the settlement;
 - b. opportunities for users of the proposed development to access everyday services and facilities by sustainable modes of travel including walking, cycling and public transport;
 - c. the effect on the character of the immediate locality and the settlement as a whole.
15. The Council has not raised concern in respect of the level of service and infrastructure provision in Abbotsley or sustainable travel modes. Whilst it is a small settlement, it benefits from a church, public house and village hall which new residents could support. There are some commuter bus services to and from Cambridge. The level of service is reflective of the small size of the settlement and would not eliminate the need for the private car, but the National Planning Policy Framework (the Framework) recognises that opportunities for sustainable modes of transport will vary between rural and urban areas, and it is to be expected that residents would require a vehicle in a smaller settlement such as Abbotsley. In addition, given the proximity of St Neots, offering a wide range of services and facilities, many journeys by car would be short. Consequently, I find that the proposal would accord with criteria (a) and (b) of Policy LP9.
16. Notwithstanding its objections on locational grounds, the Council does not raise objection in respect of the design of the dwelling or its effect on the character and appearance of the area. It would have a low profile design, with a central, two storey element with a shallow monopitch and single storey, flat-roofed wings extending out in a T-shaped layout. The contemporary design would be reflected in the palette of materials – grey brick, timber cladding, weathered steel, metal roof cladding and green roof.
17. The design is a departure from the generally more traditional, rural style of dwelling which characterises Abbotsley. However, the secluded setting of the site means the dwelling would not be readily visible from other residential properties, with the exception of the two dwellings already on the wider site. The roof of the dwelling may be glimpsed from the public footpath which crosses the agricultural fields to the south, but it would be seen in the context of an established, natural treeline in the foreground and the low profile of the dwelling means it would otherwise not stand out as a conspicuous development within the village, nor would it create an impression of development extending into the open countryside.
18. The Council has also accepted that the proposal would not have an adverse effect on the setting of the Abbotsley Conservation Area (the ACA). Given my considerations above regarding the limited visibility of the dwelling, I agree that the proposal would preserve the heritage significance of the ACA, which from my observations derives from the eclectic mix of dwellings of varying ages

and styles in a spacious and organic village layout that evokes a long history of settlement within a verdant, rural setting.

19. For these reasons, I conclude that the proposal represents a suitable location for housing and would accord with the requirements of Policy LP9, and would in turn accord with the overall strategy for development set out under Policy LP2. As I have found that the proposal falls within the built-up area, Policy LP10 relating to development in the countryside is not applicable. The proposal would further accord with the Framework aim of boosting the supply of housing and promoting sustainable development in rural areas, by locating housing where it will enhance or maintain the vitality of rural communities.

Other Material Considerations

Other Appeal Decision

20. In reaching a view, I have noted the case³ cited by the appellant as comparable. However, from the available evidence, the site characteristics are not identical. Moreover, the test in Policy LP9 requires a site-specific assessment, having regard to a suite of definitions, to determine whether a site falls within the built-up area. This is inherently a matter of planning judgement. Therefore, whilst the Inspector may have found the site to lie within the built-up area in the cited appeal, this decision has not been determinative to my conclusions, which I have reached on the basis of the specific site circumstances of the case.

Unilateral Undertaking

21. The aforementioned unilateral undertaking commits to making a contribution towards the provision of wheeled refuse bins to serve the development. I am satisfied that this contribution is necessary to ensure proper waste disposal is provided for the development, and so meets the tests for planning obligations under Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and as expressed in the Framework.

Other Issues Raised

22. I note the concerns raised by interested parties regarding light pollution. The plans indicate that the largest window openings would face to the south, away from neighbouring dwellings, and ground floor windows would be well screened by boundary vegetation. The Council has not raised objection in this respect and the evidence before me does not indicate the proposal would have a significant adverse impact in terms of light pollution.
23. Concerns with the access are also raised. This is unchanged from the access approved for the replacement dwelling granted in 2021. Whilst narrow, the lane would continue to serve a limited number of dwellings and I have no firm reasons to disagree with the Council's conclusions, noting also that there is no objection raised from the local highway authority which has suggested several conditions to ensure the access is of a suitable standard.
24. The planning history of the site has been raised, in particular the change of paddock land to residential garden and its subsequent confirmation as lawful under an application made in 2020. However, there is no suggestion of any

³ Council Ref No: 19/00452/PIP, allowed under Appeal Ref APP/H0520/W/19/3233872

unlawful use now, and my judgement is based on the existing condition and use of the land. My assessment is also made on the planning merits of the case, without prejudice. I am also satisfied that allowing the appeal would not set a precedent as the nature of the assessment is site specific and overall acceptability of any further proposal would also depend on other material considerations. It will be for the Council to determine any such application on its own merits and against the adopted development plan at the time.

25. The Council did not refuse the application in respect of other matters, including neighbours' living conditions, the standard of accommodation to be provided, flood risk, trees and biodiversity. The evidence before me does not indicate additional material harm would arise in these respects. Therefore, there are no further matters identified which are material to the overall planning balance.

Conditions

26. In addition to the statutory time limit for implementation [1], a condition setting out the approved plans is necessary to provide certainty [2]. Conditions are necessary to ensure the site access, visibility splays, parking and turning areas are provided to the requisite standard, including with respect to surfacing and water run-off, in the interest of highway safety [3, 4, 5, 6, 7 and 8].
27. Details of external facing materials to be used on the dwelling are required to secure a satisfactory appearance [9]. Cycle storage is required to be provided in accordance with Policy LP17 [10]. Conditions are also required to ensure the development meets with the optional requirements of the Building Regulations in respect of water efficiency and accessible and adaptable buildings, as required by Policies LP12 and LP25 of the HLP [11, 12].
28. It is also necessary to secure details of surface and foul water drainage schemes to address site drainage and flood risk [13, 14]. A biodiversity management plan [15] is also required to ensure measures set out in the preliminary ecological appraisal are carried out to deliver long term biodiversity gain. Finally, it is required to ensure protection of existing trees [16]. The appellant has agreed to this pre-commencement condition which is necessary as protection is required from the outset of development to avoid harm.

Conclusion

29. For the reasons set out, I conclude that the proposal accords with the development plan, taken as a whole. There are no material considerations which indicate that permission should nevertheless be withheld. Therefore, the appeal should be allowed.

K Savage

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: LTD191.001 (Location Plan); LTD191.002 (Proposed Site Layout Plan); LTD191.003 (Proposed Ground Floor Plan); LTD191.004 (Proposed First Floor Plan); LTD191.005 (Proposed Roof Plan); LTD191.006 (Proposed Front Elevation); LTD191.007 (Proposed Right Side Elevation); LTD191.008 (Proposed Rear Elevation); LTD191.009 (Proposed Left Side Elevation); LTD191.010 (North South Building Section); LTD191.011 (Materials Schedule); LTD191.012 (Site Section North South); LTD191.013 (Site Section East West); ST-2730-03-C (Means of Access Plan); Arbttech TPP 01 (Tree Protection Plan); 3/0000 (Topographical Survey); 4/0002 (Sections).
- 3) Prior to the first occupation of the development, the access shall be constructed to a minimum width of 5 metres, for a minimum distance of 10 metres measured from the near edge of the highway carriageway.
- 4) 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.
- 5) Prior to the first occupation of the development the proposed on-site parking and turning area shall be laid out in accordance with the approved plan and thereafter retained for that specific use.
- 6) Prior to the first occupation of the development visibility splays shall be provided each side of the vehicular access in full accordance with the details indicated on the submitted plan No ST-2730-03-C The splays shall thereafter be maintained free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.
- 7) The access shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway, in accordance with a scheme submitted to and approved in writing by the Local Planning Authority.
- 8) A metalled surface shall be provided for a minimum distance of 10m along the access road from its junction with the public highway.
- 9) No development shall take place above slab level, other than demolition, until details of the proposed materials and elevation treatment should be provided including the treatment and colour, reveal depth and means of opening of windows, the junctions between materials and the treatment and colour of the parapet coping to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 10) Notwithstanding the details shown on the plans hereby approved, no development above slab level shall commence, until details of the facilities for the provision of secure covered cycle parking for use in connection with the development have been submitted to and approved in writing by the Local Planning Authority. The details shall include the

siting, means of enclosure, cycle rack systems where appropriate, appearance and materials. The facilities shall be provided in accordance with the approved details before the development to which it relates is occupied and shall be retained as such.

- 11) The dwelling hereby permitted shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement for water efficiency, as set out in Approved Document G (or replacement standards) prior to first occupation. Such provision shall be maintained for the lifetime of the development.
- 12) The dwelling hereby permitted, shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement M4(2) 'accessible and adaptable' (or replacement standard), prior to occupation. Such provision shall be maintained for the lifetime of the development.
- 13) No development above ground level, other than demolition, shall commence until a scheme for the provision and implementation of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of any part of the development or in accordance with an implementation programme agreed in writing with the Local Planning Authority.
- 14) No development above ground level shall commence until a scheme for the provision and implementation of foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details prior to the occupation of any part of the development or in accordance with an implementation programme agreed in writing with the Local Planning Authority.
- 15) No development above slab level shall take place until a Biodiversity Method Statement which provides details of how the recommendations contained in Chapter 4 of the Preliminary Ecological Appraisal (dated 24/10/2022) and received by the LPA 23/01/2023 will be carried out has been submitted to and approved in writing by the Local Planning Authority. The details shall include but not be limited to; specification, location, timing, an implementation program, maintenance, and monitoring. The development shall be carried out in accordance with the approved details.
- 16) The development hereby permitted shall be carried out in accordance with the submitted tree protection measures referenced in the Arboricultural Method Statement (dated 24/11/2022) and tree protection plan (drawing Arbtech TTP 01) received by the Local Planning Authority 23rd January 2023. The measures shall be implemented prior to the commencement of any development, demolition, clearance or other preparatory operations including excavations and shall be retained intact for the duration of the construction works.

Any trees, shrubs or hedges covered by the agreed protection measures, which die or become severely damaged either from natural causes or as a result of the construction works; during the construction works or within five years from the completion of the construction works, shall be replaced with trees, shrubs or hedge plants of similar size and species,

unless otherwise agreed in writing with the Local Planning Authority.
Replacement planting to be undertaken by the end of the next available
planting season.
