

MAIN CASE

Proposal: Construction of a dwelling incorporating the repaired structure of a former industrial building following original permissions to change the use of the building to residential(E/98/0575/F on 3rd November 1999 and 05/00758/FUL on 25th August 2005) and permission 08/00905/FUL on 21st November 2008 with amendment 08/00905/NMA on 2nd March 2010 - Part retrospective

Location: Toilyard Newmarket Road Kirtling Suffolk

Applicant: Fairhaven Estates

Agent: Granta Architects

Reference No: 10/00722/FUL

Case Officer: Penelope Mills

Parish: Kirtling
Ward: Cheveley
Ward Councillor/s: Councillor Peter Cresswell
Councillor Carl Poole

Date Received: 17 August 2010 Expiry Date: 12 October 2010

[K155]**1.0 EXECUTIVE SUMMARY**

- 1.1 The application seeks full, part retrospective, planning permission for the construction of a dwelling. Consent was originally granted for the conversion of an existing building. However, given the substantial demolition and rebuilding that has taken place, it is now viewed as a new dwelling, hence the submission of this application.
- 1.2 The main issues for consideration are:
- The principle of development in the countryside
 - The historic context of the site and the contribution made by the building
- 1.3 Whilst this development is contrary to Core Strategy policy, given the planning history of the site and the distinct architecture of the Toil Yard Barn and its strong connection to the local landscape, it makes a unique contribute to the character of the area and to Kirtling's cultural heritage. For this reason it is considered that allowing the rebuilding to continue in accordance with the previously approved plans will have a positive impact on the area, contributing to a sense of place and maintaining a link

between the local landscape and the historic buildings found within it. The application is therefore recommended for **approval**.

2.0 **THE APPLICATION**

- 2.1 The application seeks permission for the construction of a two-storey dwelling, with a basement, built to have the same final appearance as the previously approved conversion.
- 2.2 The re-building incorporates some elements of the repaired structure of the original building. Elements incorporated include: repaired main structural trusses; first floor beams; first floor joists; and, head beam. Full details of the original elements can be found in the applicant's 'Committee Report', attached at appendix 1.

3.0 **THE APPLICANT'S CASE**

- 3.1 The applicant's case is attached at appendix 1.

4.0 **THE SITE AND ITS ENVIRONMENT**

- 4.1 The application site is located on the south side of Newmarket Road outside of the development envelope for Kirtling on land designated as countryside. The site, which sits at the edge of an area of woodland to the southwest, which extends around the boundaries of the site, previously contained a two-storey disused industrial building. The building, which had been used for timber processing, had a distinctive semi-industrial character with distinctive windows at first floor and large openings along the majority of the ground floor. The site has an existing vehicular access from Newmarket Road.

5.0 **PLANNING HISTORY**

- 5.1
- | | | | |
|--------------|--|----------|------------|
| 05/00758/FUL | Change of use & conversion of industrial building to residential | Approved | 25.08.2005 |
| 08/00905/FUL | Amended proposal for application 05/00758FUL approved 25.08.05. | Approved | 21.11.2008 |

6.0 **REPLIES TO CONSULTATIONS**

6.1 **Parish Council**

"The Parish Council is concerned about the application for permission. We would have expected the architect to apply when the problem was found. Although the Parish Council have no significant concerns, we feel it desirable to have all metal shoes the same height, front and back, to give visual symmetry and aesthetic appearance."

6.2 **Highways**

From a highways perspective this application is not significantly different from that submitted and approved in 2008. The same highway conditions should be applied to any consent.

6.3 **Environmental Health**

- The presence of contamination has been confirmed.
- Provided that reliance can be placed on the information previously submitted pursuant to permission 08/00905/FUL condition 1 of the standard land contamination conditions would not be required.
- Conditions 2, 3 and 4 of the standard land contamination conditions recommended.

6.4 **Trees Officer**

- There are mounds of soil piled up against mature woodland edge trees within what would be the root protection areas. Materials are also being stored in the rooting areas of these trees
- If the application were approved please consider using the following condition: *‘A detailed arboricultural method statement to be submitted to the lpa and agreed in writing prior to commencement on site to address: removal of mounded fill, soil and any materials stored within root protection areas (RPAs) in accordance with BS5837: Trees in relation to construction – recommendations, the location, design and phasing of tree protection measures during construction, a detailed specification for any necessary tree works, remediation measures for any compacted RPAs and details of the installation method for any new services required within RPAs.’*

7.0 **THE PLANNING POLICY CONTEXT**

7.1 **East Cambridgeshire Core Strategy 2009**

CS1	Spatial Strategy
CS6	Environment
CS8	Access
EC4	Residential re-use of buildings in the countryside
S6	Transport impact
S7	Parking provision
EN1	Landscape and settlement character
EN2	Design
EN5	Historic conservation
EN6	Biodiversity and geology

7.2 **National Planning Policy**

PPS7	Sustainable Development in Rural Areas
PPS1	Delivering Sustainable Development

8.0 **PLANNING COMMENTS**

- 8.1 The application site is located within the countryside where policy CS1 of the Core Strategy states that development will be strictly controlled and restricted, particularly new residential development. There some exceptions contained within the plan, one of which is policy EC4 which allows the residential re-use of existing buildings in the countryside, provided that certain criteria are met. One of the criteria that must be

satisfied in order for a residential conversion to be acceptable, is that the building is soundly built and can be converted without major, or complete, renovation.

- 8.2 Permission was originally granted in 2005 for the residential conversion of Toilyard Barn, but by the time a fresh application was submitted in 2008 the building had suffered significant deterioration to the extent that concerns were raised by the case officer as to whether the building could be considered as being 'soundly built'. In order to satisfy the strict criteria set out in the policy, the applicant submitted a structural engineer's report in support of the application, demonstrating that it was convertible. A copy of this report is attached at appendix 2.
- 8.3 Following the 2008 approval, it was brought to the attention of the Enforcement Officers that the development may not have been proceeding in accordance with the permission. The applicant has stated that during the course of the building work, it became apparent that the original timber structure required more repairs than anticipated. It is the extent of repairs and reconstruction methods, in which the building was completely taken down, that have resulted in the current development being considered a new build rather than a conversion. The works that have taken place so far, and any further works to complete the building, would therefore be unauthorized.
- 8.4 The local planning authority have worked with the applicant to identify a way forward from this situation. One option that was identified was for the applicant to submit a fresh planning application in which they would provide a compelling planning argument as to why the rebuilt barn should be allowed to be completed and retained.
- 8.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

Therefore, whilst the planning system is 'plan-led', a local planning authority is permitted to allow development that is contrary to the plan, provided that there are sufficient material considerations to outweigh the policy. In this case, an argument would need to be of sufficient weight and merit, drawing on the historical and cultural significance of this particular building, in order to outweigh the policy considerations and enable a pragmatic approach to be taken.

- 8.6 In the following paragraphs the policy issues are highlighted before discussing the historical justification given for this development. Other relevant issues including trees and contamination are also considered.

Core Strategy Policy - Development in the Countryside

- 8.5 Planning Policy Statement 1 underlines sustainable development as the core principle underpinning planning. The promotion of more sustainable patterns of development is partially achieved by strictly controlling new house building in the countryside, away from established settlements or areas allocated for housing in development plans. These national principles are reflected in the policies contained

within the Core Strategy, which restrict new residential development in countryside locations.

- 8.6 The parameters for when development is permitted in the countryside are strict, although certain exceptions are contained within Core Strategy policies. Whilst there are allowances for the conversion of existing rural building, there is no such allowance for their replacement, hence the requirement for applicants to demonstrate that buildings are capable of conversion and are soundly built.
- 8.7 Given that the current proposal is for the construction of a new building, albeit on the site of a former building, it is not in accordance with core strategy policy relating to development in the countryside.

Other Material Considerations - Historic Context and Justification

- 8.8 The application site is adjacent to Lucy Wood, which is recorded in documents from 1086 and is still used by the Fairhaven estate for wood collection and hunting. The historic connection between this woodland and a building on the site and the importance of maintaining this aspect of Kirtling's cultural heritage forms the basis of the applicant's justification for the retention of the building.
- 8.9 The architecture of the building that previously stood on the site was informed by its relationship to the historic woodland, as it is believed that the building was originally constructed for use in sawing timber and preparing wood. The original building had a distinctive form with a long narrow plan of four timber framed two-storey bays, with further two-storey and single storey extensions added later. The building was fully enclosed with large windows on the first floor allowing light and ventilation to a workshop. The ground floor had further distinctive large openings and was most recently used for wood storage. In this way, the original building on the site maintained a particular link to Kirtling's past, and in particular the role that Lucy Wood played in the local rural economy.
- 8.10 The previously approved conversion of the building was sensitively designed to preserve the semi-industrial character of the original building, hence the large glazed areas at ground floor, which were originally required to provide light to the workshop area. Original openings and fenestration types were also incorporated into the design and were important in retaining the character of the building and its connection to the adjacent woodland.
- 8.11 Despite the fact that this is considered to be a 'new build' and not a conversion, elements of the original structure, such as the 150 year old structural bays and first floor timbers, have been reused within the new building, which would be completed in accordance with the originally approved plans. The proposed cladding would not be original, but will be reproduced so that the completed building will replicate the distinctive character of the original.
- 8.12 The historic connection of a building to the site is acknowledged and the retention of the new building, that would have the appearance of the approved conversion while incorporating some of the historic fabric, would contribute to the historic interest of the locality. In summary, the barn makes a unique and important contribution to the

local landscape and this consideration could be viewed as being of sufficient weight to set aside the more restrictive policies issues.

8.13 **Trees**

The trees officer has expressed concern that the demolition and construction that has taken place thus far on the site has resulted in mounds of soil piled up against mature woodland edge trees and storage of materials, within what would be the root protection areas.

Tree roots require oxygen as well as nutrients and water and piling of materials and soil leads to the compaction of rooting medium that can lead to root death. Piling of soil and materials within the root protection area is therefore considered to be very detrimental to the tree. In light of this the mounded fill should be removed, and prior to any further work on site, a detailed arboricultural method statement should be submitted.

8.14 **Contamination**

The applicant has stated on the application form that there is no indication that the land is contaminated. However, the phase 1 (hazard identification and assessment) and phase 2 (risk estimation and evaluation) reports submitted pursuant to condition 11 of the 2008 application confirmed the presence of site contamination. This issue could be resolved though the use of standard contaminated land conditions, should work be allowed to continue on site.

Summary

8.15 Whilst there are a number of rural buildings within the countryside of East Cambridgeshire, the distinct architecture of the Toil Yard Barn and its strong connection to the local landscape, means that it makes a unique contribution to the character of the area and to Kirtling's cultural heritage. For this reason it is considered that allowing the rebuilding to continue in accordance with the previously approved plans will have a positive impact on the area, contributing to a sense of place and maintaining a link between the local landscape and the historic buildings found within it. Issues relating to trees and contamination could be dealt with by way of conditions attached to the approval.

8.16 There are few cases where there will be sufficient material considerations to outweigh planning policy. However, in this case it is considered, on balance, that the historic and cultural justification is a compelling one and the link between the built form and the local landscape is one that is worth retaining.

9.0 RECOMMENDATION Approve, subject to conditions...

1 Within 30 days of the date of this decision, or at a time agreed in writing with the local planning authority, the ground floor openings shown on drawing no. A248/PR06 shall be reinstated.

1 REASON: To ensure that the building work proceeds in accordance with the approved plans, to preserve the character of the original building in accordance with policy EN2 of the Core Strategy.

- 2 Within 30 days of the date of this decision a detailed arboricultural method statement shall be submitted to the local planning authority and agreed in writing prior to recommencement on site to address: removal of mounded fill, soil and any materials stored with root protection areas (RPAs) in accordance with BS5837: 2005 Trees in relation to Construction - recommendations; the location, design and phasing of tree protection measures during construction; a detailed specification for any necessary tree works; remediation measures for compacted RPAs; and, details of the installation method for any new services required within RPAs.
- 2 REASON: To ensure that the trees on site are adequately protected, to safeguard the character and appearance of the area, in accordance with policies EN1 and EN2 of the East Cambridgeshire Core Strategy 2009.
- 3 No development shall take place until a detailed contamination remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 3 REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy EN8 of the East Cambridgeshire Core Strategy 2009.
- 4 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of any remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.
- 4 REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy EN8 of the East Cambridgeshire Core Strategy 2009.
- 5 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing to the Local Planning Authority within 24 hours. An investigation and risk assessment must

be undertaken and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken, and following completion of measures identified in the approved remediation scheme a verification report must be prepared, and approved in writing by the Local Planning Authority.

- 5 REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy EN8 of the East Cambridgeshire Core Strategy 2009.
- 6 Prior to the first occupation of the development sufficient space shall be provided within the site to enable vehicles to enter, turn and leave the site in forward gear and to park clear of the public highway. The area shall be levelled, surfaced and drained and thereafter retained for that specific use.
- 6 REASON: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 7 Temporary facilities shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the period of construction.
- 7 REASON: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 8 The gradient of the vehicular access shall not exceed 1:10 for a minimum distance of 5m into the site as measured from the near edge of the highway carriageway. The access shall also be paved for the first 5 metres from the edge of the carriageway.
- 8 REASON: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 9 Any gate or gates to the vehicular access shall be set back a minimum of 6m from the near edge of the highway carriageway. Any access gate or gates shall be hung to open inwards.
- 9 REASON: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 10 No development shall take place until detailed drawings at a scale of 1:20 of the proposed windows and external doors have been submitted to and approved in writing by the Local Planning Authority. The window details shall show sections, opening arrangements and glazing bar patterns. Details of the proposed materials and colour finishes shall be included. All works shall be carried out in accordance with the approved details.

- 10 REASON: To safeguard the character and appearance of the area, in accordance with policy EN2 of the East Cambridgeshire Core Strategy 2009.
- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order), no boundary treatment shall be erected on the site exceeding 1 metre in height.
- 11 REASON: In the interests of visual amenity to allow the building to be seen in its proper context and prevent it from being separated from the surrounding landscape, in accordance with policy EN1 and EN2 of the Core Strategy.
- 12 Except as detailed on the approved plans, no trees shall be /pruned or removed/felled and no shrubs or hedges shall be removed without the prior written approval of the Local Planning Authority.
- 12 REASON: To ensure that the trees on site are adequately protected, to safeguard the character and appearance of the area, in accordance with policies EN1 and EN2 of the East Cambridgeshire Core Strategy 2009.
- 13 The materials to be used in the construction of the external surfaces of the building shall be as specified below. Any additional or alternative materials must be agreed in writing with the local planning authority prior to their use.
- Walls - Timber boarding of a width not less than 149mm, finished in linseed based Holkham paint in 'Linseed'
Roof - Natural slate
- 13 REASON: To safeguard the character and appearance of the countryside, in accordance with policies CS1, EN1 and EN2 of the East Cambridgeshire Core Strategy 2009.
- 14 No development shall take place until a scheme to dispose of foul drainage has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved prior to the occupation of the dwelling.
- 14 REASON: To secure an acceptable foul drainage system in accordance with policy EN8 of the Core Strategy.

APPENDICES

- Appendix 1 – Applicant’s Planning Report
- Appendix 2 – Structural Engineer’s Report for 08/00905/FUL

<u>Background Documents</u>	<u>Location(s)</u>	<u>Contact Officer(s)</u>
Case file and history files	Penelope Mills Room No. 011	Penelope Mills Planning Officer
Core Strategy	The Grange Ely	01353 665555 penny.mills@eastcamb.gov.uk
PPS1	www.eastcamb.gov.uk	
PPS7	www.communities.gov.uk	