

MAIN CASE

Reference No: 16/01662/OUM

Proposal: Residential Development for 74 Houses. 5 Plots for self build, parking, vehicular accesses and public open space.

Site Address: Land Adjacent 67 Mildenhall Road Fordham
Cambridgeshire

Applicant: Mr & Mrs Moffat

Case Officer: Andrew Phillips, Senior Planning Officer

Parish: Fordham

Ward: Fordham Villages
Ward Councillor/s: Councillor Joshua Schumann
Councillor Julia Huffer

Date Received: 15 December 2016 **Expiry Date:** 31st October 2017
[S152]

1.0 **RECOMMENDATION**

1.1 Members are requested that APPROVAL be delegated to the Planning Manager following the completion of a S106 legal agreement and the following draft conditions (with any minor revisions to the conditions delegated to the Planning Manager). A previous Committee Report to Planning Committee on 5th April 2017 and the Minutes of the Committee meeting can be read in full in the attached Appendices 1 and 2. The planning conditions can be read in full in Appendix 3.

2.0 **SUMMARY OF APPLICATION**

2.1 The proposal is seeking outline approval for 79 dwellings (five self builds) with access and layout to be agreed at this stage. The developer is seeking to provide 40% affordable housing and a large area of open space (seeking to give it to Parish Council, with access for school children).

2.2 The application was initially brought before members due to the Council's Constitution and the size of the development.

2.3 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council's Public Access online service, via the following link <http://pa.eastcambs.gov.uk/online-applications/>. **Alternatively a paper copy is available to view at the East Cambridgeshire District Council offices, in the application file.**

2.4 The application has been brought to Planning Committee due to the material change in Policy following the approval by Full Council of the proposed Submission Local Plan for its final consultation and submission to the SoS for examination and the updated five year supply report which demonstrates that the Council currently has a supply of available and deliverable sites which exceeds the five year requirement.

3.0 PLANNING HISTORY

3.1 No on-site history of specific relevance.

4.0 THE SITE AND ITS ENVIRONMENT

4.1 The site is an open field with mature planting that defines the edges. The public highway defines the southern boundary. There is a range of building heights in the area ranging from single to two storey.

5.0 RESPONSES FROM CONSULTEES

5.1 The consultation responses are as in the original Committee report to the 5th April 2017 meeting. No additional responses have been received since the publication of the Committee Reports of the 5th April.

6.0 The Planning Policy Context

6.1 East Cambridgeshire Local Plan 2015

GROWTH 2	Locational strategy
GROWTH 3	Infrastructure requirements
GROWTH 5	Presumption in favour of sustainable development
HOU 1	Housing mix
HOU 2	Housing density
HOU 3	Affordable housing provision
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
ENV 8	Flood risk
ENV 9	Pollution
COM 7	Transport impact
COM 8	Parking provision
FRD3	Housing allocation, land east of 67 Mildenhall Road

6.2 Supplementary Planning Documents

Design Guide
Developer Contributions and Planning Obligations

Contaminated Land - Guidance on submitted Planning Application on land that may be contaminated
Cambridgeshire Flood and Water

6.3 National Planning Policy Framework 2012

- 6 Delivering a wide choice of high quality homes
- 7 Requiring good design
- 8 Promoting healthy communities
- 10 Meeting the challenge of climate change, flooding and coastal change
- 11 Conserving and enhancing the natural environment

6.4 Proposed Submission Local Plan 2017

- LP1 A presumption in favour of sustainable development
 - LP 2 Level and distribution of Growth
 - LP 3 The Settlement hierarchy and the Countryside
 - LP 6 Meeting Local Housing Needs
 - LP 16 Infrastructure to Support Growth
 - LP 22 Achieving Design Excellence
 - LP 23 Water Efficiency
 - LP 30 Conserving and Enhancing Biodiversity and Geodiversity
 - LP 25 Managing Water Resources and Flood Risk
 - LP 26 Pollution and Land Contamination
 - LP 27 Conserving and Enhancing Heritage Assets
 - LP 28 Landscape, Treescape and Built Environment
 - LP 17 Creating Sustainable, Efficient and Resilient Transport
- Fordham 5 Site FRD.M2 - Land North of Mildenhall Road

7.0 PLANNING COMMENTS

- 7.1 This application was presented to Planning Committee on 5th April 2017 when Members resolved to delegate approval to the Planning Manager subject to the conditions and completion of a S106 legal agreement to include affordable housing, education contribution, self-build and open space provision, together with any minor revisions to the conditions delegated to the Planning Manager.
- 7.2 The decision is still pending as the S106 agreement has not been completed.
- 7.3 Since then however, the Full Council, at a meeting held on 5th October 2017, have agreed the latest draft of the emerging Local Plan, the Proposed Submission Local Plan, accompanied by a Five year Housing Land Supply Report. This has established that the District now has a five year housing land supply. Consequently, Paragraphs 14 and 49 of the Framework are not engaged and the housing supply policies contained in the Local Plan are no longer considered to be out of date. Paragraph 11 of the Framework makes it clear that the Framework does not change the statutory status of the development plan as the starting point for decision making. This states that “proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise”. The Framework is one such material consideration and should be taken into account.

- 7.4 This also means that adopted Policy GROWTH 2 is now relevant to the determination of this planning application and account can be taken of emerging Local Plan policies LP1 and LP3. These all seek to manage new development so that it takes place in sustainable locations. In respect of open market housing, these are restricted to be within defined settlements, of which emerging Policy LP3 lists Fordham as a “large village”. Policy GROWTH 2 states that the majority of development will be focused on the market towns of Ely, Soham and Littleport with more limited development taking place in villages which have a defined development envelope. It then states that outside of these settlements new development will be strictly controlled, having regard to the need to protect the countryside and the setting of towns and villages. Development outside these settlements will not be permitted except where it complies with a limited range of specified categories detailed in that policy and in line with the NPPF.
- 7.5 This site lies almost completely outside of the settlement boundary of Fordham as defined in the adopted Local Plan and the Planning Committee considered previously that the site met the requirements of sustainable development within the NPPF and therefore approved planning permission given that there was no significant and demonstrable harm, taking into account all other material planning considerations. As the Council now has a five year housing land supply, this proposal is contrary to the adopted Local Plan.
- 7.6 However, consideration can be given to the fact that the site now lies partially within the defined settlement boundary of Fordham within the emerging Proposed Submission Local Plan and is also allocated for residential development within site allocation FRD.M2, for an indicative number of 79 dwellings and wherein, reference is made to this planning application.
- 7.7 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, it is considered that, although the site is outside of the development boundary and contrary to Policy GROWTH 2 of the adopted Local Plan, it is material planning consideration that the Planning Committee have already resolved to grant planning permission subject to the completion of a S106 agreement, together with the sites status within the Proposed Submission Local Plan, as within the defined settlement boundary of Fordham and as a housing allocation. All other material planning considerations remain unchanged since the time of the last report to Committee and the subsequent resolution to approve. They are as set out in full within the Officer report attached at Appendix 1.
- 7.8 On balance therefore this development is recommended for approval as there is no demonstrable harm which would significantly and demonstrably outweigh the benefits.

8.0 COSTS

- 8.1 An appeal can be lodged against a refusal of planning permission or a condition imposed upon a planning permission. If a local planning authority is found to have acted unreasonably and this has incurred costs for the applicant (referred to as

appellant through the appeal process) then a cost award can be made against the Council.

- 8.2 Unreasonable behaviour can be either procedural ie relating to the way a matter has been dealt with or substantive ie relating to the issues at appeal and whether a local planning authority has been able to provide evidence to justify a refusal reason or a condition.
- 8.3 Members do not have to follow an officer recommendation indeed they can legitimately decide to give a different weight to a material consideration than officers. However, it is often these cases where an appellant submits a claim for costs. The Committee therefore needs to consider and document its reasons for going against an officer recommendation very carefully.
- 8.4 In this case members' attention is particularly drawn to the following points:
- The application is for outline permission with only access and layout to be considered at this stage.
 - Members previously delegated approval to the Planning Manager at Planning Committee on 5TH April 2017.
 - The site is allocated under Policy FRD.M1 in the Proposed Submission Local Plan.

9.0 APPENDICES

9.1 APPENDIX 1 – Officer Report to Committee on 5th April 2017

APPENDIX 2 – Minutes of the Planning Committee meeting on 5th April 2017

APPENDIX 3 – Draft conditions

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
16/01662/OUM	Andrew Phillips Room No. 011 The Grange Ely	Andrew Phillips Senior Planning Officer 01353 665555 andrew.phillips@ea stcambs.gov.uk

National Planning Policy Framework -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

East Cambridgeshire Local Plan 2015 -

<http://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>

APPENDIX 3 - 16/01662/OUM Conditions

- 1 Development shall be carried out in accordance with the drawings and documents listed below

Plan Reference	Version No	Date Received
15:116-1	C	10th February 2017
LOCATION PLAN		15th December 2016

- 1 Reason: To define the scope and extent of this permission.
- 2 Approval of the details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced, and shall be carried out as approved. Application for approval of the reserved matters shall be made within 3 years of the date of this permission.
- 2 Reason; The application is for outline permission only and gives insufficient details of the proposed development, and to comply with Section 92 of the Town and Country Planning Act 1990.
- 3 The development hereby permitted shall be commenced within 2 years of the date of the approval of the last of the reserved matters.
- 3 Reason: To comply with Section 92 of the Town and Country Planning Act 1990, as amended.
- 4 Prior to or as part of the first reserved matters application, an energy and sustainability strategy for the development, including details of any on site renewable energy technology and energy efficiency measures, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved strategy.
- 4 Reason: To ensure that the proposal meets with the requirements of sustainability as stated in policy ENV4 of the East Cambridgeshire Local Plan 2015 and LP23 and LP24 of the Proposed Submission Local Plan 2017.
- 5 No development shall take place until an investigation and risk assessment of the nature and extent of any contamination on the site, whether or not it originates on the site, has been undertaken. The investigation and risk assessment must be undertaken by competent persons, and a written report of the findings must be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:
 - (i) A survey of the extent, scale and nature of contamination;
 - (ii) An assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters; ecological systems; archaeological sites and ancient monuments;
 - (iii) An appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Any remediation works proposed shall be carried out in accordance with the approved details and timeframe as agreed 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 ENV9 of the East Cambridgeshire Local Plan 2015 and LP26 of the Proposed Submission Local Plan 2017. The condition is pre-commencement as it would be unreasonable to require applicants to undertake this work prior to consent being granted.
- 6 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 to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to 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.
- 6 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 ENV9 of the East Cambridgeshire Local Plan 2015 and LP26 of the Proposed Submission Local Plan 2017.
- 7 No development shall take place until a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme(s) shall be implemented prior to first occupation.
- 7 Reason: To prevent the increased risk of flooding and to improve and protect water quality, in accordance with policies ENV2 and ENV8 of the East Cambridgeshire Local Plan 2015 and LP22 and LP25 of the Proposed Submission Local Plan 2017. The condition is pre-commencement as it would be unreasonable to require applicants to undertake this work prior to consent being granted.
- 8 Prior to any work commencing on the site a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority regarding mitigation measures for noise, dust and lighting during the construction phase. These shall include, but not be limited to, other aspects such as access points for deliveries and site vehicles, biodiversity protection and proposed phasing/timescales of development etc. The CEMP shall be adhered to at all times during all phases.
- 8 Reason: To safeguard the residential amenity of neighbouring occupiers and protect biodiversity in accordance with submitted Ecology Report dated 6 October 2015, in

accordance with policies ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 and LP22 and LP30 of the Proposed Submission Local Plan 2017. The condition is pre-commencement as it would be unreasonable to require applicants to undertake this work prior to consent being granted.

- 9 Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours 08:00 - 18:00 each day Monday-Friday, 08:00 - 13:00 Saturdays and none on Sundays or Bank Holidays.
- 9 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015 and LP22 of the Proposed Submission Local Plan 2017.
- 10 Prior to the first occupation of any dwelling the road(s), footway(s) and cycleway(s) required to access that dwelling shall be constructed to at least binder course surfacing level from the dwelling to the adjoining County road in accordance with the details approved on 15:116-1 Revision C in writing by the Local Planning Authority.
- 10 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015 and LP17 of the Proposed Submission Local Plan 2017.
- 11 The highway shall be built to adoptable standards as defined by Cambridgeshire County Council Housing Estate Road Construction Specification (current at time of commencement of build) before the last dwelling is occupied.
- 11 Reason: To ensure that the highways end appearance is acceptable and to prevent the roads being left in a poor/unstable state, in accordance with policies COM7 and ENV2 of the East Cambridgeshire adopted Local Plan April 2015 and LP22 and LP17 of the Proposed Submission Local Plan 2017.
- 12 Visibility splays shall be provided each side of the vehicular access in full accordance with the details indicated on the submitted plan 15:116 -1 Revision C. The splays shall thereafter be maintained free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.
- 12 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015 and LP17 of the Proposed Submission Local Plan 2017.
- 13 Plots 1, 2, 77, 78 and 79 are self build plots and will each individually be a separate phase within the development.
- 13 Reason: The applicant has requested that the development be undertaken in a phased manner for the purposes of CIL.
- 14 Prior to occupation a scheme (taking into account the measures recommended in the Ecology Report 6 October 2015) of biodiversity improvements shall be submitted to and agreed in writing with the Local Planning Authority. The biodiversity improvements shall

be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.

- 14 Reason: To protect and enhance species in accordance with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 and LP22, LP28 and LP30 of the Proposed Submission Local Plan 2017.
- 15 Prior to occupation of the relevant dwellings space shall be laid out within the plot for at least two cars to park in accordance with the approved layout. This area shall be levelled, surfaced and drained and thereafter retained for that specific use.
- 15 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015 and LP17 of the Proposed Submission Local Plan.
- 16 At the reserved matters stage the developer will need to demonstrate how their proposal complies with Policy HOU 1 and the indicative housing mix within Table 4.1 of the East Cambridgeshire Local Plan Adopted April 2015 to demonstrate that their proposal has a suitable housing mix and Lifetime Homes provision.
- 16 Reason: To ensure the proposal has a suitable housing mix is in line with Policy HOU1 1 of the adopted East Cambridgeshire Local Plan Adopted April 2015 and LP6 of the Proposed Submission Local Plan.
- 17 Prior to occupation the developer shall provide a scheme of fire hydrants. The agreed details shall be installed prior to first occupation.
- 17 Reason: To ensure the proposal does create a future risk to the occupants of the development, by allowing the fire service to get quick access to water to put out any house fire.