

**MAIN CASE**

**Reference No:** 17/00261/OUM

**Proposal:** Erection of up to 46 dwellings, together with associated public open space, landscaping, highways and drainage infrastructure works

**Site Address:** Land South Of Main Street Witchford Cambridgeshire

**Applicant:** Manor Oak Homes Ltd & Mr & Mrs Eade

**Case Officer:** Barbara Greengrass, Senior Planning Officer

**Parish:** Witchford

**Ward:** Haddenham  
 Ward Councillor/s: Councillor Steve Cheetham  
 Councillor Mark Hugo  
 Councillor Stuart Smith

**Date Received:** 16 February 2017      **Expiry Date:** 30 November 2017  
**[S153]**

**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 3rd May 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.
- 1.2 Errors in that original report were reported verbally in relation to paragraphs;
  - 7.23 - The applicant subsequently advised that it is theoretically possible to provide a pedestrian link to Barton Close but this is not proposed as part of this application.*
  - 7.43 – Comments on education are incorrect.*
- 1.3 Other housekeeping matters have been updated within the consultation section of this report.
- 1.4 Conditions;

- 1 Approved plans
- 2 Time Limit - OUT/OUM
- 3 Time Limit - OUT/OUM/RMA/RMM
- 4 Reporting of unexpected contamination
- 5 Archaeological investigation
- 6 Surface water drainage
- 7 Construction Environmental Management Plan
8. Construction times.
- 9 Tree Protection Measures
- 10 Soft landscaping
- 11 Road construction
- 12 Estate Rd before last dwelling occupied
- 13 Energy and sustainability
- 14 Ecology mitigation
- 15 Access provision
- 16 Use of agricultural building
- 17 Retention of trees/hedges

The S106 will secure the following;

- 30% affordable housing.
- Transfer of the POS areas to the Council and financial contributions for the long term maintenance of these areas.
- Transfer of the attenuation basin to the Council together with financial contributions for the long term maintenance of the area.
- Contribution for wheelie bins.
- Contribution for education provision.

## **2.0 SUMMARY OF APPLICATION**

- 2.1 The application seeks outline planning permission for residential development of the site with up to 46 dwellings together with public open space, landscaping, highways and drainage infrastructure. All matters are reserved apart from means of access. The proposal is to provide for a central access point onto Main Street.
- 2.2 The application is accompanied by an indicative layout plan illustrating how the 46 dwellings could be accommodated on the site with the provision of 3098 sq m (0.3ha), of public open space and drainage attenuation basin. The applicant proposes to retain the existing agricultural shed to the north east corner of the site outlined in blue.
- 2.3 The application is accompanied by a design and access statement, Travel Plan, Preliminary Ecology appraisal, Tree Schedule, Flood Risk Assessment, Archaeological Assessment, Landscape and visual impact assessment and Contaminated land report.
- 2.4 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.**

- 2.5 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

17/00153/SCREEN	SCREENING OPINION - proposed development of 46 dwellings	07.02.2017
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4.0 **THE SITE AND ITS ENVIRONMENT**

- 4.1 The application site is located at the western edge of the settlement on the southern side of Main Street, just adjoining the settlement boundary and between two parts of the defined settlement boundary for Witchford. It is bounded along the eastern boundary by the residential properties in Barton Close and West End Close and to the south by open countryside, with residential properties to the west.
- 4.2 The application site comprises three partly overgrown pastoral fields enclosed by established mixed native hedgerows and vegetation. The eastern and western boundaries are made up of a combination of timber fencing and vegetation structure forming the boundary.
- 4.3 The northern site boundary is defined by an established mixed native hedgerow with occasional mature hedgerow trees which lines Main Street. Three of the mature hedgerow trees which line the northern site boundary are the subject of a Tree Preservation Order (TPO), and will be protected and retained as part of the application. Existing residential development located outside of the defined development envelope for Witchford is located to the north and west of the application site, accessed off Main Street. The western site boundary is made up of a mixture of overgrown native hedgerow and timber fencing which defines the back garden of an existing residential dwelling off Main Street. The southern site boundary is defined by a mature overgrown native hedgerow, with arable farmland located beyond. The boundary vegetation lining the southern site boundary affords a strong degree of visual and physical containment to the application site.

5.0 **RESPONSES FROM CONSULTEES**

- 5.1 The consultation responses are as in the original Committee report to the 3 May 2017 meeting except for the additional responses below which were reported verbally at the meeting.

**Senior Housing Strategy & Enabling Officer** – no objections as the required 30% provision 14 affordable homes, is to be made. The precise mix in terms of tenure and house sizes of affordable housing will be determined by local circumstances. However in accordance with the Supplementary Planning Document on Developer Contributions the Council's preferred housing tenure mix is 70% Affordable or Social Rented Housing and 30% Intermediate Tenure Housing.

**Cambridgeshire County Council Education** – requested;

early years provision - £258,468  
primary school provision - £419,339  
secondary school provision - £296.004  
TOTAL - £973, 811

### **Ward Councillors**

Cllr Hugo –

Dear Planning Committee Members

I write as Ward Member for Witchford and I would like this read out in its entirety at the planning meeting on 3rd May when discussing this item. I apologise that due to work commitments that I am unable to attend in person.

I have been in correspondence with the chair of governors Sandra Thompson and the headmaster Chris Terry of Witchford Village College whose initial email is repeated below. (please read also)

I find myself in complete agreement with their views on the lack of Education contribution being requested by the Education Authority as part of the Section 106 agreement for this speculative site i.e. outside any local plan, past or draft. This seems to be in complete contrast to the recent planning decision for a similar speculative site in Soham where a contribution was not just requested but a recommended figure given. I am aware that a possible mistake may have been made in this application and a request for such funding should have been made and may be corrected by the date of the meeting.

Whilst this email is focussed on today's application I also request that an education contribution should be routinely considered for all large applications for housing in the catchment area for Witchford Village College which includes many neighbouring villages. A similar consideration should be given to primary schools affected by any large development.

Can you please confirm this email will be circulated and read out at the planning meeting when discussing this item.

Kind regards  
Mark Hugo  
Haddenham Ward District Councillor

*Email from Chair of Governors starts:*

Dear Councillors

I have been reading the minutes and agenda for the ECDC Planning Committee. The points I noted were:

Application for 88 houses in Soham - the Education Authority is seeking a contribution of £116,271 for education. This application was approved in April. Application for up to 46 houses in Witchford - no comments received from the Education Authority. This application goes to committee on 3 May. This cannot be fair. There is huge pressure on places at Witchford Village College. We have admitted an extra class into year 7 for the last two years, and are likely to do so again this year, due to demand within our own catchment area. The Governors of Witchford Village College are passionate about providing a brilliant education for all the children in our local area. If developments of this size are allowed with no contribution to education it will eventually lead to the College being unable to admit all those children in our area who want to go here. The Education Authority should be demanding contributions whenever it can. The funding for a pupil is not received in to the school until they have been here a year, funding from developments could bridge the gap and pay teacher salaries until the funding catches up!!

I am asking you to demand that the Education Authority is actively involved in all planning applications - no application should be approved until the Education Authority has had active input, no comment is not acceptable.

I also invite any or all of you to visit the College and see for yourselves what a brilliant job our staff do and the funding difficulties affect our children.

Sandra Thompson  
*Chair of Governors*  
Witchford Village College'

Cllr Smith – agrees with Cllr Hugo. Witchford Village College must be given sufficient funding to cope with rising pupil numbers.

5.2 **Neighbours** – 1 additional response received not included within the original Officer report to Committee raising the following additional points;

- Request for a community facility on site
- Provision of roads wide enough to accommodate parked cars
- Incorrect information on the bus stop provided
- The village should be more community based

## 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

## 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

WFD.H3 Land south of Main Road

## 7.0 **PLANNING COMMENTS**

- 7.1 This application was presented to Planning Committee on 3<sup>th</sup> May 2017 when Members resolved to delegate approval to the Planning Manager subject to the conditions and completion of a S106 legal agreement to include the matters specified above, 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 5<sup>th</sup> 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 Witchford 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 outside of the settlement boundary of Witchford 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 within the defined settlement boundary of Witchford within the emerging Proposed Submission Local Plan and is also allocated for residential development within site allocation WFD.H3, for an indicative number of 46 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 Witchford 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 The applicant has agreed to the principle of making an education contribution but not at the level requested by County Education. Discussions are ongoing with County to ascertain an appropriate level of contribution in scale and kind to the development proposed.
- 7.9 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:
- There are no objections to the proposal from statutory consultees.
  - The application is for outline permission with only access to be considered at this stage.
  - Members previously delegated approval to the Planning Manager at Planning Committee on 3 May 2017.
  - The site is allocated under Policy WFD.H3 in the Proposed Submission Local Plan.



## 9.0 **APPENDICES**

9.1 APPENDIX 1 – Officer Report to Committee on 3 May 2017

APPENDIX 2 – Minutes of the Planning Committee meeting on 3 May 2017

APPENDIX 3 – Draft conditions

<b><u>Background Documents</u></b>	<b><u>Location</u></b>	<b><u>Contact Officer(s)</u></b>
17/00261/OUM	Barbara Greengrass Room No. 011 The Grange	Barbara Greengrass Senior Planning Officer
17/00153/SCREEN	Ely	01353 665555 barbara.greengrass @eastcambs.gov.uk

National Planning Policy Framework -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](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 1