
MAIN CASE

Reference No: 16/00665/OUT

Proposal: Replacement dwelling and additional dwelling

Site Address: 3 Chapel Lane, Soham, Ely Cambridgeshire CB7 5UL

Applicant: Mrs Claire Norman

Case Officer: Richard Fitzjohn, Planning Officer

Parish: Soham

Ward: Soham North
Ward Councillor/s: Councillor James Palmer
Councillor Carol Sennitt

Date Received: 23 May 2016 **Expiry Date:** 12th October 2016
[R94]

1.0 **RECOMMENDATION**

1.1 Members are requested to REFUSE this application for the following reasons:

1. The proposed additional dwelling is located within the countryside and, by virtue of its distance from the main settlement of Soham, is considered to be in an unsustainable location. The proposal does not promote sustainable forms of transport and the future residents of this additional dwelling will be reliant on motor vehicles in order to access any local services or facilities. The proposal does not meet any of the special circumstances as identified in Paragraph 55 of the National Planning Policy Framework. The proposal fails to comply with the Policies GROWTH 5 and COM7 of the East Cambridgeshire Local Plan 2015 and Paragraphs 14 and 55 of the National Planning Policy Framework, as it fails to promote sustainable development.
2. The proposed additional dwelling, which is classified as a 'more vulnerable' development in Table 2 of the NPPF Planning Practice Guidance, would be sited within Flood Zone 3 as identified by the Environment Agency flood zone maps, where the Sequential Test must be passed for the development to be approved. The application fails to pass the Sequential Test as there are reasonably available sites elsewhere within the Parish of Soham with a lower probability of flooding and is therefore contrary to Policy ENV 8 of the East Cambridgeshire Local Plan, the provisions of the PPG on Flooding and Coastal Change and the National Planning Policy Framework.

3. The existing barn within the application site which is to be demolished displays characteristics which exhibit the potential for the presence of protected species; particularly the presence of bats. Insufficient information has been provided to assess the impact upon protected species and therefore the proposed development does not meet the requirements of Policy ENV7 of the East Cambridgeshire Local Plan 2015 and Paragraphs 109 and 118 of the National Planning Policy Framework.
4. The erection of an additional dwelling within this location, which comprises a predominantly open and rural setting, would have an urbanising impact upon the surrounding rural landscape which would be visually intrusive and detrimental to the character and appearance of the area, contrary to Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan, and Paragraphs 14, 17 and 56-68 of the National Planning Policy Framework.

2.0 SUMMARY OF APPLICATION

- 2.1 Outline planning permission is being sought, with some matters reserved, for the replacement of an existing dwelling and the erection of an additional dwelling. Matters of access, layout and scale are to be considered as part of this application, however matters relating to appearance and landscaping are reserved.
- 2.2 The application is also accompanied by a Flood Risk Assessment which includes a Flood Risk Sequential Test and Exception Test.
- 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.eastcambbs.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 This application has been called in to Planning Committee by Councillor James Palmer due to the nature of Chapel Lane and the general Great Fen Road area, which Councillor Palmer has always felt to be a residential street which happens to be outside of the town. Councillor Palmer is not in favour or against the application but feels it should be considered by the Planning Committee.

3.0 PLANNING HISTORY

- 3.1 There is no relevant planning history on this site.

4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The site is located in the open countryside to the north-east of Soham, approximately 3 miles from the established development framework for Soham. The site is located towards the west end of Chapel Lane, a single-track road accessed from Great Fen Road which lies approximately 350m from the site. The site comprises an existing two-storey dwelling, 2 outbuildings of a rural appearance and some trees. The site is predominantly surrounded by open agricultural fields, with the Internal Drainage Board's Town Drain and Fodder Fen Drove running adjacent

to the west of the site. A neighbouring dwelling, No.5 Chapel Lane is also located within close vicinity to the site to the north-west.

5.0 RESPONSES FROM CONSULTEES

5.1 Responses were received from the following consultees and these are summarised below. The full responses are available on the Council's web site.

5.2 Soham Parish Council – No objection. The Committee noted that development was again outside of the current development envelope.

5.3 Ward Councillors - No Comments Received.

5.4 Local Highway Authority – No objections in principle subject to the following improvements and conditions being made to Chapel Lane and attached to any approval the planning authority is minded to grant:

1. A passing bay should be installed within the adopted highway verge. This bay should measure 5 metres x 2 metres with 2x 5 metre tapers and be constructed as per Cambridgeshire County Council Standards. The location of this bay should be shown on the approved plans and agreed with the Highway Authority prior to planning approval.

A plan showing the location of the required passing bay has since been submitted to the Local Planning Authority and the Local Highway Authority has confirmed that the location is acceptable.

5.5 CCC Growth & Development - No Comments Received

5.6 Environmental Health – Advise that conditions are appended to any grant of planning permission requiring a contamination assessment to be carried out prior to development.

5.7 Waste Strategy (ECDC) - East Cambs will not enter private property to collect waste or recycling, therefore it would be the responsibility of the owners/residents to take any sacks/bins to the public highway boundary on the relevant collection day. East Cambridgeshire District Council as a Waste Collection Authority is permitted to make a charge for the provision of waste collection receptacles.

5.8 The Ely Group Of Internal Drainage Board – The Board's drainage system has no residual capacity to accept direct discharge over the Board's Greenfield run-off rate of 1.11/s/ha. The discharge will require the consent of this Board. The Board's Town Drain is directly adjacent to the site. No structure can be erected within nine metres of the edge of the Drain without the prior consent of the Board. The Board would wish to see the detailed design for drainage at the full planning stage.

5.9 Environment Agency – Awaiting consultation response which will be provided as an update to Members at Planning Committee.

5.10 Senior Tree Officer - None of the existing trees look worthy of TPO. As the site is rural, suggests a specimen tree is planted in each plot to compensate for the loss of trees and suggests some native hedgerow planting as new boundary features.

5.11 A site notice was displayed and one neighbouring property (No.5 Chapel Lane) has been notified of the application. However, no representations have been received.

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 8	Extension and replacement of dwellings in the countryside
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
COM 7	Transport impact
COM 8	Parking provision

6.2 Supplementary Planning Documents

Developer Contributions and Planning Obligations
Design Guide

6.3 National Planning Policy Framework 2012

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

7.0 PLANNING COMMENTS

7.1 The main issues to consider when determining this application relate to the principle of development, flood risk, the impacts upon character and appearance of the area, ecology, highway safety, trees and residential amenity.

7.2 Principle of development

The application site lies outside of the defined development boundary. The development of the site for housing would therefore conflict with Policy GROWTH 2 of the East Cambridgeshire Local Plan which seeks to focus new housing development within defined settlement boundaries. However as the Council cannot currently demonstrate a 5 year supply of housing land, Policy GROWTH 2 cannot be considered up to date in so far as it relates to the supply of housing land. In this situation, the presumption in favour of development set out in the National Planning Policy Framework (NPPF) means that permission for development should be

granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate that development should be restricted.

The principle of a replacement dwelling on this site is considered acceptable as long as it accords with the criteria set out in Policy HOU 8 of the Local Plan which allows for replacement dwellings in the countryside. However, the application also proposes the erection of a new dwelling on the site and this is considered unacceptable for the following reasons.

Paragraph 55 of the NPPF states that isolated new homes in the countryside should be avoided unless there are special circumstances. This site is considered to be isolated from any built settlement, being 3 miles from the nearest settlement of Soham. The site is located along a single track road in a very rural location. It is therefore considered to be an unsustainable location for the erection of a new dwelling, similar to the conclusions of the Inspector in a recent appeal decision which forms a material consideration to be given significant weight in determining this application.

The appeal decision bears similarities with this proposal and followed the refusal by the Council for two dwellings at 14 The Cotes, located 1.8 miles north of Soham, in an isolated cluster of dwellings. The proposed development site in this case is some 3 miles north of Soham and 4 miles from the centre of Soham where local shops and services are located.

The recently received appeal decision for The Cotes in Soham (APP/V0510/W/16/3143840) cited the location as unsustainable due to the reliance on the car. The appeal stated that “both (sites) would be reliant on the car to gain access to services and facilities. This would not accord with the Framework or the environmental dimension of sustainable development” and “the isolation of the sites from community facilities would weigh against the social dimension and would not accord with paragraph 55 of the Framework regarding the location of rural housing”. Furthermore, the appeal also stated “given the distance of the sites from local facilities and the unsuitability of the road for pedestrian access, I conclude on this issue that the occupiers of the proposed dwellings would be highly reliant on the car to gain access to services and facilities”. As previously stated, the Cotes is approximately 1.8 miles to the centre of Soham, and this application site is 3 miles from the edge of Soham and 4 miles from the centre of Soham where local shops and services are located.

It is considered that the proposal is contrary to Local Plan policy COM7 which requires that development is designed to reduce the need to travel, particularly by car, and to promote sustainable forms of transport. This site is located 4 miles from the centre of Soham and, as such, the Local Planning Authority view it as unsustainable as there are a number of sites within Soham which are in a more sustainable location and are either allocated for development or could be windfall sites.

This proposal differs from residential permissions granted in the small rural settlements in the District. This is due to the fact that encouraging growth at these rural sites will improve their sustainability and since they are presently reliant on

nearby villages and reliable on the car already, the introduction of new dwellings ultimately helps their long-term sustainability and keeps these communities alive. The NPPF supports this by stating in paragraph 55 that development can support services in a village nearby and that isolated new homes in the countryside should be resisted unless there are special circumstances.

7.3 Flood Risk

Paragraph 14 of the NPPF makes it clear that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Paragraph 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

The NPPF requires that a sequential approach is taken to the location of development, based on Flood Zones, and development should as far as possible be directed towards areas with the lowest probability of flooding. The NPPF requires Local Planning Authorities to steer new development to areas at the lowest probability of flooding by applying a Flood Risk Sequential Test. The Local Planning Authority must determine whether the application site passes the NPPF Sequential Test.

The application site is located within Flood Zone 3, defined within the NPPF Planning Practice Guidance as having a 'high probability' of flooding. The development type proposed is classified as 'more vulnerable', in accordance with Table 2 of the NPPF Planning Practice Guidance. Table 3 of the NPPF Planning Practice Guidance makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted unless the development is necessary.

Paragraph 101 of the NPPF states that development should not be permitted if there are other reasonably available sites appropriate for the proposed development, located in areas with a lower probability of flooding.

Policy ENV8 of the East Cambridgeshire Local Plan 2015 states that the Sequential Test and Exception Test will be strictly applied across the district, and new development should normally be located in Flood Risk Zone 1. In respect of this application, the Sequential Test would need to demonstrate that there are no other reasonably available sites within Parish of Soham suitable for the erection of a single dwelling which are outside of Flood Zone 3.

A Flood Risk Sequential Test has been submitted by the applicant which states the site has an established residential use at present and there is insufficient suitable and available land in the district on which to provide residential development for a variety of reasons, including that large areas of the district are areas of undeveloped land in the countryside, much of which also lies within Flood Zone 3, thus East Cambridgeshire District Council currently has an insufficient supply of housing to

meet targets, and as such the proposed development could not be relocated. The applicant considers the Sequential Test is passed for the above reasons.

However, there are a number of allocated sites for housing within the Parish of Soham, as specified within the East Cambridgeshire Local Plan 2015. In addition, a number of planning applications for new dwellings have recently been approved in more sustainable locations within the Parish of Soham.

It is considered by the Local Planning Authority that there are a number of other reasonably available sites for the erection of a single dwelling within the Parish of Soham which are at a lower probability of flooding. Therefore, the proposed additional dwelling is not necessary in this location and the application fails the Sequential Test for this reason.

If the Sequential Test is passed, the Exception Test should then be applied, guided by the submitted Flood Risk Assessment.

The Environment Agency's response will be provided as an update to Members at the Planning Committee meeting. However, a positive consultation response from the Environment Agency would not overrule the Sequential Test which is determined by the Local Planning Authority.

As the proposal fails to pass the Sequential Test, the proposal is considered to unnecessarily place a dwelling in an area at significant risk of flooding, contrary to Policy ENV8 of the East Cambridgeshire Local Plan 2015, the provisions of the PPG on Flooding and Coastal Change and the National Planning Policy Framework.

7.4 Character and appearance of the area

The area surrounding the application site is predominantly rural in nature, largely comprising agricultural fields. The application site currently has a residential use and there are examples of built form within the site, comprising the existing dwelling and two outbuildings of a rural appearance. There is also a recently constructed replacement dwelling and an outbuilding of a rural appearance at No.5 Chapel Lane within close proximity to the site.

Policy ENV1 of the East Cambridgeshire Local Plan 2015 requires new development proposals to demonstrate that their location creates positive, complementary relationships with existing development and protects, conserves, and where possible enhances space between settlements and their wider landscape setting. Furthermore, Policy ENV2 of the East Cambridgeshire Local Plan 2015 requires all new development proposals to respect the landscape of the surrounding area and ensure the location of buildings relates sympathetically to the surrounding area.

Due to the matter of appearance being reserved, no details of the design of the proposed dwellings have been provided. However, it is considered that the erection of an additional dwelling would create an urbanising impact which erodes the predominantly rural character of the area and is visually intrusive upon the surrounding rural landscape.

It is therefore considered that the proposed dwelling in this location would cause significant and demonstrable harm to the rural character and appearance of the area, contrary to Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015 and Paragraphs 14, 17 and 56-68 of the NPPF.

7.5 Ecology

Policy ENV7 of the East Cambridgeshire Local 2015 requires an ecological report to be submitted where it is suspected that there could be an impact on protected species that needs to be adequately mitigated.

The existing outbuildings within the application site which are to be demolished display characteristics which exhibit the potential for the presence of protected species; particularly the presence of bats. A Phase 1 Ecology report was not submitted with the application nor requested by the Local Planning Authority as the application was to be recommended for refusal. Insufficient information has been provided to assess the impact upon protected species and therefore the proposed development does not meet the requirements of Policy ENV7 of the East Cambridgeshire Local Plan 2015 or the requirements of Natural England's standing advice.

7.6 Highway safety

The submitted plans demonstrate that adequate parking and turning could be achieved for 2 domestic cars within each plot. The vehicular access benefits from good visibility onto a quiet road which serves a very low level of traffic.

Cambridgeshire County Council Highways has been consulted on the application and has raised no objections in principle, subject to a passing bay being installed within the adopted highway verge along Chapel Lane.

An amended plan has been received by the Local Planning Authority which includes the addition of a passing bay along Chapel Lane. The location of the passing bay is considered acceptable to the Local Highway Authority and a Grampian condition could be appended to any grant of planning permission to ensure the passing bay is constructed prior to first occupation of the dwellings.

Subject to a Grampian condition requiring the passing bay on Chapel Lane to be installed prior to occupation of the dwellings, it is considered that the proposal would not create any detrimental impacts upon highway safety.

7.7 Trees

There are a number of existing trees present within the application site which are proposed to be removed to accommodate the two dwellings. The trees within the site do not appear to be of any noteworthy quality which would be worthy of protection.

The Council's Tree Officer has commented on the application and confirmed that none of the trees within the site are worthy of a TPO.

The loss of existing trees within the site is therefore considered acceptable, in accordance with Policy ENV7 of the East Cambridgeshire Local Plan 2015.

7.8 Residential Amenity

The proposed dwellings would be sufficiently distanced from No.5 Chapel Lane to prevent any significant adverse impacts upon the residential amenity of this neighbouring property. The site also has sufficient space to accommodate the two proposed dwellings with a physical relationship which would provide an acceptable level of amenity to both dwellings.

It is therefore considered that the proposal accords with Policy ENV2 of the East Cambridgeshire Local Plan 2015 in respect of residential amenity.

7.9 Planning Balance

The proposal would provide the following benefits:- the provision of an additional residential dwelling to the district's housing stock which would be built to modern, sustainable building standards and the positive contribution to the local and wider economy in the short term through construction work.

However, it is considered that these benefits would be outweighed by the significant and demonstrable harm which would be caused by the siting of an additional dwelling in an unsustainable location and increasing reliance on the car to gain access to services and facilities. Further harm is caused by the increased risks as a result of an additional dwelling within Flood Zone 3 despite there being reasonably available sites elsewhere with a lower probability of flooding, the potential for risks to protected species and the detrimental urbanising impact upon the surrounding rural landscape.

In conclusion, this proposal is in conflict with Policies GROWTH5, ENV1, ENV2, ENV7, ENV8 and COM7 of the East Cambridgeshire Local Plan 2015.

8.0 APPENDICES

Appendix 1 – Appeal Decision APP/V0510/W/16/3143840 - The Cotes, Soham

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
16/00665/OUT	Richard Fitzjohn Room No. 011 The Grange Ely	Richard Fitzjohn Planning Officer 01353 665555 richard.fitzjohn@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>