
MAIN CASE

Reference No: 13/00734/OUM

Proposal: Construction of 7 dwellings plus 3 flexible dwellings with potential for employment use

Site Address: Kings of Witcham Ltd, The Slade, Witcham, Ely, CB6 2LA

Applicant: Mr C Every

Case Officer: Sue Wheatley, Planning Manager

Parish: Witcham

Ward: Downham Villages

Ward Councillor/s: Councillor Anna Bailey
Councillor Tony Goodge

Date Received: 16 September 2013 **Expiry Date:**

Report Number [P203]

1.0 RECOMMENDATION

1.1 Members are recommended to GRANT permission subject to the conditions approved previously (included within Appendix 1) together with the following additional condition:

Condition

The gross floorspace of the development hereby approved shall not exceed 1,000 square metres.

Reason

Development in excess of this floorspace would exceed the threshold for the provision of affordable housing as set out by National Government in the Ministerial Statement and the Planning Practice Guidance.

2.0 REASON FOR REFERRAL BACK TO COMMITTEE

2.1 This application was considered by Planning Committee at its meeting on 7 May 2014. The Committee resolved to approve the application subject to conditions and the negotiation of a S106 legal agreement to address viability, the provision of affordable housing on the site and a payment in lieu of public open space on the site.

2.2 Work has been progressing on the draft S106. The application however needs to be reported back to Planning Committee as circumstances have changed since the decision of the Planning Committee.

2.3 The previous report, which is attached as Appendix 1, provides details of the application proposal, the site and its surroundings, the planning history, consultation and neighbour responses and the planning considerations.

3.0 CHANGED CIRCUMSTANCES

3.1 In November 2014 the Government introduced a threshold for the provision of affordable housing and tariff style planning obligations. This was included in both a Ministerial Statement and an amendment to the online Planning Practice Guidance. It should be regarded as planning policy as it was included in a Ministerial Statement. The guidance states:

'There are specific circumstances where contributions for affordable housing and tariff style planning obligations (Section 106 planning obligations) should not be sought from small scale and self-build development.

- *contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm*
- *in designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under section 157(1) of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty*
- *affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home'*

(Paragraph: 012, National Planning Practice Guidance (NPPG), Revision date: 28.11.2014.)

3.2 None of the District falls within the definition of a "rural area" and due to the introduction of the Community Infrastructure levy (CIL) tariff style contributions are not sought on development of 10 units or less.

4.0 PLANNING CONSIDERATIONS

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the relevant part of the development plan is the East Cambridgeshire Core Strategy 2009. Policy H3, in the Core Strategy, includes a threshold of 3 dwellings however this threshold has not been applied since the submission of the draft Local Plan with

its higher threshold of 5 dwellings contained within Policy HOU3. In effect by doing this, the Council has been treating policy H3 as being out of date. Therefore regard has to be had to the other material planning considerations.

- 4.2 Being policy the revised threshold is a material planning consideration. In addition, the draft Local Plan is at an advanced stage of preparation and is also a material planning consideration and the weight that should be given to both of these material considerations needs to be considered. The NPPF, in paragraph 216, provides guidance on the weight to be attached to emerging plans stating:

'From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the framework, the greater the weight that may be given.'*

- 4.3 A number of Local Authorities have questioned the new threshold and have chosen not to apply it. Also a legal challenge has been launched against the Government jointly by two Councils. It has therefore been very difficult to make a recommendation regarding whether or not this Council should seek a S106 contribution for affordable housing. However, it would be unreasonable to delay determination of applications pending receipt of the Inspector's report and the results of the legal challenge. As the Local Plan has not been adopted and is in conflict with the recent Ministerial Statement it is considered by Officers that more weight should be given to the Ministerial Statement than the emerging Local Plan. The weight to be given to material considerations is a matter for the decision maker.

- 4.4 Members should be aware, in reaching their decision, that this is an interim officer view and that it could change following the receipt of the Inspector's report and/or the outcome of the judicial review.

- 4.5 This is an outline application with all matters reserved for 10 dwellings in total and therefore the floorspace of the development is unknown. However, under the new threshold it is only when floorspace does not exceed 1,000 square metres that affordable housing is not to be provided. This was explained to the applicant and views sought regarding whether the developer wished to see the development restricted to a floorspace of less than 1,000 square metres by condition or whether affordable housing would still be proposed. The developer has confirmed in writing restricting the scheme to a maximum of 1,000 square metres of gross floorspace.

- 4.6 The previous resolution included the provision of a contribution towards public open space in lieu of on-site provision. However, this would appear to be unnecessary as the Council's SPD on Developer Contributions suggest that Public Open Space contributions will only be sought for sites of more than 20 dwellings.

5.0 **APPENDICES**

5.1 Appendix 1 – Previous report to Planning Committee on 7 May 2015.

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
	Room No. 011 The Grange Ely	Sue Wheatley Planning Manager 01353 665555 sue.wheatley@eastcambs.gov.uk

MAIN CASE

Proposal: Construction of 7 dwellings plus 3 flexible dwellings with potential for employment use

Location: Kings of Witcham Ltd The Slade Witcham Ely CB6 2LA

Applicant: Mr C Every

Agent: L Bevens Associates Ltd

Reference No: 13/00734/OUM

Case Officer: Sue Finlayson

Parish: Witcham
Ward: Downham Villages
Ward Councillor/s: Councillor Anna Bailey
Councillor Tony Goodge

Date Received: 16 September 2013 Expiry Date:

[N272]

2.1 EXECUTIVE SUMMARY

- 1.1 This is an outline planning application with only the principle of the development and access to be determined at this stage, all other matters are reserved for future consideration. County Highways have no concerns about the proposed access.
- 1.2 The application proposes the redevelopment of this existing garage business site to residential, to enable the business to relocate to a more sustainable site within the district. Ten dwellings are proposed, of which three would have the potential to be adapted to future 'home working', to try to retain an element of employment on the site, but being mindful of the need to ensure such employment would be conducive to surrounding residential accommodation. Current policy also requires the provision of three affordable dwellings, and the applicant proposes to provide a sum in lieu to address this issue. This will be subject to viability and will require further negotiation prior to the submission of any reserved matters application.
- 1.3 The application has been called to Planning Committee at the request of local Ward Councillors due to concerns raised about the form of development proposed within the original application. The application has now been amended to address most of the concerns raised, and it is considered that with appropriate planning conditions to ensure careful design at reserved matters stage, the proposal accords with planning policy and addresses the concerns expressed.

1.4 The application is recommended for APPROVAL, but delegated to the Head of Planning and Sustainable Development, to negotiate the successful completion of a s106 legal agreement to address viability and the provision of affordable housing on the site.

1.5 **A Site visit has been arranged for 12.40pm, prior to the Planning Committee meeting.**

2.0 THE APPLICATION

2.1 The application proposes demolition of the existing garage buildings, removal of the forecourt and hard standing areas, together with any underground tanks, and the construction of 7 dwellings plus 3 flexible dwellings with potential for employment use. This is an outline planning application with only the principle of the development and access to be determined at this stage, all other matters are reserved for future consideration.

2.2 Access would be taken from The Slade, in a similar position to that which already exists. An **indicative** layout plan shows the access road running into the site to the west and curving to the south, ending in a hammerhead. Six dwellings with two parking spaces could be sited along this access route, with three dwellings on the frontage, to the south of the access road, and one to the north, all facing The Slade and all with two parking spaces each within the site. A new footpath is proposed within the highway verge from the site to the Silver Street junction to provide pedestrian access to the centre of the village. This would be constructed at reserved matters stage.

2.3 The application has been amended since it was first received, when it was proposed as 7 dwellings and 3 live/work units (3 storey properties on the frontage), and access and layout were proposed for determination. The applicant has submitted a confidential business history and future requirements report and financial statement in support of the application.

3.0 THE APPLICANT'S CASE

3.1 The Applicant's case is set out in the Design and Access Statement, which 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, on the application file. In addition, the applicant has submitted the following short statement in support of his application.

3.2 The proposal is for the re-development of a 'Brownfield' site currently operating as a car dealership and garage, upon which it is proposed to construct 10 residential units, including 3 flexible units, which will incorporate an element of employment.

- The current owner has been running the business since 1974 but has found that the location of the garage in a pre-dominantly residential area and away from a major road network has led to a decline in business as the population of Ely has increased with a new and more transient resident body.

- It is the client's intention to relocate the business to a more sustainable and visible location to provide stability for customers and a more prosperous outlook for the workforce.
- All of the current employees travel into the site from outside of Witcham. Re - location towards Ely would not have an overall increase in staff travelling. All except one are East Cambridgeshire residents and all are the major wage earner in their family.
- The proposed scheme is in outline form only and only commits access. An indicative layout has been produced, which shows 1 possible solution.
- The proposed scheme accords with all relevant policies in the Adopted Core Strategy and relevant National Planning Polices.
- The proposed scheme has been developed over a period of 15 months with input from various planning officers at ECDC and has been amended to suit all statutory consultee's requirements and a final scheme has been produced which is supported by Officers.

4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The site is approximately 0.41 hectares in area housing a car showroom and servicing garage, together with car parking areas, and grassed areas to the rear of the main building. The building to the front of the site is the showroom/reception area, and is single storey and of brick construction under a corrugated sheet roof. It has large areas of timber windows and a 'conservatory' style office extension. Behind this building is the workshop area, consisting of a steel framed building with partial brick wall and sheet cladding, with a corrugated sheet roof. The gross internal area of the existing building is 528 sqm. The buildings appear to require modernisation and refurbishment.
- 4.2 The site extends behind No 8 The Slade, from which it is separated by a 1.8m close-boarded fence. It is located within the settlement boundary of Witcham, close to the boundary of the Witcham Conservation Area. The majority of the site fronts The Slade, a Class C classified road, and is in a predominantly residential area, with bungalows on either side, and a mix of single and two storey properties opposite the site.
- 4.3 The western boundary abuts residential gardens and comprises fencing and established tree and hedge planting. The southern boundary is formed by a close-boarded fence, overgrown vegetation, and an open ditch. That to the north comprises existing vegetation and a 2m high hedge. The eastern boundary forms the frontage to The Slade and contains the main access into the garage, with a secondary access for car sales.

5.0 PLANNING HISTORY

5.1

77/00486/FUL	EXTENSION TO FORM IMPROVED ACCESS TO WORKSHOP	Approved	11.08.1977
79/00011/ADV	CHANGE OF SHELL SIGN TO VOLVO	Approved	08.06.1979
79/00100/FUL	EXTENSION TO EXISTING GARAGE FOR PARTS STORE	Approved	22.03.1979
79/00294/OUT	GARAGE EXTENSION	Approved	08.06.1979
88/00112/OUT	DEMOLITION OF GARAGE AND SERVICE STATION, ERECTION OF 8 BUNGALOWS	Approved	26.10.1988
91/00615/OUT	Demolition of garage and service station and erection of 8 bungalows	Approved	15.11.1993
92/00535/FUL	Extension to existing car showrooms (46m ²)	Approved	20.08.1992
96/00764/OUT	Renewal of planning consent E/91/0615/O - demolition of garage and service station and erection of 8 bungalows	Approved	08.03.1999
99/00915/FUL	Removal of flat roof and replacing with higher pitched roof	Approved	23.12.1999
02/00097/OUT	Renewal of permission E/96/0764/O - demolition of garage and service station and erection of 8 bungalows	Refused	25.03.2002
09/00483/ADI	Ford Flag Pole Sign	Approved	06.08.2009

6.0 **REPLIES TO CONSULTATIONS**

6.1 Site notice posted on a telegraph post at the front of the site and 11 local residents notified on 25th September 2013 and 12 local residents notified on 25th February 2014 regarding amended application.

6.2 5 replies received raising the following issues:

Response to initial consultation when application proposed 3 storey live work units:

- Size of dwellings and density not consistent with other development in the village, terrace not appropriate and height and scale should be reduced
- Significant impact on light entering adjacent properties from scale of proposal, and overlooking of garden
- Live/work units inappropriate due to scale and doubts about commercial use forthcoming
- Proposal will add to existing problems with foul water system. Numerous incidents where the system cannot cope in heavy rain, leading to sewage overflow in gardens
- Parking spaces are inadequate, and no space for delivery vehicles leading to possible on-road parking, on a major thoroughfare through the village, with 2 bends – visibility issues
- Surface water is an issue in The Slade, as drains along Silver Street/ Martins Lane/High Street cannot cope and water runs down The Slade, causing flooding to gardens of properties there. The proposal should have water attenuation measures included.
- No provision for play – children will play in the road.
- Loss of reliable and trustworthy family business to the village – proposal is a poor substitute
- Green technologies should be incorporated

Response to second consultation on amended scheme:

1 response received, commenting that initial concerns remain regarding density as the number of dwellings has not changed. No concerns regarding access proposed as this minimises potential problems when accessing the site.

6.3 **Ward Councillors:**

Tony Goodge and Anna Bailey: Requested the application be determined at Planning Committee due to the high level of concern raised locally by the proposals.

6.4 **Parish Council:** *Comments on initial proposal (with 3 storey live/work units):*

- Recommend refusal
- Concerns regarding density of housing and parking levels
- Buildings not in keeping with village or street scene

- Acknowledge addressing loss of employment, but question whether live/work units will achieve this and no adequate business parking arrangements shown- encourage parking on highway where there are bends
- 3 storey buildings overlook other properties – adjacent bungalow omitted from plans
- sewage and surface water problems in The Slade – 10 more properties will exacerbate this
- The proposals do not meet the needs of the village

Comments on revised proposals:

The Parish Council still have concerns that the proposed footway in the verge could encourage parking on the side of the road, which is a busy stretch, close to the centre of the village, and the bends of Slade Farm. As there is no access to the confidential statement, the Council reserves its position to comment later on layout changes.

6.5 Housing Officer:

No recent housing need assessment carried out for village. The proposal would require 3 affordable units to comply with policy. The contents of the viability report are accepted. It is proposed that a s106 legal agreement should be attached to any outline approval given, which would set out the parameters of the affordable housing requirements of the site, and that the final provision or contribution in lieu, would be finally agreed when a reserved matters application is determined, as more detailed viability information will be available at that stage.

6.6 Environmental Health: Work units should be limited to B1 Contamination conditions are required for this development. Construction times should be limited to 8.00-18.00 Monday – Friday, 8.00 – 13.00 on Saturdays and none on Sundays or Bank Holidays. No burning should be carried out on site during demolition and construction. Please send environmental notes.

6.7 County Highways:

Submitted plans are acceptable. Conditions required re:

- Footway link to Silver Street and internal road/parking arrangements
- Vehicular access over County highway
- Layout of parking/turning, minimum carriage width, and radius kerbs
- Highway drainage details

6.8 Environment Agency: No response received to this application, but in response to application E/12/01127/OUM which was withdrawn, the EA advised that the Council should use the Standing Advice Matrix to advice on the application. This advice has therefore been checked for this application, which is in Flood Zone 1 and less than 1 hectare in area. The advice states that sustainable drainage systems should be used to manage surface water run-off to ensure there is no risk either on site or elsewhere. It is proposed that that advice be sent to the applicant with any approval notice.

7.0 THE PLANNING POLICY CONTEXT

7.1 East Cambridgeshire Core Strategy 2009
Agenda Item 5 – Page 10

CS2	Housing
CS1	Spatial Strategy
CS4	Employment
H1	Housing Mix and Type
H2	Density
H3	Affordable housing
EC1	Retention of employment sites
EN1	Landscape and settlement character
EN2	Design
EN4	Renewable energy
EN7	Flood risk
EN8	Pollution
S6	Transport impact
S7	Parking provision

7.2 East Cambridgeshire Local Plan Persubmission version (February 2013)

GROWTH 1	Levels of housing, employment and retail growth
GROWTH 2	Locational strategy
HOU 1	Housing mix
HOU 2	Housing density
HOU 3	Affordable housing provision
EMP 1	Retention of existing employment sites and allocations
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy efficiency and renewable energy in construction
ENV 8	Flood risk
ENV 9	Pollution
COM 7	Transport impact
COM 8	Parking provision

7.3 Supplementary Planning Documents

Developer Contributions and Planning Obligations
Design Guide

8.0 CENTRAL GOVERNMENT POLICY

8.1 National Planning Policy Framework 2012

- 1 Building a strong, competitive economy
- 3 Supporting a prosperous rural economy
- 6 Delivering a wide choice of high quality homes
- 7 Requiring good design

8.2 Technical Guide to the National Planning Policy Framework

9.0 PLANNING COMMENTS

- 9.1 The key issues in determining this application are:
- Planning policy
 - The planning history of the site and the need for the application
 - Affordable housing, viability and s106
 - Drainage and contamination
 - Highways issues
 - Residential amenity and impact on the street scene

9.2 **Planning policy**

Witcham is a small village with a limited range of facilities – there is a village hall, a part time post office service, a church, recreation area including a play area and a public house, but there are no shops within the village. Core Strategy policies CS1 and CS2 aim to restrict development in ‘smaller villages’ to up to 2 dwellings on non-allocated sites within settlement boundaries. Although the aim of draft Local Plan policies is to channel development to the most sustainable locations, Policy Growth 2 is not so restrictive. The supporting text to the policy states that there is a need to “support the villages within the district, particularly given that the population of East Cambridgeshire is ageing and average household sizes are likely to decrease over the Plan period - meaning that the population of villages will decline without additional housing growth. Some limited housing growth in villages can help to support local services and community activities.” Thus Policy Growth 2 seeks to support development within settlement boundaries, which meets the needs of the local community, provided there is no adverse impact on the character of the locality and all other material considerations are met.

- 9.3 Core Strategy Policy EC1 and draft Local Plan Policy EMP1 seek to retain existing employment sites, whilst allowing some flexibility to take account of sites that may no longer be suitable or appropriate for employment use. All sizes of sites are covered by these policies as small sites can make a significant contribution to local employment opportunities. Policy CS1 states that where the continued viability of the site for B1, B2 or B8 use is in question, applicants are required to demonstrate that the site has been actively marketed at a realistic price for a continuous period of at least 12 months, or provide other convincing evidence of physical/operational constraints or lack of viability that demonstrates that it is no longer suitable for any B1, B2 or B8 business uses. Draft Local Plan Policy EMP1, in contrast to that policy states that as an exception, proposals for mixed-use re-development involving an element of employment uses may be permitted, where it can be demonstrated that continued use of the site for 100% employment purposes is no longer viable, or redevelopment of the site would bring significant environmental or community benefits. Clear and robust evidence is required in relation to both scenarios, and re-development proposals, which propose the loss of all employment uses, must provide clear evidence as to why it is not possible to deliver employment as part of the scheme.

- 9.4 Whilst there was some comment made on draft Policy EMP1 at the Local Plan Examination, this related to allocated employment sites or minor amendments to the wording, both of which do not affect this application, consequently, it is considered that considerable weight can be given to this draft Policy and draft Policy Growth 2 in the determination of this application. The changes between the Core Strategy

and draft Local Plan policies effectively mean that the application site could be developed for more than 2 dwellings, provided there was no adverse impact on the character of the locality and the development meets the needs of the community, but only if an element of employment use is provided within the scheme, or full justification is provided as to why this is not possible. Residential and employment uses do not sit easily together and it is, in all practical terms, only B1 uses which would be possible. Such uses include office, research and development and light engineering. However issues such as noise would need to be controlled and there would also be a potential need for some separation between the employment and residential properties.

- 9.5 In order to satisfy the terms of draft Policy EMP1 the applicant originally proposed 3 live/work units to the front of site. Although in outline form, the layout indicated those units to be three storey and on the front of the site facing The Slade, the height allowing for employment use on the ground floor with living accommodation above.
- 9.6 Due to considerable opposition from the Parish Council and local residents, the application was changed, following officer advice, to remove the layout from the application, together with the live/work units, and instead promote 'flexible' dwellings, which would have the potential for employment use, rather than setting a distinct requirement. This Officer advice was given taking a number of issues into consideration. Firstly, the applicant is seeking to relocate and expand his business, which is not possible on the present site, due mainly to the fact that the business needs to be in a more central location with passing trade. Therefore jobs would not be lost, but additional employment may be created elsewhere in the district. Secondly there are mortgage difficulties which arise with live/work units, and their actual employment generating capacity has not been very successful in neighbouring authorities, thus they have negative implications in respect of viability. Lastly, 'flexible' dwellings do not add significant cost to future development, or need to be particularly large, as they require only enough space for someone to work from home, such as separate study, or enlarged living room/bedroom to be used as an office. They would typically enable some form of employment which would not require a separate planning consent, such as a home office, or a garage could be converted to a small workshop or hairdressers for example, provided there was sufficient parking provided.
- 9.7 These are issues which would need to be addressed at reserved matters stage, when detailed design would be considered, but the potential for employment use would be available, without significant detriment to adjacent residential occupiers, at a more reasonable scale of development, than previously proposed. In addition the applicant wishes to move and expand his business locally, therefore not losing any employment locally (none of his workforce live in the village). Continued use for employment on the site is not viable, taking account of the characteristics of the site and its location. The use of the site for an alternative employment use is unlikely and could give rise to more unacceptable environmental or traffic issues. It is therefore considered that the proposal falls broadly within the requirements of Core Strategy Policy EC1 and draft Local Plan Policies Growth 2 and EMP1.

9.8 Local residents have raised concerns at the proposed density of development. Core Strategy H2 sought densities of 30 dwellings to the hectare. Draft Local Plan Policy HOU2 aims to achieve densities which are sensitive to the character of the local area, and take account of on-site constraints and the level of local transport accessibility. At the same time, applicants should also have regard to making efficient use of land, as this can help to reduce the amount of building that needs to take place on greenfield sites. Each site must therefore be looked at individually, taking account of surrounding densities; efficiency of land use; the need to accommodate parking and open space; biodiversity; accessibility and residential amenity. As this is an outline application, layout would be determined at a later stage, however as the site is 0.41 hectares in area the proposed development of 10 dwellings would equate to 24.4 dwellings per hectare. This is not considered excessive and would not be out of place in this village, which has areas of higher densities than this. As the site would inevitably comprise frontage dwellings with others at the rear, the impact on the street scene need not be 'crowded' or detrimental, and the frontage dwellings would shield those behind from general public view, creating a cul-de-sac, which would not be unusual in a small village. Consequently your officers take the view that 10 dwellings on the site would not be out of scale with the surrounding locality.

9.9 **The planning history of the site and the need for the application:**

As mentioned above, the applicant wishes to expand his business locally. The site at Witcham is off the beaten track and expansion on the present site is not viable. The site was previously a Volvo dealership and in the early 1990's employed 15 people. There are now 8 employees, and the company can no longer depend on loyal customers, but needs to grow the customer base to protect and increase the workforce by relocating to a more customer-convenient location, preferably with the benefit of passing trade. Ideally the applicant has stated he would like to relocate to the environs of Ely. As can be seen by the planning history, a number of planning applications have been made over the years for residential development of the site, most of which were approved. In the main they followed the economic climate prevalent at the time – seeking to relocate and then for one reason or another having to concentrate on recovery. In 2003 a residential renewal application was refused on the grounds that the redevelopment of the site would not provide employment use and would not provide substantial planning benefits; the proposal would provide 8 dwellings in an infill only settlement, and would therefore cause harm to the edge of the village; and the proposal did not provide an appropriate form of development, providing the best use of the land available. The application was therefore contrary to a number of Local Plan 2000 policies. The current application, which has been the subject of considerable discussion between the applicant and the Planning Department seeks to move the business to a more sustainable location, whilst raising sufficient funds to help establish the new premises, within the remit of current planning policy.

9.10 **Affordable housing, viability and s106**

Draft Local Plan Policy HOU3 seeks to provide 30% affordable housing on all full market sites of 5 dwellings and above. The text to the Policy states that the Council recognises that in some cases there may be exceptional development costs, which need to be taken into account, and that the policy is a starting point for negotiation. Applicants seeking to justify a lower proportion of affordable housing will be required

to demonstrate why it is not economically viable to make the minimum level of provision by way of a financial viability assessment. Where agreement is not reached, external consultants will be appointed to undertake a further independent viability assessment, and the applicant will be required to meet the costs of the assessment being prepared. Whilst affordable housing should normally be provided on-site, in exceptional circumstances off-site provision or a payment in lieu may be considered acceptable provided sufficient justification is made.

9.11 In this case 30% provision would be 3 dwellings. The applicant states that it is unlikely that a registered social landlord would wish to take only 3 units in the village. He has provided a financial assessment which provides evidence of the current viability of the site, with affordable housing at the required level clearly set out. The Housing Officer has reviewed the assessment and accepts the contents. However as the full details of the scheme and any remediation are not yet known it is proposed that a s106 legal agreement should be attached to any outline approval given, which would set out the parameters of the affordable housing requirements of the site, and that the final provision or contribution in lieu, would be finally agreed when a reserved matters application is determined, as more detailed viability information will be available at that stage. It is considered that this approach is more realistic at this outline stage to ensure compliance with planning policy.

9.12 **Drainage and contamination**

Local residents and the Parish Council have raised concerns about foul and surface water problems which exist in the locality of the site when there is heavy rain. All appear to agree that this is the result of existing poor infrastructure, but do not want the situation worsened by additional flows from the site into the existing system. Turning first to foul drainage, the applicant's latest application form states that the method of foul drainage is 'unknown' and to the question as to whether a connection will be made to the existing drainage system, the response is also 'unknown'. As this is an outline application, this situation is not unusual, and a planning condition is proposed to require a foul drainage strategy and implementation details prior to commencement of any development on the site. The scheme would have to be agreed with Anglian Water prior to any connection, who, it is expected, would want to ensure the system could cope, or take appropriate remedial action.

9.13 Policy EN7 of the Core Strategy and draft Policy ENV8 state that all developments should contribute to an overall flood risk reduction. Development should be located in the main within Flood Risk Zone 1, and will not be permitted where it would intensify the risk of flooding, unless suitable flood management and mitigation measures can be agreed and implemented or where it would increase the risk of flooding of properties elsewhere. As the site is within Flood Risk Zone 1 and less than 1 hectare a flood risk assessment is not required. However the policies requires that a all new development must demonstrate that appropriate surface water drainage arrangements for dealing with surface water run-off can be accommodated within the site, and that issues of ownership and maintenance are addressed. Finally the use of Sustainable Drainage Systems will be required for all new developments unless, following an assessment of character and context, soil conditions and/or engineering feasibility dictate otherwise. Again, due to the nature of the proposal, details of surface water evacuation have not been provided,

however the application form and the Design and Access Statement refer to the use of sustainable drainage systems within the site. The Environment Agency have not commented on the proposals but in a recent site application referred the local planning authority to their Standing Advice Matrix. The advice states that sustainable drainage systems should be used to manage surface water run-off to ensure there is no risk either on site or elsewhere. It is proposed that that advice be sent to the applicant with any approval notice.

9.14 It is clear that drainage issues are a serious concern locally and the proposal must not add to the problems. From the indicative layout plan it is likely that the area of hardstanding on the site will be slightly larger than that currently existing. However we cannot be sure of this until the reserved matters application is received. If the proposal site is able to provide appropriate sustainable drainage solutions, for example underground storage, then the current situation could improve as run-off from the existing garage would be contained. As no firm information exists, as to whether there would or would not be an impact on existing flows, it is proposed that a planning condition be imposed requiring a full surface water strategy and details of implementation and maintenance be submitted prior to commencement of any development on the site, in order to ensure compliance with the flood risk policies referred to above.

9.15 Environmental Health have requested contamination conditions in respect of investigation, remediation and verification of potential contamination arising from past and present commercial use of the site, especially as there may be underground tanks on the site. Core Strategy Policy EN8 and draft Local Plan Policy ENV9 seek to ensure all issues of contamination are appropriately addressed. In the absence of any specific information within the current application it is considered that the imposition of these conditions will ensure the risk to human health and other receptors is minimized and the policy requirements addressed.

9.16 **Highways**

The Parish Council and local residents have raised concerns about the potential for parking on the main road, and the impact this may have on highway safety. The County Highways Authority have assessed the proposal, in the context of the past, current and proposed uses on the site, and have no concerns. In direct response to the concerns about potential parking on the highway your Officers have been advised that parking controls in this location are not appropriate, that there is reasonable visibility, that on-street parking might serve to slow traffic down, and that this would not be a reason for refusal of the application. Draft Local Plan Policy COM8 requires that there should be 2 parking spaces per dwelling, with up to 1 space per 4 dwellings for visitors. The indicative layout shows this provision is possible, and with the 'flexible' units not necessarily requiring frequent deliveries, it is considered that the terms of this policy can be met.

9.17 A new footpath is proposed within the highway verge from the site to the Silver Street junction to provide pedestrian access to the centre of the village. This would be constructed at reserved matters stage. County Highways are content with this provision and have recommended planning conditions in respect of the footpath link and internal road/parking arrangements; vehicular access over the County highway; the layout of parking/turning, minimum carriage width, and radius kerbs; and

highway drainage details. With these conditions in place it is considered that the proposal would meet policy requirements in respect of safe access, safety of the highway and appropriate parking arrangements.

9.18 Residential amenity and impact on the street scene

Core Strategy Policy EN2 and draft Local Plan Policy ENV2 seek to ensure good and appropriate design, in scale with the surrounding properties and with no detriment to the street scene. A number of local residents and the Parish Council considered the proposed 3 storey terrace of properties on the frontage of the site to be out of keeping with the general pattern of development in the area and detrimental to residential amenity. This element of the proposal has now been removed, and although the indicative layout shows a terrace of three on the frontage, it must be stressed that this is only indicative of what could be proposed on the site at reserved matters stage. In order to ensure the height of properties is limited and that they respect the scale of surrounding properties it is proposed to limit ridge height of the properties to 7.5 meters, which is the approved height of the new property recently constructed to the south of the site fronting The Slade, and that the frontage buildings should be set back from the highway at a minimum to align with the bungalows on either side of the site. Care will need to be taken at reserved matters stage to ensure there is no loss of light, or privacy and that the proposed dwellings do not overshadow or dominate the adjacent properties. With these provisos in place it is considered that the future development of the site can be controlled to ensure impact on adjacent occupiers and the street scene would at least be minimized, and would hopefully be improved, and would therefore comply with the above policies.

9.19 Summary:

This application has been submitted by the owner of a well established local firm, who wish to expand in the local area. Their present site offers no opportunity for expansion as it is 'off the beaten track', and is in an unsustainable location for the business to progress. No local jobs should be lost, and indeed more may be created. However in order for the business to expand a realistic value must be raised from the present site, and this is proposed in the form of residential development. Ten dwellings are proposed, of which three would have the potential to be adapted to future 'home working', to try to retain an element of employment on the site, but being mindful of the need to ensure such employment would be conducive to surrounding residential occupation. Current policy also requires the provision of three affordable dwellings, and the applicant proposes to provide a sum in lieu to address this issue. This will be subject to viability and will require further negotiation prior to the submission of any reserved matters application. Subject to the successful completion of a s106 agreement, and compliance with the proposed planning conditions, it is considered that the proposal now meets the requirements of current policy. Consequently it is recommended that the final decision be delegated to the Head of Planning and Sustainable Development Services for approval upon condition that this matter is resolved.

10.0 RECOMMENDATION

10.1 RECOMMENDATION: That Approval be Delegated to the Head of Planning and Sustainable Development, at a later date, following the successful completion of a

s106 agreement in relation to affordable housing provision, subject to the following conditions: -

- 1 Approval of the details of the layout, scale, appearance and landscaping (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.
- 1 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.
- 2 The development hereby permitted shall be commenced within 2 years of the date of the approval of the last of the reserved matters.
- 2 Reason: To comply with Section 92 of the Town and Country Planning Act 1990, as amended.
- 3 Any buildings fronting on to The Slade highway shall have its ridge height no more than 7.5m above ground level, and shall be set back from the footpath to align with Nos 6 and 8 The Slade (the bungalows either side of the site).
- 3 Reason: To ensure that the proposed development is in keeping with the general pattern of development in the area, to respect the street scene, and to minimise any adverse impact on the residential amenity of adjacent occupiers, in accordance with Policies EN1 and EN2 of the East Cambridgeshire Core Strategy 2009, and draft East Cambridgeshire Local Plan Policies ENV1 and ENV2.
- 4 At least three of the proposed ten dwellings on the site shall be designed to incorporate an element of employment use, as 'flexible' dwellings. For the avoidance of doubt, 'flexible' dwellings shall provide the ability for the occupier to work from home effectively, by providing a room or a study area that can be used as a home office or small workshop, to serve the type of employment use which would not normally require planning permission.
- 4 Reason: To ensure compliance with Policy EC1 of the East Cambridgeshire Core Strategy 2009, and draft Policy EMP1 of the East Cambridgeshire Submission Local Plan, which seek to ensure an element of employment use is retained on former employment sites in the District.
- 5 No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, 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 before the development is completed.

- 5 Reason: To prevent the increased risk of flooding and to improve and protect water quality, in accordance with policies EN3 and EN7 of the East Cambridgeshire Core Strategy 2009.
- 6 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 occupation of any of the dwellings.
- 6 Reason: To prevent the increased risk of pollution and ensure appropriate infrastructure is in place for the needs of the site, in accordance with policies EN4 and EN8 of the East Cambridgeshire Core Strategy 2009.
- 7 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 before any development takes place.
- 7 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.
- 8 No development shall take place until a detailed 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.

- 8 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.
- 9 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.
- 9 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.
- 10 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.
- 10 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.
- 11 No development shall take place until full details have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority to illustrate the following:
the footway link to Silver Street;

- 11 Reason: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 12 Prior to first occupation the vehicular access where it crosses the public highway shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification
- 12 Reason: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 13 Prior to the first occupation of the development the proposed on-site the parking and turning area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and thereafter retained for that specific use.
- 13 Reason: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 14 The access road hereby approved shall be a minimum width of 5.5m for a minimum distance of 15m from the rear edge of the carriageway of The Slade, and its junction with The Slade shall be laid out with 6m radius kerbs.
- 14 Reason: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 15 The site shall be constructed with adequate drainage measures to prevent surface water from running off the site onto the public highway.
- 15 Reason: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 16 Prior to first occupation of the development the off-site highway improvement works to provide a footway linking the site with the existing footway network at Silver Street shall be completed in accordance with County Council Specifications set out in the requirements of condition 11 above.
- 16 Reason: In the interests of highway safety, in accordance with policies S6 and S7 of the East Cambridgeshire Core Strategy 2009.
- 17 Construction works on the site shall not be undertaken outside of the following hours: 8.00 - 18.00 Monday to Friday; 8.00 - 13.00 on Saturdays; and at no time on Sundays and Bank Holidays.
- 17 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy EN2 of the East Cambridgeshire Core Strategy 2009.

- 18 The existing boundary vegetation to the north, south and western boundaries shall be retained and maintained, unless an alternative boundary provision is approved by subsequent reserved matters application.
- 18 Reason: To safeguard the character and appearance of the area and the residential amenity of neighbouring occupiers, in accordance with policy EN2 of the East Cambridgeshire Core Strategy 2009.

11.0 APPENDICES

<u>Background Documents</u>	<u>Location(s)</u>	<u>Contact Officer(s)</u>
E/02/00097/OUT	Sue Finlayson Room No. 011	Sue Finlayson Team Leader, Development Control
E/09/00784/FUL – Erection of 4 bed dwelling adj to No 10 The Slade, Witcham;	The Grange Ely	01353 665555 sue.finlayson@eastcambs.gov.uk
12/01127/OUM Proposed development of 10 dwellings, Kings garage site – Application Withdrawn		
E/13/00734/OUM – current application.		