

**MAIN CASE**

**Reference No:** 17/01036/FUL

**Proposal:** Proposed four bed dwelling

**Site Address:** Land Adjacent Hiams Farm Chatteris Road Mepal Ely  
Cambridgeshire CB6 2AZ

**Applicant:** Mr & Mrs P & R Baxter

**Case Officer:** Gareth Pritchard, Planning Officer

**Parish:** Mepal

**Ward:** Downham Villages  
Ward Councillor/s: Councillor Anna Bailey  
Councillor Mike Bradley

**Date Received:** 25 July 2017      **Expiry Date:** 11<sup>th</sup> October 2017

[S123]

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1.0      **RECOMMENDATION**

- 1.1      Members are recommended to **Refuse** this application for the following reasons.
- 1.2      The proposed dwelling is located within the countryside and, by virtue of its distance from the main settlement of Mepal, 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.
- 1.3      The proposed 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 Mepal with a lower probability of flooding and is therefore contrary to Policy ENV 8 of the East Cambridgeshire Local Plan, the Cambridgeshire Flood and Water SPD, the provisions of the Planning Practice Guidance on Flooding and Coastal Change and the National Planning Policy Framework.

1.4 The Flood Risk Assessment submitted with the application does not comply with the requirements set out in paragraph 102 of National Planning Policy Framework which requires development to demonstrate it will be safe for its lifetime. The Flood Risk Assessment contains a number of errors which result in inappropriate mitigation measures. The application is therefore contrary to policy ENV8 of the East Cambridgeshire Local Plan (2015), Flood and Water SPD and relevant paragraphs of the NPPF.

## 2.0 SUMMARY OF APPLICATION

2.1 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.**

2.2 The application is for a proposed one and a half storey dwelling. The dwelling has a maximum width across the front elevation of 11.8 metres, depth of 11.2 metres, eaves of 3.1 metres and ridge height of 7.2 metres. An amended plan was submitted to alter the application red line to take it up to the public highway and notice has been served on adjacent land owners as a result.

2.3 The application was called into Planning Committee by Cllr Mike Bradley for the following reasons:

- Flood risk should not be a problem as other applications have been approved in similar situations
- The application is infill between two existing properties and has access to the road. Believe the proposed new Local Plan supports this kind of development which is outside of the planned development area.
- On the opposite side of the road there is a large industrial site where accommodation is provided for up to 40 workers. This site recently received approval to refurbish the living accommodation. So, if the area is suitable for workers it should be suitable for residents.

## 3.0 PLANNING HISTORY

3.1

02/00980/FUL	Single storey extension to side of existing bungalow	Approved	06.12.2002
06/01420/CLE	Application for Certificate of Lawfulness of existing use or development: Change from agricultural to domestic use.	Approved	09.02.2007

#### 4.0 THE SITE AND ITS ENVIRONMENT

4.1 The site is located approximately 1.2 miles to the north-west of the established development framework for Mepal, accessed via the A142 which runs to the east and north of the site. The site is located within Flood Zone 3.

4.2 The site itself is an existing paddock area associated with the existing dwelling to the north. The land to the west is agricultural in nature and to the south is an existing motor vehicle garage. There are a number of trees fronting the highway. The site is characterised as being in a countryside location with sporadic development in the locale.

#### 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.

**Asset Information Definitive Map Team** - No objections raised but have recommended a number of planning informatives.

**Parish** – No objections but noted the following:

- Application is for infill.
- Necessary for the farmer to have extra casual labour and support from family in order to maintain the farming unit.
- Parish feel strongly that the farmer is valuable to the community and the application is of economic and social importance.
- The Flood Risk Assessment has been noted but it was mentioned that the Ouse Washes Barrier Bank which is under legislation of the Reservoirs Act 1975 will protect the area.
- The application has easy access to the A142 to travel to local facilities as there is for the proposed hostel development directly opposite.
- Parish Council fully support the application.

**Ward Councillors** – Cllr Mike Bradley has called the following application into Planning Committee with his full support for the following reasons:

- Flood risk should not be a problem as other applications have been approved in similar situations
- The application is infill between two existing properties and has access to the road. Believe the proposed new Local Plan supports this kind of development which is outside of the planned development area.
- On the opposite side of the road there is a large industrial site where accommodation is provided for up to 40 workers. This site recently received approval to refurbish the living accommodation. So, if the area is suitable for works it should be suitable for residents.

**Local Highways Authority** – No objections as the application is not accessed via public highway

**CCC Growth & Development** - No Comments Received

**Waste Strategy (ECDC)** – General waste related comments

**Environmental Health** – Did not consider that an acoustic assessment was required due to the noise impacts of the A142 or the nearby garage but considered that mitigation measures may be required to reduce noise impacts from neighbouring garage.

**Environment Agency** – *“In the absence of an acceptable Flood Risk Assessment (FRA), we object to the grant of planning permission and recommend refusal on this basis for the following reason:*

*The FRA submitted with this application does not comply with the requirements set out in paragraph 102 of the National Planning Policy Framework, which states that for areas at risk of flooding a site-specific FRA must be undertaken which demonstrates that the development will be safe for its lifetime.*

*The submitted FRA does not therefore, provide a suitable basis for an assessment to be made of the flood risks arising from the proposed development. In particular:*

- *Finished floor level and mitigation measures are proposed below the predicted 1 in 100 year breach event level.*

*We have undertaken a Fenland breach modelling project for the Ouse Washes, Ely Ouse and the Relief Channel. The information illustrates the hazard in the event of an overtopping and breach of the defences and a failure of Earith Sluice in a 1% AEP (1 in 100 year) event. This site is located in an area shown to flood in such an event, with depths of ponded floodwater identified as up to approximately 1.3 metres at this site. This does not take into account Climate Change.*

*The FRA states that flood depth could reach 300mm, which is significantly less than indicated in our Fenland Breach modelling. It is proposed to raise floor levels to 1.75m aOD, whilst stating existing land level is generally at 1.30m aOD. A FFL of 450mm above adjacent ground level is evidently not sufficient to mitigate for the onsite risk.*

*Survey should be provided to validate the land levels at site. LiDAR satellite data suggests the existing ground levels at site are around -0.6m aOD which is a significant difference from the 1.30m aOD indicated.*

*Please note, the application located on the opposite side of Chatteris Road has a different level of risk. Advice given for the other site cannot therefore be applied to this application.”*

**Trees Officer** – No objections to tree removal but has requested a condition for a detailed tree protection scheme.

5.2 **Neighbours** – One neighbouring property was notified, site notice posted and an advert placed in the Cambridge Evening News. No responses were received.

6.0 The Planning Policy Context

6.1 East Cambridgeshire Local Plan 2015

- 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
- GROWTH 2 Locational strategy
- GROWTH 3 Infrastructure requirements
- GROWTH 5 Presumption in favour of sustainable development
- COM 7 Transport impact
- COM 8 Parking provision

6.2 Supplementary Planning Documents

- Design Guide
- Flood and Water
- Developer Contributions and Planning Obligations
- Contaminated Land - Guidance on submitted Planning Application on land that may be contaminated

6.3 National Planning Policy Framework 2012

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

7.0 PLANNING COMMENTS

7.0.1 The main considerations of this application are: principle of development, flood risk, visual amenity, residential amenity, highways safety and parking provision, ecology, trees and other matters.

7.1 Principle of development

7.1.1 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 five year land supply for housing, policy GROWTH 2 cannot be considered up to date in so far as it relates to supply of housing land.

- 7.1.2 In this situation the presumption in favour of sustainable development set out in the National Planning Policy Framework (NPPF) means that permission for development should be granted unless any adverse impacts would significantly or demonstrably outweigh the benefits of the proposed dwelling.
- 7.1.3 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 c.1.2 miles from the nearest settlement of Mepal with its limited services and facilities. The site is located in an isolated, 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 application has not been made on the basis that the dwelling is required as a rural workers dwelling. Despite the Parish council comments regarding need for dwelling to support the agricultural business, no evidence to support a functional need for the dwelling in connection with agricultural activities has been submitted.
- 7.1.4 The appeal decision bears similarities with this proposal and followed the refusal by the Planning Committee 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.
- 7.1.5 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 c.1.2 miles from the edge of Mepal where local shops and services are located. Members are also aware of subsequent appeal decisions in Little Downham and Isleham relating to unsustainable locations and reliance on the private motor vehicle (APP/VO510/W/3158114 and APP/V0510/W/3160576 respectively).
- 7.1.6 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 isolated and unsustainable as there are a number of sites within Mepal which are in a more sustainable location in the form of windfall sites.
- 7.1.7 The Local Planning Authority have recently received a further appeal (APP/V0510/W/17/3173190) relating to sustainability. While the appeal was allowed it is considered that as the site was previously developed, it carries little

weight in determining this application as this site is undeveloped agricultural land. In any event each site needs to be treated on its own individual merits.

- 7.1.8 Reference has been made to the Arthur Rickwood located on the eastern side of the A142 approximately 100 metres from the application site. The proposals included the provision to accommodate up to 35 members of staff. Policy HOU5 states that proposals for permanent dwellings in the countryside for full-time workers in agriculture, forestry, stud and other rural activities will be permitted as an exception to the normal policies of control in certain circumstances. It was considered within this application. The housing on this site was provided through a combination of existing housing on site and construction of a hostel. It was considered that on balance the housing on this site was acceptable given the economic benefits outweighing any adverse impacts.
- 7.1.9 This proposal also 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 reliant 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.

## 7.2 **Flood Risk**

- 7.2.1 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.
- 7.2.2 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.
- 7.2.3 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.

- 7.2.4 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.
- 7.2.5 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 the Parish of Mepal suitable for the erection of a single dwelling which are outside of Flood Zone 3.
- 7.2.6 A Flood Risk Sequential Test has not been submitted by the applicant, who advises this should be carried out by the LPA. However, the Flood and Water SPD states this should be completed by the applicant. In the absence of one the LPA have considered the requirements of the Sequential Test. There are a number of allocated sites for housing within the Parish of Mepal, as specified within the East Cambridgeshire Local Plan 2015. In addition, planning applications for new dwellings have been approved in more sustainable locations within the Parish of Mepal and windfall sites not within Flood Zone 3 are also available. It is therefore 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 Mepal 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.
- 7.2.7 It should also be noted that the recently adopted Cambridgeshire Flood and Water SPD advises that applications for sites in Flood Zone 2 and 3 where there is no Sequential Test information provided will be deemed to have failed to Sequential test.
- 7.2.8 Had the Sequential Test be passed the Exception Test should then be applied, guided by the submitted Flood Risk Assessment.
- 7.2.9 The exception test requires the development to demonstrate that it provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- 7.2.10 A site-specific flood risk assessment must also demonstrate that the development will be safe for its lifetime taking into account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce overall food risk, Both elements need to be passed for development to be allocated or permitted under paragraph 102 of the NPPF.
- 7.2.11 The application fails to demonstrate that the dwelling provides wider sustainability benefits to the community that outweigh flood risk and therefore fails part one of the exception test.
- 7.2.12 The Environment Agency have also objected to the application as the Flood Risk Assessment fails to take appropriate account of the site levels, modeling and climate change. Therefore it does not provide sufficient mitigation measures to ensure the security of the dwelling for its lifetime. As a result the application is also

considered to fail to meet the requirements of this aspect of the exceptions test. An amended Flood Risk Assessment has been requested but at the time of writing this has not been received.

- 7.2.13 As the proposal fails to pass the Sequential Test it is considered to unnecessarily place a dwelling in an area at significant risk of flooding. It also fails the Exceptions Test by failing to provide wider sustainability benefits, nor has it demonstrated the development would be safe for its lifetime. These are both contrary to Policy ENV8 of the East Cambridgeshire Local Plan 2015, the provisions of the PPG on Flooding and Coastal Change, the Cambridgeshire Flood and Water SPD, and the National Planning Policy Framework.
- 7.2.14 Concerns have been raised regarding the placement of the staff accommodation within flood zone 3 at the Arthur Rickwood. Within that application it was considered that there were no other reasonably available sites to accommodate the business elsewhere. The applicant was considered to be capable of placing residential units in an area of lower flood risk. However, the benefits of housing on the site were considered to demonstrate there are no other reasonably available sites for the staff accommodation, and the sequential test therefore passed. The EA have also confirmed in their comments that links should not be drawn between the application site and the application on the opposite side of Chatteris Road as they have a different level of risk.

### 7.3 **Visual amenity**

- 7.3.1 Under Local Plan policy ENV1 this application should ensure that it provides a complementary relationship with existing development, and conserve, preserve and where possible enhance the distinctive and traditional landscapes, and key views in and out of settlements. Under Local Plan policy ENV2 this application should take care to ensure that the location, layout, form, scale, massing and materials are sympathetic to the surrounding area.
- 7.3.2 The Design Guide SPD suggests that dwellings should occupy one third of a plot which should be a minimum of 300sqm. The site and scale of the proposed dwelling would comply with these guidelines.
- 7.3.3 The site area is currently an open paddock with single storey and storey and a half buildings to the north and south. The main views into the site are when approaching from the south-east on the A142 with open views across an existing agricultural field. However, there is a vegetated boundary which would in part screen development from this approach.
- 7.3.4 The introduction of a dwelling alongside the existing dwelling on Hiams Farm and buildings to the south, would to a certain extent result in an urbanising of the landscape. However due to the plot size and scale of the dwelling there would still be views of the landscape beyond the proposed dwelling.
- 7.3.5 The proposed dwelling would be built on the west side of the road which follows the pattern of development in the directly surrounding area. Appropriate materials can be secured by way of condition.

7.3.6 Therefore on balance while there is a considered harm through the urbanisation of this paddock, it is not considered to have a significant and demonstrable harm on its locale. Therefore the application is considered to comply with policies ENV1 and ENV2 in this regard.

#### 7.4 **Residential amenity**

7.4.1 Under Local Plan policy ENV2 this application should take care to ensure there is no significantly detrimental harm to the residential amenity of the occupier and neighbouring occupiers as a result of the proposed.

7.4.2 The Design Guide SPD requires new dwellings to provide a minimum of 50sqm private amenity space. The proposal will provide sufficient space as to comply with this.

7.4.3 Due to the location of the proposed in relation to neighbouring dwellings it is not considered to cause a significant loss of privacy for neighbouring occupiers. There is one window on a first floor side elevation facing onto a neighbouring property which can be conditioned as being opaque glazed.

7.4.4 Due to the separation distances to the dwellings to the south and north and given the scale of the proposed it is not considered to cause a significant impact through loss of light or by being overbearing.

7.4.5 Concerns have been raised by Environmental Health relating to the potential noise impacts from the garage to the south of the site. There are no habitable rooms at first floor with windows facing this site. It is considered that additional mitigation measures in the form of noise reduction measures (triple glazing, mechanical ventilation and so on) could be secured by way of condition. As a result this relationship is not considered to be significantly detrimental as to warrant refusal. Environmental Health also considered that the separation distance and proposed boundary treatments sufficient to overcome concerns with the relationship with the A142.

7.4.6 As a result the application is considered to comply with the residential amenity of Local Plan policy ENV2.

#### 7.5 **Highway safety and parking provision**

7.5.1 Under Local Plan policy COM7 this application must ensure that it can provide a safe and convenient access to the public highway. An amended plan was submitted to take the red line denoting the site up to the public highway.

7.5.2 The Local Highways Authority have raised no objections to the proposed development and as a result it is considered to comply with policy COM7 in this regard.

7.5.3 Policy COM8 sets out the parking requirements for the Local Planning Authority. New dwellings are required to provide a minimum of two parking spaces for motor vehicles. Drawing 02/BAXTER/17 shows that the site can provide ample space for

parking of two vehicles on site. As a result it is considered capable of complying with policy COM8 in this regard.

## 7.6 **Ecology and trees**

7.6.1 Under Local Plan policy ENV7 this application is required to protect biodiversity and geological value of land and buildings, and minimise harm to or loss of environmental features such as hedgerows and trees.

7.6.2 Given that the site is a maintained as used paddock and that the largest pond in close proximity to the site is separated from the site by the A142, the site is considered to have little ecological value. Additionally a biodiversity enhancements condition can be attached to any granting of permission.

7.6.3 There are a number of trees which front the highway to the east. A number of these trees would need to be removed to facilitate access to the site. The Tree Officer has raised no objections to the proposed application but has requested that a detailed tree protection plan is secured by way of condition.

7.6.4 As a result the application is considered to comply with policy ENV7 in these regards.

## 7.7 **Other matters**

7.7.1 A scheme to deal with surface water can be secured by way of condition as can a contaminated land survey due to the sensitive end use.

7.7.2 As stated above, an amended plan was submitted to extend the red line of the application site up to the public highway. Should any further comments be recorded following the publication of this report they will be reported to the Planning Committee.

## 7.8 **Planning balance**

7.8.1 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.

7.8.2 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; and that the development cannot demonstrate safety for its lifetime.

7.8.3 The application is therefore considered to be contrary to this proposal is in conflict with Local Plan policies GROWTH5, ENV1, ENV2, ENV8 and COM7 of the East Cambridgeshire Local Plan 2015 and the Cambridgeshire Flood and Water SPD.

<b><u>Background Documents</u></b>	<b><u>Location</u></b>	<b><u>Contact Officer(s)</u></b>
17/01036/FUL	Gareth Pritchard Room No. 011 The Grange Ely	Gareth Pritchard Planning Officer 01353 665555 gareth.pritchard@eastcambs.gov.uk
02/00980/FUL		
06/01420/CLE		
09/00936/FUL		

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>