
MAIN CASE

Reference No: 19/00940/FUL

Proposal: Proposed replacement dwelling (similar to proposals to those approved under 16/00953/FUL)

Site Address: 43 Prickwillow Road Queen Adelaide Ely Cambridgeshire CB7 4SH

Applicant: Ralph Mortlock

Case Officer: Dan Smith, Planning Consultant

Parish: Ely

Ward: Ely North
Ward Councillor/s: Simon Harries
Alison Whelan

Date Received: 13 August 2019 **Expiry Date:** 10 December 2019
[U136]

1.0 **RECOMMENDATION**

1.1 Members are recommended to refuse the application for the following reason:

1.1.1 The proposed development, by virtue of its scale, massing and design, would result in a dwelling which would be significantly larger than the one it would replace and out of scale and character with neighbouring residential dwellings and would cause significant harm to the visual amenity of the area and the wider countryside contrary to policies HOU 8, ENV 1 and ENV 2 of the adopted East Cambridgeshire Local Plan. The identified harm is considered to significantly and demonstrably outweigh the benefits associated with the development contrary to paragraphs 11 and 170 of the National Planning Policy Framework 2018.

2.0 **SUMMARY OF APPLICATION**

2.1 The application seeks full planning permission for the erection of a replacement dwelling on site. A planning permission for a smaller replacement dwelling was granted on the site under reference 16/00953/FUL but has expired during the course of the determination of the current application.

2.2 The application has been referred to Planning Committee at the request of Councillor Lis Every.

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

3.0 PLANNING HISTORY

3.1 Planning permission was granted for a replacement dwelling on the site under reference 16/00953/FUL. That permission expired in September 2019.

3.2 A planning application (reference 19/00939/FUL) for the replacement of the existing dwelling and the erection of a second dwelling is also currently under consideration.

4.0 THE SITE AND ITS ENVIRONMENT

4.1 The site is a shallow parcel of land running alongside Prickwillow Road bounded to the rear by the Ely to Norwich railway line, the embankment of which stands over two metres above the level of the site. The site also sits below the level of Prickwillow Road and the existing vehicle access slopes down to the site relatively steeply. The site is largely covered in grass and ruderal, while a small, dilapidated corrugated metal shed at the south western end of the site close to a pile of rubble presumed to be the remains of the bungalow that previously occupied the site.

4.2 The site is enclosed by a post and rail fence to the front as well as hedging and other planting. There are trees and a close boarded fence to the south west side boundary and a hedge bounds the north eastern side boundary. The railway embankment encloses the entirety of the rear boundary of the site, and is partly overgrown with brambles.

4.3 The land to the north and south of the site is open and flat. The neighbouring properties on either side of the site are low level bungalows, with the dwelling to the south west having a large outbuilding to the side and rear. The site is not located within any development envelope and is in the countryside, the nearest development envelopes being those of Queen Adelaide 700m to the West and Prickwillow 1.8 km to the East. There is neither a footpath nor street lighting alongside the road in either direction. The site is located entirely within Flood Zone 3.

5.0 RESPONSES FROM CONSULTEES

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

Environmental Health - 7 November 2019

Initially stated that in respect of external (garden) sound levels, the submitted Noise Impact Assessment (NIA) advises that mitigation will be required in order to meet acceptable sound levels and that the 2m high close boarded acoustic boundary fence would achieve acceptable external noise levels. However, has since stated that a closed boarded fence would reduce the sound levels to an acceptable level only if it breaks the line of site between the noise source and the receptor. The main

train noise will be from the wheels on the track and as the NIA states that the train tracks sit on a bank roughly 2.5-3m higher than the site it would seem that a 2m high fence may not be sufficient to achieve this.

In respect of internal sound levels, the NIA finds that acceptable internal sound levels can only be met with closed windows and trickle ventilation which does not meet the expectations of the ECDC Planning Team. Advises repositioning sensitive rooms so as they are not facing on to the railway line or explore other options to reduce internal noise impact.

Local Highways Authority - 16 September 2019

States it has no objections to the proposed development on the basis that adequate visibility and parking provision can be achieved, subject to conditions requiring the closure of the existing access, the provision of parking and turning areas and a scheme detailing the crossing of the ditch with the new access.

CCC Growth & Development

No Comments Received

ECDC Trees Team

No Comments Received

Waste Strategy (ECDC) - 28 August 2019

States it will not enter private property to collect waste receptacles and notes recommended maximum bin drag distances and its prerogative to charge for the provision of waste receptacles.

The Ely Group Of Internal Drainage Boards - 9 September 2019

States that the site is within the Padnal and Waterden Internal Drainage Board and that it has no objection to the use of soakaways to deal with surface water provided they form an effective means of disposal. Requests to be consulted if soakaways are found not to be effective and notes its consent is required to discharge into any watercourse in the district.

Environment Agency - 5 September 2019

States it does not object to the proposed development. Recommends that the mitigation measures proposed in the submitted FRA are adhered to, particularly that the finished floor levels of the dwelling would be 1 metre above the existing ground level and that flood resilient construction would be up to 300mm above the finished floor level. Provides advice on emergency flood warning and evacuation and foul drainage.

Network Rail - 24 September 2019

States that the developer must ensure that their proposal, both during construction and after completion of works on site does not encroach onto Network Rail land; affect the safety, operation or integrity of the company's railway and its infrastructure; undermine its support zone; damage the company's infrastructure; place additional load on cuttings; adversely affect any railway land or structure; over-sail or encroach upon the air-space of any Network Rail land; cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future.

It also makes recommendations to any future developer regarding future maintenance; drainage; plant and materials; scaffolding; piling; fencing; lighting; noise and vibration; landscaping and vehicle incursion.

Parish - 28 August 2019

The City of Ely Council states it has no concerns regarding the application.

Ward Councillors – 25 October 2019

District Councillor Every called in the application to Planning Committee on the grounds that the proposed development is acceptable in visual terms and provides a family home, that flood risk can be mitigated and that the location is sustainable.

Public Consultation

5.2 A site notice was displayed near the site on 29 August 2019 and a press advertisement was published on 22 August 2019. In addition, two neighbouring properties were notified by letter. No responses were received in response to the public consultation.

6.0 The Planning Policy Context

6.1 East Cambridgeshire Local Plan 2015

- GROWTH 1 Levels of housing, employment and retail growth
- GROWTH 2 Locational strategy
- GROWTH 3 Infrastructure requirements
- GROWTH 5 Presumption in favour of sustainable development
- HOU 2 Housing density
- HOU 8 Replacement
- ENV 1 Landscape and settlement character
- ENV 2 Design
- ENV 4 Energy efficiency and renewable energy in construction
- ENV 7 Biodiversity and geology
- ENV 8 Flood risk
- ENV 9 Pollution
- COM 7 Transport impact
- COM 8 Parking provision

6.2 Supplementary Planning Documents

Design Guide – Adopted March 2012

Flood and Water – Adopted November 2016

Contaminated Land: Guidance on submitted Planning Application on land that may be contaminated - Adopted May 2010

Developer Contributions and Planning Obligations – Adopted May 2013

6.3 National Planning Policy Framework 2019

- Section 2 Achieving sustainable development
- Section 4 Decision-making
- Section 5 Delivering a sufficient supply of homes
- Section 6 Building a strong, competitive economy
- Section 9 Promoting sustainable transport
- Section 11 Making effective use of land

Section 12	Achieving well-designed places
Section 14	Meeting the challenge of climate change, flooding and coastal change
Section 15	Conserving and enhancing the natural environment

6.4 Planning Practice Guidance

7.0 PLANNING COMMENTS

7.1 The main planning considerations in this case are the principle of development; impact on visual amenity; residential amenity; highway safety and parking provision; contamination; flood risk and drainage; contamination and biodiversity.

7.2 Principle of Development

7.2.1 Policy GROWTH 2 states that outside defined development envelopes, development will be strictly controlled, having regard to the need to protect the countryside and the setting of towns and villages. It states that development will be restricted to certain categories, including the replacement of existing dwellings, and may be permitted as an exception, providing there is no significant adverse impact on the character of the countryside and that other Local Plan policies are satisfied.

7.2.2 Policy HOU 8 relates to replacement dwellings and states that proposals which seek to replace an existing dwelling in the countryside will only be supported where:

- The replacement dwelling is of a scale and design which is sensitive to its countryside setting, with its height being similar to that of the original dwelling. (If an alternative height is proposed, the applicant will be expected to demonstrate that the scheme exhibits exceptionally high quality of design and enhances the character and appearance of the locality);
- The proposal is within the existing curtilage;
- The residential use of the dwelling has not been abandoned;
- Proposals accord with Policy ENV 2 on design and other relevant Local Plan policies; and,
- Proposals have regard to maximising carbon neutrality.

7.2.3 While there is general policy support for a replacement dwelling on the site, based on the detailed consideration of its visual impact and the conclusion that the dwelling would cause visual harm to the character and appearance of the area (see 'visual amenity' section below), the proposal is not considered to comply with policy ENV 2 and therefore also fails to accord with policies HOU 8 and GROWTH 2.

7.3 Visual Amenity

7.3.1 The dwelling which previously occupied the site has been removed and there is little evidence of its previous existence, save for the access to the site, a dilapidated tin shed and a rubble pile. That dwelling was a small, low level single storey bungalow in render with a hipped roof. While the dwelling has been removed, it is accepted that the site has previously had a dwelling on it and that a dwelling on the site would not be out of character with the pattern of development in the area.

7.3.2 Planning permission 16/00953/FUL granted permission for a replacement dwelling on the site. That replacement dwelling was a single storey dwelling with rooms in

the roof lit by dormer windows. The previous replacement dwelling increased the footprint of the dwelling by approximately 40% and increased the ridge height to allow the provision of rooms in the roof. It was considered that given the very limited scale of the original dwelling, these increases were justified in order to allow a good level of modern living, while maintaining the modest scale of the dwelling within its rural setting, among other dwellings of a similarly limited scale and it was considered appropriately designed, in keeping with the context of the site.

7.3.3 The dwelling now proposed for the site under this current application has a higher ridge by approximately half a metre and is approximately 2 metres wider. The front projecting gable is now full height as opposed to single storey on the previous approval and the design now incorporates cat-slide dormers to the front and side elevations. The dwelling is now considerably larger than the original dwelling on the site and this is contrary to policy HOU 8 which requires that the height of the dwelling be similar to that of the original. One of the strengths of the previously approved replacement dwelling was its simplicity and traditional roof and window forms. However, the design of the new dwelling now appears overly complicated and contrived with the asymmetric projecting gable, large glazed entrance way and cat-slide dormers failing to create a cohesive design in character with the simple dwellings in the vicinity and would appear completely out of context in the surrounding fenland landscape.

7.3.4 The proposed dwelling is therefore considered to be unacceptable in its scale and design as it would be both significantly larger than the original dwelling, contrary to policy HOU 8 and would be out of scale and character with the modest and simple dwellings which characterise the development alongside this part of Prickwillow Road. It would cause significant harm to the visual amenity and character of the area and is therefore contrary to policies ENV1 and ENV 2 of the East Cambridgeshire Local Plan 2015 which require that development creates positive, complementary relationships with existing development and has regard to local preserving, enhancing and enriching the character, appearance and quality of an area. This harm would be exacerbated by the need to raise the land levels and finished floor levels significantly above the current established land levels on site as this would further increase the visual impact of the development.

7.4 Residential Amenity

7.4.1 The proposed dwelling would be sited a sufficient distance from neighbouring dwellings on either side that it would not cause any significant harm to the amenity of the occupants of those dwellings through loss of light, visual intrusion or overshadowing.

7.4.2 There are no first floor windows proposed in the elevation facing the neighbouring dwelling to the South West and the first floor window in the elevation facing the neighbouring dwelling to the North East is a bathroom window which could be required to be obscurely glazed. It is therefore considered that the proposed dwelling would not result in any significant loss of privacy to the occupants of neighbouring dwellings.

7.4.3 The dwelling would have a private garden of a scale commensurate with its size and in excess of the minimum requirement of 50sqm contained within the Council's

Design Guide. The location of the site between the Prickwillow Road and the railway line means that occupants would be subject to significant noise disturbance both to external amenity areas and internal rooms. A Noise Impact Assessment has not been submitted with the application given the residential use of the site. It is likely that the proposed dwelling would be constructed to a significantly higher level of insulation meaning noise impact on internal rooms would likely be improved when compared to the previous dwelling. On the basis that the site has until recently been occupied by a residential dwelling which would have suffered a similar if not greater level of noise from the road and railway, it is considered that the proposed dwelling can be accepted in terms of its noise sensitivity in this instance as it is a replacement dwelling which would improve noise insulation compared to the previous dwelling.

7.4.4 It is therefore considered that the proposed development is acceptable this instance.

7.5 Highway safety and parking provision

7.5.1 There is an existing vehicle access onto the site which served the dwelling that previously occupied the site. The new proposed access would be moved further to the north east along the frontage. The Local Highways Authority has confirmed that adequate visibility splays from the proposed access exist within the adopted highway to allow safe egress from the site. The proposed block plan shows a layout which would allow vehicles to turn on site ensuring they could leave in a forward gear. On that basis, the access to and from the site is considered to be acceptable.

7.5.2 The application proposes parking spaces for three domestic vehicles on site. This is in excess of the minimum provision of two spaces required by policy COM 8 as detailed in the Council's adopted parking standards. The level of parking provision is therefore considered acceptable and at least two spaces are necessary given the location of the dwellings is only realistically accessible by car.

7.5.3 Subject to conditions requiring the permanent closure of the existing access, details of the new vehicle crossing and the provision of the proposed parking and turning areas, the proposed development is considered to be acceptable in terms of highway safety and parking in accordance with policies ENV2, COM7 and COM8 of the East Cambridgeshire Local Plan 2015.

7.6 Flood Risk and Drainage

7.6.1 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. Given that this is a replacement dwelling, the new dwelling would not result in any additional dwellings being at risk of flooding and it is therefore not necessary to apply the sequential test in respect of other potential locations for new dwellings in areas of lower flood risk.

7.6.2 The submitted Flood Risk Assessment has proposed that the finished floor levels of the dwelling would be 1 metre above the existing ground level and that flood resilient construction would be up to 300mm above the finished floor level. The

dwelling would also provide a first floor refuge were flooding to occur, which was not something offered by the bungalow which previously occupied the site. On that basis, the proposed development is considered acceptable in terms of its impact on and susceptibility to flood risk.

7.6.3 There is no obvious impediment to providing adequate foul and surface water drainage on site and the details of such arrangements could be secured by condition.

7.6.4 It is therefore considered that the proposed development is acceptable in terms of flood risk and drainage in accordance with policy ENV8 of the East Cambridgeshire Local Plan 2015.

7.7 Contamination

7.7.1 The Council's Scientific Officer has considered the submitted environmental search and has confirmed that intrusive site investigations in respect of potential land contamination are not required. A condition regarding the methodology for assessment and remediation of any unanticipated contamination found during construction is requested.

7.7.2 On that basis it is therefore considered that the proposed development is acceptable in terms of the risks of land contamination in accordance with policy ENV9 of the East Cambridgeshire Local Plan 2015.

7.8 Biodiversity

7.8.1 No buildings capable of providing bat roosting or bird nesting habitat remain on site. The site is largely covered with grass and ruderal, but it is not considered to provide significant habitat or biodiversity benefit at present. The NPPF and East Cambridgeshire Local Plan 2015 policy ENV 7 require that development enhance biodiversity and it is considered that the proposed development could achieve this through measures, including for example, bird and bat boxes which could be incorporated into the final design.

7.8.2 It is therefore considered that the proposal complies with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 in respect of the protection and enhancement of biodiversity.

7.9 Planning Balance

7.9.1 As detailed in the Principle of Development and Visual Amenity sections, above, the dwelling is considered to cause significant harm to the visual amenity of the area, contrary to policies ENV 1, ENV 2, HOU 8 and GROWTH 2 of the East Cambridgeshire Local Plan 2015. The harm would therefore also result in a lack of sustainability in respect of the environmental objective of the NPPF.

7.9.2 However, the Council currently cannot demonstrate a 5 year housing land supply and therefore the housing policies within the Local Plan are considered to be out of date and paragraph 11 of the NPPF states that development should be considered in the context of the presumption in favour of sustainable development. The

presumption in favour of sustainable development is the golden thread throughout the NPPF and is echoed in Policy GROWTH 5 of the Local Plan. The sustainability or otherwise of a particular development proposal is therefore a key material consideration in determining planning applications, particularly in those cases where relevant housing policies are considered out of date, due to the absence of a five year land supply.

- 7.9.3 Paragraph 8 of the NPPF defines sustainable development as having three dimensions: Social, Economic and Environmental. These give rise to three key roles of the planning system. In practice the presumption in favour of development means that development proposals should be approved unless any adverse impacts would significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the policies of the NPPF taken as a whole and against the policies of the Local Plan which do not specifically relate to the supply of housing, or whether any specific policies within the NPPF indicate that the development should be restricted.
- 7.9.4 A balancing exercise therefore needs to be carried out between the adverse impacts identified above and the benefits of the scheme, detailed below. As part of that balance, in the absence of a five year supply, considerable weight and importance should be attached to the benefit which the proposal brings in terms of delivery of new homes.

Benefits of the scheme

- 7.9.5 The benefits of the scheme have been considered in respect of the three overarching objectives in achieving sustainable development, which are Social, Economic and Environmental (NPPF para 8), the benefits of the scheme would have social and economic dimensions.
- 7.9.6 The social benefits of the scheme are the provision of a single dwelling which would add to the District's housing stock and provide for a replacement dwelling towards the Council's supply of deliverable housing land. Given that no affordable housing would be provided there is no additional benefit in terms of meeting affordable housing needs. The very limited size of the scheme means that the overall benefit in terms of housing supply is equally very limited, however this benefit should be given due weight in the consideration of the tilted balance. The scheme would also result in an additional household in the locality which would provide some benefit in terms of the viability of local services and facilities, however the dwelling is not located close to any such facilities or accessible to them except by private car. Furthermore, the limited scale of the development consequently limits the benefit derived from it in terms of the viability of local services and facilities.
- 7.9.7 The economic benefits of the scheme would include the construction of a dwelling which would bring about temporary economic benefits, including the employment gains extending from the construction of the site. As these would be temporary in nature, the economic benefits of the scheme from construction are afforded relatively limited weight. There would also be a potential beneficial impact on the local economy in terms of the use of local services and facilities, however due to the very small scheme size and its distance from such services and facilities, the benefit

is likely to be relatively limited. The increase in population may also contribute to a limited benefit to the local labour market.

- 7.9.8 There is potential for a limited environmental benefit in the form of some limited ecological enhancement on site resulting from the development.
- 7.9.9 In weighing the benefits and adverse impacts on the tilted balance, as required under paragraph 11 of the NPPF, the benefits of the scheme are considered to be relatively limited, given the small scheme size and the fact that it is a replacement dwelling, although this limited benefit is given due weight due to the lack of a five year supply of deliverable housing sites. The adverse impact identified is the failure to comply with the requirements of policy HOU 8 and the harm caused to the visual amenity of the area. The identified harm would conflict with the environmental objective of sustainable development and is considered to be at a level that it significantly and demonstrably outweighs the limited benefits which would be derived from the provision of the dwelling. As a result, the consideration of the scheme on the tilted balance indicates that the proposed development should be refused.
- 8.0 Costs
- 8.1 An appeal can be lodged against a refusal of planning permission or a condition imposed upon a planning permission. If a local planning authority is found to have acted unreasonably and this has incurred costs for the applicant (referred to as appellant through the appeal process) then a cost award can be made against the Council.
- 8.2 Unreasonable behaviour can be either procedural, i.e. relating to the way a matter has been dealt with; or substantive, i.e. relating to the previous planning history of the site and whether a local planning authority has been able to provide evidence to justify a refusal reason or a condition.
- 8.3 Members do not have to follow an officer recommendation indeed they can legitimately decide to give a different weight to a material consideration than officers. However, it is often these cases where an appellant submits a claim for costs. The Committee therefore needs to consider and document its reasons for going against an officer recommendation very carefully.

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
19/00940/FUL	Dan Smith Room No. 011 The Grange Ely	Dan Smith Planning Consultant 01353 665555 dan.smith@eastca mbs.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>