
MAIN CASE

Reference No: 19/01421/OUT

Proposal: Proposed one and half storey dwelling, garaging, access & associated site work

Site Address: Mobile Home At 1A Chapel Lane Soham Cambridgeshire

Applicant: Mr & Mrs Burbridge

Case Officer: Dan Smith, Planning Consultant

Parish: Soham

Ward: Soham North
Ward Councillor/s: Victoria Charlesworth
Alec Jones

Date Received: 17 October 2019 **Expiry Date:** 13 January 2020
[U150]

1.0 **RECOMMENDATION**

- 1.1 Members are recommended to refuse the application for the following reasons:
1. 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 Soham 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 PPG on Flooding and Coastal Change and paragraphs 155 and 158 of the National Planning Policy Framework 2019.
 2. The proposed dwelling would be located within the countryside and, by virtue of its distance from the main settlements of Soham and Prickwillow and other local services and facilities; the lack of any public transport serving the site; and the lack of footpath or cycleway links, is situated in an unsustainable location. The proposal does not promote sustainable forms of transport and the future residents of the dwelling would be heavily reliant on private motor vehicles in order to access any local services or facilities. The proposed development would therefore cause harm in terms of the social and environmental elements of sustainable development. This identified harm would significantly and demonstrably outweigh the benefits derived from the provision of a single dwelling, contrary to Policies ENV 2 and GROWTH 2

of the East Cambridgeshire Local Plan 2015 and paragraph 11 of the National Planning Policy Framework 2019.

2.0 SUMMARY OF APPLICATION

- 2.1 The application seeks outline planning permission for the erection of a chalet bungalow, garaging access and associated works. Approval is also sought for the detailed matters of access and scale, with other detailed matters of appearance, layout and landscaping reserved for future consideration.
- 2.2 The current application is for the same development as was recently refused by the Local Planning Authority under reference 19/00404/OUT on the grounds that the site is within Flood Zone 3 and is unsustainably located.
- 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
- | | | | |
|--------------|---|----------|------------|
| 19/00404/OUT | Proposed chalet bungalow, garaging, access and associated works | Refused | 08.05.2019 |
| 13/01013/FUL | Change of use of land for the temporary siting of a mobile home | Approved | 09.01.2014 |

4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The application site is located at the corner of Chapel Lane and Great Fen Road. The land forms part of the wider site at 1A Chapel Lane and is enclosed by mature boundary hedging. The site is currently mostly laid to lawn and there is a mobile home stationed on it. The mobile home was granted a personal planning permission in 2013. There are a cluster of buildings in the immediate area on Great Fen Road and Chapel Lane, including a chapel building on the opposite corner of Chapel Lane.
- 4.2 The site is located within Flood Zone 3 meaning it is considered to be at a high risk of flooding. It is located in the countryside over 2.5 miles outside of the nearest development envelopes of Soham and Prickwillow.

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.

Local Highways Authority - 25 October 2019

States it does not object to the proposed development, subject to conditions relating to the provision of parking and turning facilities and the restrictions on the gating of the access.

CCC Growth & Development

No Comments Received

ECDC Trees Team

No Comments Received

Environmental Health - 29 October 2019

States it does not wish to comment on the proposed development.

Scientific Officer – 29 November 2019

States the findings of the submitted Envirosearch report in respect of ground contamination are accepted and that intrusive site investigation is not required, Recommends a condition relating to unanticipated contamination is applied.

Waste Strategy (ECDC) - 8 November 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.

Consultee for Other Wards in Parish

No Comments Received

Environment Agency - 6 November 2019

Does not object to the development, however it notes that In accordance with the National Planning Policy Framework paragraph 101, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It is for the local planning authority to determine if the Sequential Test has to be applied and whether or not there are other sites available at lower flood risk as required by the Sequential Test in the National Planning Policy Framework. If the site is deemed to have passed that test, it recommends that the mitigation measures proposed in the submitted Flood Risk Assessment be adhered to.

Parish - 4 November 2019

Recommends refusal on the grounds that the site is outside the development envelope, is not sustainable and is not in the Local Plan 2015.

Ward Councillors – 28 October 2019

District Councillor Charlesworth called the application in to Committee on the grounds that “there have been a number of applications in this area that were recommended for refusal by officers, and then approved by Committee having been

called in. Susan [the applicant] was promised a call in by a previous Councillor, and considering the other applications that have been approved in this manner, I think it only fair that she been given the same opportunity.”

Public Consultation

- 5.2 A site notice was displayed near the site on 23 October 2019 and a press advertisement was published on 31 October 2019. In addition, three neighbouring properties have been directly notified by letter. No responses have been received to that consultation.

6.0 THE PLANNING POLICY CONTEXT

6.1 *East Cambridgeshire Local Plan 2015*

GROWTH 2	Locational strategy
GROWTH 3	Infrastructure requirements
GROWTH 5	Presumption in favour of sustainable development
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 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 are the principle of development; flood risk and drainage; the impact on visual amenity; residential amenity; highway safety and parking provision; biodiversity and the sustainability of the site.

7.2 Principle of Development

- 7.2.1 The development would not normally be considered acceptable in principle in this location as the application site lies outside the defined development envelope of Soham in the countryside. Development envelopes define where policies for the built up areas of settlements give way to policies for the countryside. Policy GROWTH 2 of the Local Plan states that outside of defined development envelopes the only housing development which will be permitted is affordable housing exception schemes where those schemes have no significant adverse impact on the character of the countryside or other Local Plan policies. The current scheme does not meet that definition.
- 7.2.2 Policy HOU 8 of the Local Plan provides support for replacement dwellings subject to several conditions being met. However, while there is a mobile home on site at present, the permission for that mobile home was restricted by condition to be personal to the then proposed occupants and linked to the occupation of the adjacent dwelling by their daughter. Conditions required that the mobile home be removed either when it was no longer occupied by the proposed occupants or where the adjacent dwelling was no longer occupied by their daughter. The mobile home does not, therefore, have a permanent permission and it is not appropriate to apply policy HOU8 in this case.
- 7.2.3 The proposed development would not comply with policy GROWTH 2 which seeks to direct new dwellings to the most sustainable locations within the district.
- 7.2.4 Furthermore, as detailed within the Flooding section below, the proposed development, by virtue of its location within Flood Zone 3, would be contrary to policy ENV 8 and the Planning and Flood Risk section of the NPPF. This makes the proposed development unacceptable in principle.

7.3 Flood Risk and drainage

- 7.3.1 The application site is located within Flood Zone 3 meaning it is at a high probability of surface water flooding. Paragraph 155 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.
- 7.3.2 Paragraph 158 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 and requires that a sequential approach is taken to the location of development based on flood risk, meaning 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.
- 7.3.3 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 at lower risk of flooding in order for the sequential test to be passed.

- 7.3.4 The applicant has included an FRA relating to the proposed dwellings. The FRA states that the Sequential Test should be applied by the Local Planning Authority, however the Cambridgeshire Flood and Water SPD states this should be completed by the applicant. As a sequential test has not been provided, the case officer has considered the requirements of the Sequential Test. There are a number of allocated sites for housing within the Soham area, as specified within the East Cambridgeshire Local Plan 2015. In addition, a number of planning permissions for new dwellings have recently been approved in more sustainable locations within Soham which are within Flood Zone 1. It is therefore considered that there are a number of other reasonably available sites for housing development within the locality which are at a lower probability of flooding. Therefore, the application has failed to demonstrate that the proposed additional dwellings are necessary in this location and the application fails the Sequential Test for this reason.
- 7.3.5 In dismissing an appeal in respect of an application for new dwellings elsewhere in Flood Zone 3 within the district, a Planning Inspector recently supported the Council's case that the Sequential Test had not been passed as other sites that could accommodate the dwellings and were at a lower risk of flooding were available in the parish. That appeal decision is appended to this report (Appendix 1).
- 7.3.6 Had the Sequential Test been passed, then the Exception Test should then be applied, guided by the submitted Flood Risk Assessment. The Exception Test requires the development to demonstrate that it provides wider sustainability benefits to the community that outweigh flood risk and 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 161 of the NPPF.
- 7.3.7 The application does not present any arguments as to the wider community sustainability benefits and it is not considered that any substantive benefits to sustainability would result from the development. The development is therefore considered to fail part one of the exception test.
- 7.3.8 As the proposal fails to pass the Sequential Test it is considered to unnecessarily place a permanent dwelling in an area at significant risk of flooding, contrary to Policy ENV8 of the East Cambridgeshire Local Plan 2015, the provisions of the PPG on Flooding and Coastal Change, the Cambridgeshire Flood and Water SPD, and paragraphs 155 and 158 of the National Planning Policy Framework 2019.

7.4 Visual amenity

- 7.4.1 The site is currently bounded by a mature hedge but appears relatively undeveloped in views from the public domain. At present a mobile home is located on the site. The proposed development of the site would introduce built development onto this currently undeveloped corner plot. In the immediate vicinity

of the site there is a large chapel on the opposite corner plot on the other side of Chapel Lane, a small two storey dwelling to the North, a bungalow to the rear and further bungalows to the South. The bungalows have similar proportions to the proposed scale of the new dwelling. While the indicative design of the new dwelling includes elements which are not in keeping with the prevailing character of dwellings in the area, the appearance of the dwelling is a reserved matter and therefore the impact of the scale of the dwelling on visual amenity is the only consideration in this case. It is considered that the development of the plot for a single residential dwelling of a modest scale would not be out of keeping with the character of the immediate area and could be laid out and designed such that it would not cause any significant harm to the visual amenity of the area.

7.4.2 It is therefore considered that the proposed development would comply with policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015 in respect of its impact on visual amenity.

7.5 Residential Amenity

7.5.1 The indicative layout plan demonstrates that it would be possible to locate the dwelling such that it would not cause any significant loss of light, visual intrusion or overshadowing of neighbouring dwellings. Were outline permission being granted, the layout of the site and the position of any first floor windows would be considered at reserved matters stage in terms of their potential to overlook the neighbouring dwellings, however it is considered that the indicative scheme demonstrates that an acceptable impact on neighbouring privacy could be achieved.

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

7.6 Highway safety and parking provision

7.6.1 The proposed access is via directly onto Great Fen Road. Visibility in both directions is good and there is a wide highway verge. Turning for domestic vehicles could be provided on site and it is therefore considered that the proposed development is acceptable in terms of its impact on highway safety.

7.6.2 While the layout of the development is reserved for future consideration, the indicative layout demonstrates that adequate parking provision for the dwelling could be made on site.

7.6.3 It is therefore considered that the proposal complies with policies ENV2, COM7 and COM8 of the East Cambridgeshire Local Plan in respect of highway safety and parking.

7.7 Biodiversity

7.7.1 The site is largely laid to lawn with boundary hedging. The site is not considered to provide significant biodiversity benefit and it is therefore not considered that the proposed redevelopment would harm ecological interests on the site or in the wider area. 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.

7.7.2 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.

7.8 Planning Balance

7.8.1 As detailed in the Principle of Development section above the development is contrary to the adopted policy of restraint in respect of market housing in the countryside set out in policy GROWTH 2 of the East Cambridgeshire Local Plan 2015.

7.8.2 Furthermore, the location of the new residential development within Flood Zone 3, which is at the highest risk of flooding, is contrary to the NPPF and Local Plan policy ENV 8 as there are other sites not located within Flood Zone 3 which are suitable for development.

7.8.3 The identified harm results in a lack of sustainability in respect of the social and environmental objectives of the NPPF.

7.8.4 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.

7.8.5 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:

- i. the application of policies in this Framework that protect areas or assets of particular importance [including areas at risk of flooding or coastal change] provides a clear reason for refusing the development proposed; or,
- ii. any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the National Planning Policy] Framework taken as a whole'.

7.8.6 Given the location of the site within Flood Zone 3 and the failure of the application to pass the sequential and exception tests, the appropriate application of policies within the NPPF which relate to flooding provide a clear reason for refusing the development as per clause i of paragraph 8 of the NPPF. In that instance, the application of the tilted balance (detailed within clause ii) is not engaged. It is therefore necessary to refuse the application on the basis of the harm to flood risk.

- 7.8.7 Notwithstanding that, in any event, the site is not considered to be sustainably located. It is located approximately 4 km from the nearest point of the Soham Development Envelope and over 5 km from its centre. It is not accessible by public transport nor public footpath or cycleway. Occupants of the dwelling would therefore be heavily reliant on the car to gain access to services and facilities. This would not accord with the requirements of the NPPF nor the environmental dimension of sustainable development and the location remote from such services and facilities would weigh against the social dimension of sustainable development.
- 7.8.8 Due to the lack of accessible services and facilities and public transport, the dwelling would also result in occupants relying almost exclusively on private motor vehicles for access to the services in the wider area and for access to jobs and social opportunities more widely. On that basis, the proposed development is considered to perform badly against the social element of sustainability, which focusses on the need for development to support strong, healthy communities by providing housing to meet the needs of current and future generations and by providing accessible services.
- 7.8.9 The scheme is also considered to perform badly against the environmental role of sustainability which focusses on the need to protect and enhance the environment through using natural resources prudently, minimising pollution, and mitigating and adapting to climate change. The over-reliance on private motor vehicles and the requirement to travel considerable distance to access even the most basic services and facilities would not be sustainable from an environmental point of view.
- 7.8.10 On that basis, the site is not considered to be sustainably located. Even if the site were not located within Flood Zone 3 and the 'tilted balance' in clause ii of the NPPF engaged, the harm to sustainability would be such that the adverse impacts would significantly and demonstrably outweigh the benefits of the scheme, namely the provision of a single dwelling towards the district housing stock and the limited benefits that would result in respect of temporary employment from construction, additional viability of local services and facilities, increases to the local labour market and any limited ecological enhancement.
- 7.8.11 As a result, the consideration of the scheme on the tilted balance also 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.

9.0 APPENDICES

9.1 Appendix 1 – Appeal Decision APP/V0510/W/18/3218751

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
19/01421/OUT	Dan Smith Room No. 011	Dan Smith Planning Consultant 01353 665555
19/00404/OUT	The Grange Ely	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.eastcamb.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>