
MAIN CASE

Reference No: 19/01386/FUL

Proposal: Demolition of existing cottage and outbuildings and the erection of 4no dwellings and 1 replacement dwelling with 2 no. crossovers, shared surface access road and associated works

Site Address: Gosling Cottage 165 The Street Kirtling Newmarket Suffolk CB8 9PD

Applicant: Hamilton Developments (Newmarket) Ltd

Case Officer: Anne James, Planning Consultant

Parish: Kirtling

Ward: Woodditton

Ward Councillor/s: Alan Sharp
Amy Starkey

Date Received: 27 September 2019 **Expiry Date:** 26th March 2020

[U188]

1.0 RECOMMENDATION

1.1 Members are recommended to **APPROVE** subject to the recommended conditions set out in Appendix 1 of the report.

1.2 A summary of the conditions is detailed below:

1. Approved Plans
2. Time Limit
3. Parking and turning
4. Gates
5. Written Scheme of Investigation
6. Hours of Construction and Deliveries
7. Design of Bin Store
8. Boundary Treatment
9. Foul and Surface Water
10. Site characterisation
11. Unsuspected contamination
12. Fire Hydrants
13. Soft Landscaping
14. Hard Landscaping

15. Details of Materials
16. Arboricultural Method Statement
17. Bird Breeding
18. Biodiversity
19. External Lighting
20. Energy and Sustainability
21. Badger Survey
22. New Access Width
23. Construction of access

2.0 **SUMMARY OF APPLICATION**

- 2.1 The application seeks consent to demolish the existing cottage and outbuildings and erect five dwellings together with associated cartlodge/outbuildings, parking and access point on land at 165 The Street.
- 2.2 Two of the detached dwellings would front on to The Street with a set-back from the footpath of approximately 20m. New vehicular crossovers are proposed to serve Plots 1 and 2. A central access is also proposed to Plots 3, 4 and 5.
- 2.3 The accommodation comprises:

Dwelling No:	Accommodation	GIA sqm	Garden sqm
1	4 Bedrooms	121.4	230
2	5 Bedrooms	239	283
3	4 Bedrooms	196	256
4	4 Bedrooms	265	400
5	5 Bedrooms	288	312

- 2.4 The application has been accompanied by the following documents:

- Landscape and Visual Appraisal [September 2019]
- Phase I Geoenvironmental Desk Study [agn Environmental 2019]
- Arboricultural Impact Assessment [agn Environmental September 2019]
- Ecological Assessment [agn Environmental September 2019]
- Design and Access Statement [September 2019]

- 2.5 The application has been called in by Councillor Sharp for consideration by Committee as he feels the applicant has not done enough to comply with the Inspectors report on the previous application.

- 2.6 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

18/01303/FUL	Demolition of existing cottage and outbuildings and the erection of 6no. dwellings with 2no. crossovers, shared surface access road and associated works	Refused	08.08.2019
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4.0 **THE SITE AND ITS ENVIRONMENT**

- 4.1 The application site comprises an irregular area of land measuring approximately 0.49ha and benefitting from a 52m wide street frontage located to the south west of Kirtling village in the south of the district. The site currently supports a centrally located detached two storey cottage with a vehicular entrance located adjacent to the northern boundary.
- 4.2 There are 7 outbuildings located to the rear of the site which are in a dilapidated state and are due to be demolished. The topography across the site and the immediately surrounding area slopes gently towards the north-east. The site is enclosed by trees and hedging on all its common boundaries with an established linear row of housing to the north-east. Part of the site measuring approximately 62m in depth, lies within the development envelope of Kirtling.
- 4.3 There is a Public Right of Way (PROW No 25) which runs in part, parallel along the southern boundary much of the entire depth of the site. A Grade II Listed building (162 The Street) opposes the site to the north.

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.

Parish - 28 February 2020

Councillors are still of the opinion that the proposed amendments are inadequate, and do not deal with the issues raised by the Inspector in his report.

Specifically, that the 2 rear houses, and the garden for plot 3 appear to still be beyond the envelope and are exactly the same as the previous application dismissed on appeal by the Inspector.

The overall size of the site, and the houses proposed, is not in keeping with the rest of the Village.

There is some concern that the proposed properties to the front of the scheme may find it easier to back out onto the road which could be a hazard.

They would like to clarify the issue of the Village envelope and encroachment into the Countryside as this could have long term implications for the Village
Ward Councillors – 11th March 2020 I have decided to call this into committee, as I feel that it is one that requires further consideration.

I do not feel that the applicant has done enough to comply with the Inspectors report on the previous application 18/01303, especially point 19 of the inspectors report.

For that reason, I am asking that this matter be considered by committee.

Parish - 4 November 2019

The response of the Parish Council to the above Planning Application, in essence, remains the same as those made in relation to the previous application 18/01303/FUL. In that the depth of the proposed development from the Highway and the height of the rooflines are not in keeping with existing properties within the Village. The proposed changes to the new application are a nominal attempt to meet the objections lodged previously. However, the reduction in the depth of the scheme of 5 metres and the reduction of height to one property is not acceptable to the Parish Council who are therefore:

RESOLVED:- Not support the application

Local Highways Authority – 11/12 March 2020 – no objection

12th March 2020

Drawing 19-TSK-101_REV_C now indicates the materials proposed are acceptable and the ACO drain has been moved to within the site.

11th March 2020

Amended drawings have been received indicating I note that the form of crossover has been detailed and this is now acceptable.

The shading on Drawing 19-TSK-101_REV_B is unclear on the image, but appears to show some differential between materials being used in the footway crossing and verge crossing, with the latter appearing similar to that used within the site. It is unclear whether this is intended to be shown this way, as only one similar surface hatch is shown on the Key. The Applicant should be asked to clarify this. I would have no objections providing all works in the highway are in accordance with that shown in the key which references bitumastic materials in accordance with HERCS.

I Note that some of the ACO drains shown appears to be located within the public highway. This is not acceptable and must be relocated to be fully within the applicants land and should have some method of discharging any water collected.

Local Highways Authority - 15 November 2019 – No objection in principle however, request additional information regarding:

- the materials used on the vehicular access crossing the footway in accordance with 'Cambridgeshire County Councils current Housing Estate Roads Construction Specification'

- use of permeable block paving within the site, is not considered sufficient to prevent the runoff of surface water from private land onto the public highway; the driveways must therefore either drain away from the highway or be drained by an independent system that intercept runoff before it enters the highway.
- The central access serving the three dwellings will require a communal turning area in the vicinity of plots 4 and 5 to accommodate turning for delivery vehicles and fire tenders.
- Turning and parking within several of the plots appears awkward, particularly for dwelling 5.

ECDC Trees Team - 12 December 2019

The layout and loss of one TPO tree T10 in the Arb report T2 on TPO ref E/02/19 (Deodar Cedar) has been approved at appeal of application ref 18/01303/FUL.

Previous comments raised observations re the demolition and construction of the cart lodge, these details are included in the Tree Protection Plan dwg number PW3135.3:002 included in the Arboricultural Impact Assessment dated 11/09/2019.

As previous concerns have been addressed no further comments

Asset Information Definitive Map Team - 8 November 2019 – no objection
subject to informative

Please note Public Footpath 25 Kirtling runs adjacent to the application site.

Whilst the Definitive Map Team has no objection to this proposal, the applicant should be aware of the presence of the public Byway, its legal alignment and width which may differ from what is available on the ground. If you require a copy of the Definitive Map & Statement, this can be viewed at the County Council's offices in person or requested online for a fee at www.cambridgeshire.gov.uk/highwaysearches.

The Byway must remain open and unobstructed at all times. Building materials must not be stored on Public Rights of Way and contractors' vehicles must not be parked on it.

Cambridgeshire Archaeology - 13 November 2019

No objection subject to condition.

Environmental Health - 11 October 2019

This department has commented on the application site previously. The only amendment I would make is that for 5 dwellings a CEMP is no longer required.

Ramblers Association South - 15 October 2019

I refer to my comments on previous applications for this site, 18/01303/FUM and 18/01303/FUL and would advise you that I have nothing further to add. You will realise that my Association has no objection in principle to the redevelopment of this

derelict site, but we wish to ensure that Kirtling fp 25, which is in part, at least, within the site, is protected and improved if or when the development is carried out.

Waste Strategy (ECDC) - 30 October 2019 – no objection subject to informatives.

Conservation Officer – 10th March 2020 – No objection

No particular adverse heritage impacts were identified in the 2018 scheme and the appeal decision was largely centred on the encroachment of its curtilage into open countryside. The reductions in the density and site extent of the present scheme have no substantive impact either way in heritage terms so the previous stance still applies.

CCC Growth & Development - No Comments Received

Design Out Crime Officers - No Comments Received

Technical Officer Access - No Comments Received

Anglian Water Services Ltd - 10 October 2019

The Pre-Development Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, more than 0.5 ha.

As your query is below this threshold we will not be providing comments. However, if there are specific drainage issues you would like us to respond to, please contact us outlining the details.

Cambridgeshire Fire and Rescue Service - 31 October 2019

With regard to the above application, should the Planning Authority be minded to grant approval, the Fire Authority would ask that adequate provision be made for fire hydrants, which may be by way of Section 106 agreement or a planning condition.

5.2 Statutory Consultation – A site notice was erected on 15th October 2019 and the application was advertised in the Cambridge Evening News on 10th October 2019. Neighbours – 24 neighbouring properties were notified and the responses received are summarised below. A full copy of the responses are available on the Council's website.

- Other appeal decisions dismissed on the grounds of non-linear development
- Encroachment into countryside
- Harmful to character of streetscene
- Rural character of footpath changed
- Garages could be converted into additional housing
- Mix of housing not representative to cater for all ages wanting to live in the village
- New application not significantly different from the refused scheme
- Previous reasons for refusal therefore apply
- Outside development envelope/disruptive of the wider landscape setting

- Second access road not required
- Inclusion of 6 car garage for visitors is unnecessary
- Impact on setting of listed building
- Other housing schemes dismissed on appeal
- Unreasonably high dwellings
- Twenty new houses approved in the village in the last 2 years
- Scheme should be reduced to 2-3 dwellings
- Three entrances within 40m from a sharp bend
- Too large for young families
- Increase in traffic
- Impact on privacy of adjoining neighbours
- No affordable housing
- Minimise impact on biodiversity/net environmental gain
- Previous scheme was dismissed on appeal
- Poor design as garages have been sited in front of properties
- Creation of landlocked site
- Meadow to be created at the back of the site. What is going to happen to this

6.0 The Planning Policy Context

6.1 East Cambridgeshire Local Plan 2015

GROWTH 2	Locational Strategy
GROWTH 3	Infrastructure requirements
GROWTH 4	Delivery of Growth
GROWTH 5	Presumption in favour of sustainable development
HOU 2	Housing density
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
ENV12	Listed Buildings
ENV14	Sites of Archaeological interest
COM 7	Transport impact
COM 8	Parking provision

Village Vision Kirtling

6.2 Supplementary Planning Documents

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

6.3 National Planning Policy Framework 2019

2 Achieving Sustainable Development

- 5 Delivering a sufficient supply of homes
- 6 Building a strong, competitive economy
- 8 Promoting healthy and safe communities
- 9 Promoting sustainable transport
- 11 Making effective use of land
- 12 Achieving well designed places
- 14 Meeting the challenge of climate change, flooding and coastal change
- 15 Conserving and enhancing the natural environment
- 16 Conserving and enhancing the historic environment

6.4 Planning Practice Guidance

Due regard has been had to the guidance contained within the PPG.

7.0 **PLANNING COMMENTS**

The application relates to the resubmission of (18/01303/FUL) which related to a scheme for 6 detached two storey dwellings. The application was recommended for approval, however this was overturned by the Planning Committee on 8th August 2019. The application was refused for the following reasons:

1. The proposal by virtue of its scale, bulk and massing would result in a negative impact on the open countryside in this location which is contrary to Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015 and the objective of the NPPF.
2. Development in the vicinity of the site is predominantly linear with some small cul-de-sacs which extend backwards. The proposal would be contrary to the pattern of built form in the vicinity of the site by virtue of its depth of development and encroachment into the countryside. The proposal would therefore be contrary to policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015 and the objectives of the NPPF.

The applicants submitted an appeal against the Council's decision as well resubmitting the scheme currently under consideration. The appeal decision is attached as APPENDIX 2.

In dismissing the appeal the Inspector did not agree with the Council's first reason for refusal in as much as the development would not have a negative impact on the open countryside. However, with regard to the second reason for refusal, namely the depth of the development and its encroachment into the countryside, he commented as follows:

' notwithstanding the lack of visual harm, the character of an area is defined by the sum of all the qualities which distinguish it. In this regard, the submitted red-line boundary plan and site location plan includes an extensive, elongated area of land which would extend to the rear of the dwellings associated with plots 5 and 6. There is nothing on the submitted layout plans to denote the rear boundaries of these plots, although the appellants has confirmed that both plots would benefit from extensive rear gardens which would ensure that the majority of the site remained open in perpetuity. Moreover, given this land is included within the appeal site, and the red-line boundary encompasses all the land to which the proposal relates, allowing this appeal for housing would necessarily authorise the use of all the land within the red-line boundary for the same purpose.

Whilst I appreciate that this land mainly comprises a former paddock, semi-improved grassland and other vegetation and trees. However, there would be nothing to prevent it from being used as outdoor amenity space in connection with the proposed dwellings. Consequently, the development would extend well beyond the rear boundaries of any of the properties on this side of The Street, and even though I find that the layout, scale and form of the buildings proposed in relation to the appearance of the surrounding area would be acceptable, the overall encroachment of the development into the countryside would be out of kilter with the more contained pattern of built form present locally.

Whilst the erection of outbuildings and structures for domestic purposes could be prohibited by the removal of permitted development rights, domestic paraphernalia such as seating, washing lines, children's play equipment and formal garden landscaping could not be effectively controlled in this manner. The use of the entire appeal site for the purposes of housing would represent a significant permanent encroachment into the countryside which would diminish the contribution the site makes to its verdant surroundings, thus undermining its intrinsic character'.

The application has therefore been considered, having regard to the appeal decision, and in addition to the amendments made to the original scheme.

7.1 Principle of Development

- 7.1.1 During the intervening six month period, the Council are still unable to demonstrate that it has an adequate five year supply of land for housing. Therefore, all Local Planning policies relating to the supply of housing must be considered out of date and housing applications assessed in terms of the presumption in favour of sustainable development set out in the National Planning Policy Framework. Local planning authorities are also charged with delivering a wide choice of high quality homes and to significantly boost the supply of housing by identifying sites for development; maintaining a supply of deliverable sites, and, to generally consider housing applications in the context of the presumption in favour of sustainable development.
- 7.1.2 Policy HOU2 of the adopted Local Plan 2015 requires the appropriate density of a scheme to be judged on a site-by-site basis taking account of the existing character of the locality and the settlement and housing densities within the surrounding area, the need to make efficient use of land; the biodiversity of the site; the need to accommodate open space and parking; the level of accessibility and the impact on residential amenity of both existing and future residents.
- 7.1.3 The majority of the scheme would be located within the development envelope with only two properties outside this area and one partially outside. It is acknowledged that the principle of open market residential development on land outside of the development envelope is contrary to adopted policy and this was raised at Committee initially. However, given that the majority of the development would lie within the development envelope of Kirtling and bearing in mind the site is fairly contained by trees and vegetation, views of the site would be fairly localised from The Street and the visual receptors of the PROW 25. The Planning Inspector did not consider that the development resulted in visual harm to the character of the area as the rear most dwellings would not extend significantly beyond the rear boundaries of the properties in the area and the overall

appearance of the development would be less conspicuous in the countryside than existing housing close by.

7.1.4 Given the spatial relationship with adjoining properties there would be no detrimental impact on residential amenity to either existing or future occupiers. Moreover, both access and parking and issues relating to biodiversity, trees, flooding and drainage are still considered acceptable.

7.1.5 As the Council do not have a current 5 year land supply position, the presumption in favour of sustainable development applies, and the application can be supported in principle.

7.2 Residential Amenity

7.2.1 The NPPF seeks to ensure that a good standard of amenity for all existing and future occupants of land and buildings. Policy ENV2 of the Local Plan requires development to respect the residential amenity of existing and future occupiers.

7.2.2 No impact on the residential amenities of the adjoining occupiers had been identified in the original assessment of 18/01303/FUL. Moreover, the Planning Inspector did not identify any harm to the residential amenities of either Nos 159 or 165 The Street.

7.2.3 However, the increase in activity to and from the site can be mitigated by a range of measures proposed by condition.

7.2.4 In terms of living environment created for future occupiers of the site, it is still considered that all rooms benefit from a good degree of outlook and sunlight/daylight penetration. As was the case in the previously refused scheme the amount of amenity space and separation distances between dwellings achieved on site exceeded the guidelines of the East Cambridgeshire Design Guide. As a further dwelling has been omitted from the scheme then the scheme is less dense and continues to comply with the design guidelines.

7.2.5 It is considered that the proposal would still have an acceptable impact on residential amenities in accordance with Policy ENV2 of the Local Plan, the East Cambridgeshire Design Guide and the NPPF, and this is attributed neutral weight in the planning balance

7.3 Visual Amenity

7.3.1 In considering the visual impact on the landscape, Policy ENV1 of the Local Plan requires new development to provide a complementary relationship with existing development, and conserve, preserve and where possible enhance the distinctive and traditional landscapes, and key views in and of settlements. Policy ENV2 of the Local Plan requires that new development should ensure its location, layout, form, scale, massing and materials are sympathetic to the surrounding area. Policy GROWTH 2 of the adopted Local Plan requires that within the development envelopes housing to meet local needs will normally be permitted.

- 7.3.2 A Landscape and Visual Appraisal [Richard Morrish Associates dated September 2019] has accompanied the application. This document assesses the wider landscape setting as forming part of the undulating Estate Farmland landscape type which is considered to have medium landscape value and to have a medium level of sensitivity to the type of development proposed.
- 7.3.3 Kirtling is characterised by scattered groups of dwellings in attractive countryside comprising a mix of modest bungalows and terraced cottages as well as detached executive homes on substantial plot sizes. The Street runs roughly from south to north from its junction with Malting End and The Green.
- 7.3.4 Public Right of Way 25 runs between No 165 and 169 The Street the full extent of the southern boundary.
- 7.3.5 Concerns are still being raised in the letters of objection regarding the linear nature of development within the village, design, layout and height of the development. The number of appeals that have been dismissed citing visual amenity as a grounds for refusal has also been identified in the letters of representation. Whilst generally linear development is represented in Kirtling, the Planning Inspector in his consideration of the appeal scheme considered *'the rearmost dwellings proposed (plots 5 and 6) would not extend significantly beyond the rear boundaries of other properties in the area, and the overall appearance of the development would be less conspicuous in the countryside than existing housing close by'*. As such *'the scale, bulk and massing of the dwellings and other buildings proposed would not unacceptably impact on the appearance of the area or the wider countryside.'*
- 7.3.6 As a consequence, although the scheme is not in a linear layout, the Planning Inspector did not raise this as a reason to dismiss the appeal. Kirtling does benefit from a number of extensive executive type dwellings where the height is comparable with the height of the new dwellings. The reduction in the number of dwellings proposed is therefore seen as a further significant benefit.
- 7.3.7 Para 78 of the NPPF requires that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this still supports local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby. Whilst Kirtling has seen an increase in the amount of development recently, this is also the case for a great number of other villages in the district.
- 7.3.8 Whilst the Planning Inspector considered that the scheme would not impact on the visual amenities of the area he raised concern regarding the full extent of the area forming the rear garden land of Plots 5 and 6. In the refused scheme the application site measured 310m in depth with much of this land retained as garden land serving Plots 5 and 6. The Planning Inspector found that *'although this land mainly comprised a former paddock, semi-improved grassland and other vegetation and trees, there would be nothing to prevent it from being used as outdoor amenity space in connection with the proposed dwellings. Consequently, the development would extend well beyond the rear boundaries of any of the*

properties on this side of The Street, and even though I find that the layout, scale and form of the buildings proposed in relation to the appearance of the surrounding area would be acceptable, the overall encroachment of the development into the countryside would be out of kilter with the more contained pattern of built form present locally.

7.3.9 Whilst the erection of outbuildings and structures for domestic purposes could be prohibited by the removal of permitted development rights, domestic paraphernalia such as seating, washing lines, children's play equipment and formal garden landscaping could not be effectively controlled in this manner. The use of the entire appeal site for the purposes of housing would represent a significant permanent encroachment into the countryside which would diminish the contribution the site makes to its verdant surroundings, thus undermining its intrinsic character'.

7.3.10 As a consequence of the appeal decision, the resubmitted scheme was further amended whereby the applicants have set the rear building line in the same location as before but have significantly reduced the site area from 1.08ha (2.67 acres) to 0.4ha (1.21 acres). The red line is therefore significantly reduced (see fig 1 below). This reduction in the site area will ensure the future safeguarding of land to remain in open countryside which is in line with the findings of the Planning Inspector's decision. The management of this area would be the responsibility of the current landowner.

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Figure 1

7.3.11 As such, due to the reduction in the site area, and in view of the Inspector's comments that Plots 5 and 6 would not extend significantly beyond the rear

boundaries of other properties in the area the appearance of the development would be less conspicuous in the countryside than existing housing close by. Therefore, neutral weight can be afforded to this factor. As such, the proposal would not conflict with Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015, and the NPPF.

7.4 Historic Environment

7.4.1 Section 12 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal including development that may affect the setting of a heritage asset. Policies ENV2 and ENV11 of the Local Plan 2015 requires development proposals to be designed in order to preserve or enhance the special character and appearance of the area.

7.4.2 Kirtling does not benefit from a Conservation Area, however, there are a number of Listed Buildings within the village. No 162 The Street, formerly The Beehive Inn, lies to the west of the site and is a Grade II Listed Building, converted into a dwellinghouse in the 90s. A number of additions, alterations and demolitions of structures have occurred in the intervening years, in the form of a 2-bay car port, conversion of detached stable block into a single garage, workshop and log store, which have altered the original setting of the Beehive Inn into a residential curtilage with all the associated domestic paraphernalia.

7.4.3 The Conservation Officer had raised no objection in principle to the scheme initially and has provided similar comments to the current scheme. As such the proposal would satisfy the provisions of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as Policies ENV2 and ENV11 of the adopted Local Plan and would not result in 'less than substantial harm'. Para 169 of the NPPF refers. Bearing in mind the public benefits that 6 additional dwellings would make to the Council's 5YLS then this factor can be afforded neutral weight in the planning balance.

7.4.4 Policy ENV14 of the adopted Local Plan 2015 requires development proposals that affect sites of known or potential archaeological interest to have regard to their impact upon the historic environment and protect, enhance and where appropriate, conserve nationally designated and undesignated archaeological remains.

7.4.5 The County Archaeologist has commented that the area has no archaeological investigation history, other than a deer park to the west of the application area which was dis-parked after 1770. County would not object to the development of this site provided a programme of archaeological investigation is secured through the inclusion of a condition.

7.4.6 The scheme would not result in a detrimental impact on the historic environment and this is weighed neutrally in the planning balance. The scheme complies with Policy ENV14 of the adopted Local Plan 2015

7.5 Highways

7.5.1 It is necessary to consider whether the proposed development is located where the need to travel will be minimised and the use of sustainable transport modes can be

maximised and that safe and suitable access can be achieved. Para 109 of the NPPF requires that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 7.5.2 Policy COM7 of the Local Plan also requires development to be designed in order to reduce the need to travel, particularly by car and should promote sustainable forms of transport appropriate to its particular location.
- 7.5.3 The parish of Kirtling includes Kirtling Green and Upend and is located approximately 5 miles south-east of Newmarket. Kirtling is described in the adopted Local Plan as a scattered settlement with a reasonable range of facilities for its size. These include a garage, pub, two churches, and a well-equipped village hall, cricket and carpet bowls club. There is also a bus service that runs through Kirtling four days a week.
- 7.5.4 As the site lies within the established settlement boundary it is considered that future residents would be able to access the limited goods and services and public transport on offer in the village both on foot and by bicycle. However, it is acknowledged that given the rural nature of the village that residents would to a certain extent be reliant upon the private motor vehicle to access places of work and schools. The proposal therefore conflicts with Policy COM7 in this regard.
- 7.5.5 The resubmitted scheme does however include the provision of an additional 4 dwellings to the District's housing stock. The proposal is therefore considered to make a meaningful contribution towards the current housing shortfall and this attracts significant weight in the planning balance. The proposal would also offer some short and long term economic benefits in relation to the construction process and the purchase of local goods and services.
- 7.5.6 A number of concerns have been raised regarding the site's proximity to a bend in the road. However, the Local Highways Authority has not identified a risk to highway and pedestrian safety, and as the quantum of development has been reduced then the proposed accesses are considered to still be suitable.
- 7.5.7 The County Rights of Way Officer has raised no objection subject to a number of caveats regarding obstruction, maintenance of boundaries and storage of materials. These can be dealt with by conditions and informatives.
- 7.5.8 In terms of the access into the site, in view of the reduction in the quantum of development the Highways Authority has not objected to the scheme but has requested further details on the turning and parking for Plots 5 and 6. This information has been provided and as the plots are sufficiently distant from the highway there have been no objections raised. The applicants have also amended the verge crossovers and dropped crossings to comply with county standards.

Parking

- 7.5.9 Policy COM8 of the adopted Local Plan sets out parking provision outside of town centres and requires 2 spaces per dwelling plus up to 1 visitor parking space per 4 units. Cycle parking should also be provided at 1 space per dwelling.

- 7.5.10 From the layout accompanying the planning application an opportunity exists on the site to provide an acceptable layout and parking scheme and the scheme could be policy compliant in line with Policy COM8 of the adopted Local Plan. A concern raised in the letters of objection regarding the conversion of the cartlodge to form an independent dwelling would require the submission of a planning application which would be assessed on the individual merits of the scheme.
- 7.5.11 To conclude, whilst Kirtling is not considered to be locationally sustainable, with an over-reliance on the car for higher order services and facilities, the scheme can provide a safe access and would not result in an unacceptable impact on highway and pedestrian safety. Further details can also be provided to the satisfaction of the County Rights of Way Officer which on balance would accord with Policies COM 7 and 8 of the adopted Local Plan 2015. These factors are therefore afforded neutral weight.

7.6 Ecology

- 7.6.1 Policy ENV7 of the Local Plan requires that development should protect biodiversity and the geological value of land and buildings and minimise harm to or loss of environmental features such as hedgerows and trees. The application has been supported by an Ecology Assessment [agb Environmental] dated 11th September 2019. A Habitats Survey has also been undertaken.

Ecology and Biodiversity

- 7.6.2 The Ecology Assessment used information obtained from a walk-over of the site as well as a desk-based assessment to obtain existing ecological information.
- 7.6.3 Whilst the site does fall within the impact zone of the Ten Wood SSSI, the nature of the development does not meet the criteria for impacts that would likely lead to a significant effect on the SSSI. There is potential for the mix of habitat types present to support a range of protected species.
- 7.6.4 The presence of three ponds within 250m of the site triggered the recommendation for further great crested newt surveys. However, GCNs were not recorded during the further surveys carried out and are therefore likely absent from the site.
- 7.6.5 A number of Reptile surveys were conducted in 2018 with no reptiles being recorded within the site.
- 7.6.6 The buildings and broadleaved and coniferous trees have high potential for nesting birds and the presence of hedgehogs within the site was also likely. A number of precautionary methods have been proposed to prevent harm to both nesting birds and hedgehogs.
- 7.6.7 Due to the presence of badger latrines to the west of the site a badger survey would need to be undertaken six weeks before any site clearance or construction of development.

- 7.6.8 Bat Surveys were also undertaken within the 8 out-buildings and these revealed that there was negligible suitability for roosting bats. However, within the cottage it was recorded that bats could potentially roost under the slate tiles, with potential gaps behind lead flashing and within the roof void. A single dusk emergency survey was therefore undertaken on 26th July 2018 and recorded that there were no roosting bats recorded during the survey. However, the site is being used for foraging and commuting purposes.
- 7.6.9 The Ecology Assessment recommends a number of enhancements to encourage biodiversity across the site and these can be dealt with by condition.

Trees

- 7.6.10 An Arboricultural Impact Assessment [agn Environmental] dated 11th September 2019 has been submitted with the application. This document lists twenty-two individual trees and five groups of trees located within the site boundary and immediately adjacent to it. A recent Tree Preservation Order has been served on some of the trees within the site.
- 7.6.11 The development would result in the removal of 4 individual trees, two small groups of trees and a single tree from a third group. Bearing in mind these trees are relatively limited value then there are opportunities for replanting within the site.
- 7.6.12 The Tree Officer has considered the AIA and has no objection to the scheme.
- 7.6.13 It is therefore considered that the scheme would not result in an unacceptable impact on biodiversity or ecology and this factor is weighed neutrally in the planning balance. The proposal would therefore comply with Policy ENV7 of the adopted Local Plan 2015.

7.7 Flood Risk and Drainage

- 7.7.1 Policy ENV8 of the Local Plan requires that all developments should contribute to an overall flood risk reduction.
- 7.7.2 The site is located within Flood Zone 1 which has a low probability of flooding and where the NPPF requires new development should be located. A desk top analysis has suggested that the proposed development would lead to an unacceptable risk of flooding downstream. Anglian Water have no comments to make as the development is below the threshold for comment. A condition requiring further details to be submitted regarding a surface and foul water strategy are imposed on the consent.
- 7.7.3 As such the scheme meets the requirements of Policy ENV8 and is considered acceptable. This factor weighs neutrally in the planning balance.

7.8 Other Material Matters

CIL

- 7.8.1 The development will be subject to the Community Infrastructure Levy.

Energy Efficiency

- 7.8.2 All new development would be expected to aim for reduced or zero carbon development in accordance with the zero carbon hierarchy Policy ENV4 refers and further details can be obtained by condition. In this way the development would reduce its reliance on carbon fuels.

Waste

- 7.8.3 In terms of the collection of waste and recycling it would be the responsibility of the owners/residents to take any bins to the public highway boundary. However, the Council's Waste Department have requested details of the position of the bin store. In amendments of the scheme the bin store has been located adjacent to the cartlodge and its design will form a condition of the consent

Pollution

- 7.8.4 A Phase I Geo-environmental Desk Study Report [AGB] dated 3rd May 2019 has been submitted with the application. In view of the proposed residential use of the site, the Council's Environmental Health Department are satisfied that further details regarding possible ground contamination can be submitted by condition. In addition during the construction works, adequate mitigation measures could be controlled to reduce pollution and general disturbance by the imposition of a Construction Environmental Management Plan to be agreed with the Council. External lighting and internal noise could also be conditioned to preserve general amenity.

5YLS

- 7.8.5 In view of the fact that the Council is unable to demonstrate a 5 year land supply, the proposal of 5 new dwellings would make a significant contribution, although in view of the number proposed, this factor can only be afforded moderate positive weight.

Fire Hydrants

- 7.8.6 A scheme for fire hydrants can be secured by condition.

No affordable housing

- 7.8.7 As there is an existing property on the site the number of additional dwellings within the scheme is 4 and there is no requirement to provide any affordable housing on site.

7.9 Planning Balance

- 7.9.1 The application has been evaluated against the extant Development Plan and the NPPF and the report has assessed the application against the core planning principles of the NPPF and whether the proposal delivers sustainable development. Para 11 of the NPPF requires that where there are no relevant development plan

policies, or the policies which are most important for determining the application are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.9.2 The development would make a contribution to the housing land supply which, in the context of the Council currently being unable to demonstrate a 5 year housing land supply, is a benefit to be attributed significant weight in the planning balance. However, in view of the small number of dwellings proposed this is afforded moderate positive weight. There would also be economic benefits in terms of the construction of the development itself, those associated with the resultant increase in population and the contribution to the local economy to which moderate weight should be attached.
- 7.9.3 In terms of its impact on the landscape character, the development would not significantly intrude outside of the development envelope sufficient to injuriously impact on the visual amenities and character of the area. The Planning Inspector considered that the development would not extend significantly beyond the rear boundaries of other properties in the area and would be less conspicuous in the countryside than existing housing close by. Due to the reduction in the number of dwellings and site area, it would not result in an unduly prominent development and the majority of the site can continue to contribute retaining this land in open countryside. Therefore, neutral weight can be afforded to this factor.
- 7.9.4 Compliance with some of the other core planning principles of the NPPF have been demonstrated in terms of impact on heritage assets, residential amenity, access and highway safety, parking, biodiversity, ecology, flooding and drainage. However, these matters do not represent benefits to the wider area but demonstrates an absence of harm to which weight should be attributed neutrally.

8.0 CONCLUSION

- 8.1 This application has been evaluated against the extant Development Plan which is the starting point for all decision making. The Development Plan comprises the East Cambridgeshire Local Plan 2015. The report has assessed the application against the core planning principles of the NPPF and whether the proposal delivers sustainable development.
- 8.2 In principle, and having regard to the three dimensions of sustainable development, the scheme is considered acceptable and the benefits of the scheme would significantly and demonstrably outweigh the adverse impacts when assessed against the policies in the NPPF.
- 8.3 The proposal is recommended for approval, subject to conditions.

RECOMMENDATION: APPROVE

9.0 COSTS

- 9.1 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.
- 9.2 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 issues at appeal and whether a local planning authority has been able to provide evidence to justify a refusal reason or a condition.
- 9.3 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.
- 9.4 In this case Members' attention is particularly drawn to the following points:

An appeal on this site has previously been dismissed, although the Planning Inspectorate did not agree with the Council's reason for refusal regarding the scale, bulk and massing of the dwellings and other buildings proposed as it was concluded that they would not unacceptably impact on the appearance of the area or the wider countryside. The proposal would not injuriously harm residential amenity of existing and future occupiers or highway safety.

10 APPENDICES

- 10.1 Appendix 1 – Condition

Appendix 2 – APPEAL DECISION app/v0510/1/19/3237095

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
19/01386/FUL	Anne James Room No. 011	Anne James Planning Consultant 01353 665555
18/01303/FUL	The Grange Ely	anne.james@eastc amb.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>

APPENDIX 1 - 19/01386/FUL Conditions

- 1 Development shall be carried out in accordance with the drawings and documents listed below

Plan Reference	Version No	Date Received
19_TSK_312	A	5th February 2020
19_TSK_316	A	5th February 2020
19_TSK_317	A	5th February 2020
19_TSK_325	A	5th February 2020
19_TSK_327	A	5th February 2020
19_TSK_000	A	5th February 2020
19_TSK_102	A	12 th March 2020
19_TSK_201	B	12 th March 2020
19_TSK_001	A	5th February 2020
19_TSK_101	C	12 th March 2020
19_TSK_300	A	5th February 2020
19_TSK_301	A	5th February 2020
19_TSK_302	A	5th February 2020
19_TSK_303	A	5th February 2020
19_TSK_304	B	5th February 2020
19_TSK_305	A	5th February 2020
19_TSK_200	D	12 th March 2020
Phase 1 Geo-environmental Desk Study Report		27th September 2019
19_TSK_306	A	8th October 2019
19_TSK_307		27th September 2019
19_TSK_308		27th September 2019
19_TSK_309		27th September 2019
19_TSK_310		27th September 2019
19_TSK_311		27th September 2019
19_TSK_313		27th September 2019
19_TSK_315		27th September 2019
19_TSK_318		27th September 2019
19_TSK_319		27th September 2019
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19_TSK_321		27th September 2019
19_TSK_322		27th September 2019
19_TSK_323		27th September 2019
19_TSK_324		27th September 2019
19_TSK_326		27th September 2019
19_TSK_328		27th September 2019
19_TSK_329		27th September 2019
19_TSK_330		27th September 2019
Landscape and Visual Appraisal		27th September 2019
AIA		27th September 2019
Ecological Assessment		27th September 2019

- 1 Reason: To define the scope and extent of this permission.
- 2 The development hereby permitted shall be commenced within 2 years of the date of this permission.
- 2 Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended.
- 3 Prior to first occupation or commencement of use the proposed on-site parking, turning and servicing area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan 219-TSK-101- Rev C and thereafter retained for that specific use.
- 3 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.
- 4 Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any order revoking, amending or re-enacting that order) no gates, fences or walls shall be erected across the approved access, as shown on 19-TSK-101_REV_C.
- 4 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.
- 5 No development shall take place within the area indicated until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 5 Reason: To ensure that any archaeological remains are suitably recorded in accordance with policy ENV14 of the East Cambridgeshire Local Plan 2015. The condition is pre-commencement as it would be unreasonable to require applicants to undertake this work prior to consent being granted.
- 6 Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 07.30 - 18.00 each day Monday-Friday and 07.30 - 13.00 on Saturdays and none on Sundays, Public Holidays or Bank Holidays
- 6 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with Policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 7 No above ground construction shall commence until details of the bin stores have been submitted to and agreed in writing with the Local Planning Authority. The bin stores shall be in situ in accordance with the approved details prior to the occupation of the development.
- 7 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.

- 8 No above ground construction shall commence until details of the boundary treatments have been submitted to and agreed in writing with the Local Planning Authority. The boundary treatments shall be in situ in accordance with the approved details prior to the occupation of any dwelling.
- 8 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with Policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 9 No development shall take place until a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme(s) shall be implemented prior to occupation of the dwellings.
- 9 Reason: To prevent flooding by ensuring the satisfactory storage/disposal of water from the site, in accordance with policies ENV2 and ENV8 of the East Cambridgeshire Local Plan 2015. The condition is pre-commencement as it would be unreasonable to require applicants to undertake this work prior to consent being granted.
- 10 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 and timeframe as agreed 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 ENV9 of the East Cambridgeshire Local Plan 2015. The condition is pre-commencement as it would be unreasonable to require applicants to undertake this work prior to consent being granted.
- 11 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 to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to 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.

- 11 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 ENV9 of the East Cambridgeshire Local Plan 2015.
- 12 No above ground construction shall take place until a scheme for the provision and location of fire hydrants to serve the development to a standard recommended by the Cambridgeshire Fire and Rescue Service or alternative scheme has been submitted to and approved in writing by the Local Planning Authority. The hydrants or alternative scheme shall be installed and completed in accordance with the approved details prior to the occupation of any part of the development.
- 12 Reason: To ensure proper infrastructure for the site in the interests of public safety in that adequate water supply is available for emergency use. This is supported by 95 of the NPPF.
- 13 Prior to first occupation or commencement of use a full schedule of all soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include, planting plans, a written specification; schedules of plants noting species, plant sizes, proposed numbers/densities; and a detailed implementation programme. It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following occupation of the development. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 13 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 14 No above ground construction shall take place until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include: finished floor levels, car parking layouts, hard surfacing materials and lighting. The works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.
- 14 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 15 No above ground construction shall take place on site until details of the bricks, stone, roof coverings, flashing, windows, doors, etc; to be used on the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 15 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.

- 16 No development shall take place until a detailed Arboricultural Method Statement (AMS) has been submitted and approved in writing by the Local Planning Authority. The AMS shall include justification and mitigation for any tree removal proposed and details of how trees will be protected at all stages of the development. Recommendations for tree surgery works and details of any tree surgery works necessary to implement the permission will be required as will the method and location of tree protection measures, the phasing of protection methods where demolition or construction activities are essential within root protection areas and design solutions for all problems encountered that could adversely impact trees (e.g. hand digging or thrust-boring trenches, porous hard surfaces, use of geotextiles, location of site compounds, cart lodge, office, parking, site access, storage etc.). All works shall be carried out under supervision by a Project Arboriculturist in accordance with the agreed AMS.
- 16 Reason: To ensure that the trees on site are adequately protected, to safeguard the character and appearance of the area, in accordance with policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015. The condition is pre-commencement in order to ensure that the protection measures are implemented prior to any site works taking place to avoid causing damage to trees to be retained on site.
- 17 Any tree or shrub removal shall be undertaken outside of the bird breeding season of 1st March to 31st August in any calendar year. If clearance works must occur within bird breeding season then any vegetation targeted for clearance must first be surveyed by an ornithologist and clearance works would only be permissible if the survey reveals no active bird's nests within the relevant vegetation.
- 17 Reason: To protect species and sites of nature conservation, in accordance with policies ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015.
- 18 The biodiversity improvements as set out in the Ecological Assessment [agn Environmental Ltd] dated 25th April 2019 shall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.
- 18 Reason: To protect and enhance species in accordance with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015.
- 19 No external lights shall be erected within the site (either freestanding or building-mounted) other than those expressly authorised within this application.
- 19 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 20 The energy and sustainability strategy as set out in the Design and Access Statement shall be installed prior to the first occupation of the hereby approved development.
- 20 Reason: To ensure that the proposal meets with the requirements of sustainability as stated in policy ENV4 of the East Cambridgeshire Local Plan 2015.
- 21 Prior to the commencement of development an additional badger survey shall be undertaken in accordance with the recommendations of the Ecological Assessment [agn

Environmental Ltd] dated 11th September 2019. The development shall be carried out in accordance with the recommendations contained in the Ecology Appraisal.

- 21 Reason: To protect and enhance species in accordance with policy ENV7 of the East Cambridgeshire Local Plan 2015. This condition is pre-commencement due to the presence of badger latrines to the west of the site.
- 22 The shared access shall be a minimum width of 5m, for a minimum distance of 10m measured from the near edge of the highway carriageway and thereafter retained in perpetuity.
- 22 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.
- 23 Before any dwelling hereby permitted is occupied, the vehicular access from the existing carriageway edge shall be laid out and constructed in accordance with a detailed engineering scheme to be submitted to and approved in writing by the local planning authority, and such a scheme shall include the provision of a metalled/sealed surface for a minimum length of 5m from the existing carriageway edge.
- 23 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.