
MAIN CASE

Reference No: 22/00431/FUL

Proposal: Re-build of barn to form new dwelling

Site Address: Redtile Farm Fen Lane Swaffham Bulbeck Cambridgeshire
CB25 0NH

Applicant: Mr R Wedd

Case Officer: Rachael Forbes Planning Officer

Parish: Swaffham Bulbeck

Ward: Bottisham

Ward Councillor/s: Charlotte Cane
John Trapp

Date Received: 11 April 2022

Expiry Date: 14 September 2022

Report Number X48

1.0 **RECOMMENDATION**

1.1 Members are recommended to REFUSE the application for the following reasons:

- 1 In accordance with policy GROWTH 2 of the East Cambridgeshire Local Plan 2015 development outside of defined development boundaries will be strictly controlled having regard to the need to protect the countryside. Development will be restricted to the main exception categories listed in policy GROWTH 2, providing there is no significant adverse impact on the character of the countryside. The proposal does not fall within one of the main exception categories and therefore is contrary to Policy GROWTH 2 of the East Cambridgeshire Local Plan, 2015 and the aims and objectives of the NPPF
- 2 The proposal will result in the change of use of land from agricultural land to domestic land and includes the provision of a long driveway. The proposal will result in encroachment into the countryside through the domestication of use and the introduction of residential paraphernalia which cannot be controlled by planning condition; this will be exacerbated by the introduction of a large amount of hardstanding to create the driveway. The proposal would significantly result in visual harm to the countryside and therefore would be contrary to Policy ENV 1 of the East Cambridgeshire Local Plan, 2015 and chapter 12 of the NPPF

1.2 SUMMARY OF APPLICATION

1.2.1 The application seeks planning permission to erect a new dwelling. Prior approval was previously granted at the site for the conversion of a barn under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, however, the barn has since been demolished meaning that the permitted development right no longer exists.

1.2.2 The application has been called in by Cllr Trapp for the following reason:

'My reasons are that this is a direct replacement for a barn that had been on the same site. The barn that had been there was given permission to be converted to a dwelling by planning application 20/01389/ARN. The building inspector considered the foundations inadequate and required them to be one metre deep. Although this could have been done by under-pinning the barn in-situ, further inspection of the fabric showed that this would be impractical, as the brick base of the barn and the wooden beams resting on them was unsound and insecure, and the barn taken down unaware that this was not permitted.'

1.2.3 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/>.

2.0 PLANNING HISTORY

2.1

20/01389/ARN	To convert existing agricultural building to 1 residential dwelling	15.04.2021
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3.0 THE SITE AND ITS ENVIRONMENT

3.1 Redtile Farm is situated at the end of Forty Acre Drove, located between the villages of Swaffham Bulbeck and Lode. It is outside of the development envelope. There is a Public Right of Way which runs to the north and west of the site. The site is surrounded by agricultural fields. The immediate site also consists of the main farmhouse, outbuildings and barns.

4.0 RESPONSES FROM CONSULTEES

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

4.1.1 **Environmental Health (Scientific Officer) - 27 April 2022**

I have commented on and approved a previous contamination report for this site under application 20/01389/ARN. That report covered an area of the site which is smaller than that for the current application. However, as the Planning Design and Access Statement states that the development will be the same except for the rebuild element I consider that further site investigation is not required. I recommend that

standard contaminated land condition 4 (unexpected contamination) is attached to any grant of permission.'

4.1.2 Parish Council - 5 May 2022

'Support 22/00431/FUL Redtile Farm, Fen Lane, Swaffham Bulbeck. Re-build of barn to form new dwelling. Please note that Swaffham Bulbeck Parish Council have no objections to this planning permission and wish to record that they support the green sustainable aspect of the new building proposal.'

4.1.3 Ward Councillor – Cllr Trapp - 19 May 2022

'I would like to call in 22/00431/FUL for determination at Planning Committee.

My reasons are that this is a direct replacement for a barn that had been on the same site. The barn that had been there was given permission to be converted to a dwelling by planning application 20/01389/ARN. The building inspector considered the foundations inadequate and required them to be one metre deep. Although this could have been done by under-pinning the barn in-situ, further inspection of the fabric showed that this would be impractical, as the brick base of the barn and the wooden beams resting on them was unsound and insecure, and the barn taken down unaware that this was not permitted.'

4.1.4 The Ely Group Of Internal Drainage Board - 25 April 2022

'The application states that surface water will be disposed of via soakaways. Provided that soakaways form an effective means of surface water disposal in this area, the Board will not object to this application. It is essential that any proposed soakaway does not cause flooding to neighbouring land. If soakaways are found no to be an effective means of surface water disposal, the Board must be re-consulted in this matter, as the applicant would need the consent of the Board to discharge into any watercourse within the District.

If the proposed package treatment plan discharges into a watercourse, the consent of the Board is required.'

4.1.5 The Ely Group Of Internal Drainage Board - 6 May 2022

'This application for development is within the Swaffham Internal Drainage District. The agent for the scheme has confirmed that this application will use the surface water system that has previously been approved by the Board. Therefore, the Board has no objections to the application.'

4.1.6 Local Highways Authority - 26 April 2022

'I do not object to this application on the basis that the impacts on the public highway are no different to those considered under the application 20/01389/ARN.'

4.1.7 Environmental Health - 22 April 2022

'We have commented on this site in the past where I advised -

"Due to the location I have no issues to raise concerning the air source heat pump.

The Design and Access Statement advises that the dwelling will be on a working farm, with some of the barns and outbuildings remaining. As long as the remaining structures do not contain noisy mechanical plant (such as drying fans) I will have no concerns to raise at it would be expected that future occupiers will understand the context of the location with the associated seasonal noises and smells. However, the applicants should be advised that planning permission does not confer immunity from action under statutory nuisance. Either by local authority or a private individual.

I have Cc'd Julia in to this response who will respond separately if she has any concerns to raise concerning room sizes."

I have read the D&AS which advises that the proposed dwelling "[...]will stand in the same location as the original barn and cover the same floor print. Essentially it will be the same building as the one approved, except rebuilt instead of extensively repaired." If this is the case then my previous comments remain valid here.

The only additional comments I wish to make are that I would advise that construction times and deliveries during the construction and demolition phases are restricted to the following:

07:30 - 18:00 each day Monday - Friday
07:30 - 13:00 on Saturdays and
None on Sundays or Bank Holidays

If it is necessary to undertake ground piling I would request that a method statement be produced and agreed in writing with the Local Planning Authority (LPA) before work takes place. This document should include the commitment to notifying nearby properties prior to the work commencing to advise how long the works will last. This notification should also provide a contact number so that if there are any concerns while the piling is taking place they can contact the contractor. If the method of piling involves impact driving I would request a commitment to the following restricted hours specifically for piling - 09:00 - 17:00 each day Monday - Friday and None on Saturdays, Sundays or Bank Holidays.

If there is no intention to utilise ground piling then I would request this be confirmed in writing and a condition which prevents it be attached until such time as a ground piling method statement is agreed with the LPA.'

4.1.8 **Waste Strategy (ECDC)** - No Comments Received

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

4.1.10 **Anglian Water Services Ltd** - 19 April 2022

Having reviewed the development, there is no connection to the Anglian Water sewers, we therefore have no comments.'

4.1.11 **Environment Agency** - 25 April 2022

'We have no formal comment to make on this application.'

4.1.12 **Definitive Map Team – 27 June 2022**

The site is proposed to be accessed via Public Footpath No. 10, Lode. Furthermore, Public Footpath No. 14, Swaffham Bulbeck runs to the west and north of the site. To view the location of the footpaths please view our interactive mapping online which can be found at <http://my.cambridgeshire.gov.uk/myCambridgeshire.aspx>. Whilst the Definitive Map Team has no objection to this proposal, the footpaths must remain open and unobstructed at all times.

4.1.13 A site notice was displayed near the site on 21 April 2022 and a press advert was published in the Cambridge Evening News on 21 April 2022.

4.1.14 **Neighbours** – two neighbouring properties were notified and both have written in support of the application.

- The dwelling will be on the same foot print as the existing barn was, along with the same distinct red tile and black panelling- there will be no impact to the visual look.
- Plans for the new building are totally in line with the Neighbourhood Plan for Swaffham Bulbeck: reliance on renewable energy and less on fossil fuels – from building materials to air source heating. Such sustainable projects are challenging with older properties with retro fitting and the rest of us are trying to do our part where the building allows it (age and building materials).
- No concerns on heavy traffic supplying materials to the site as this would no different to farming vehicles and lorries during the seasons- day and night.
- It is understood that the dwelling is on the same footprint as the barn and is fully sustainable in line with relevant building regulations, no concerns with the application.

A full copy of the responses are available on the Council's website.

5.0 **The Planning Policy Context**

5.1 East Cambridgeshire Local Plan 2015

GROWTH 2	Locational strategy
GROWTH 5	Presumption in favour of sustainable development
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy and water 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

5.2 Supplementary Planning Documents

Design Guide

Contaminated Land - Guidance on submitted Planning Application on land that may be contaminated

Flood and Water

Natural Environment SPD

Climate Change SPD

5.3 National Planning Policy Framework 2021

2 Achieving sustainable development

12 Achieving well-designed places

14 Meeting the challenge of climate change, flooding and coastal change

15 Conserving and enhancing the natural environment

5.4 Planning Practice Guidance

6.0 PLANNING COMMENTS

The main considerations in the determination of this application are the principle of development, visual amenity, residential amenity, highway safety and parking, ecology, flood risk and contaminated land.

6.1 Principle of Development

6.1.1 Policy GROWTH 1 identifies the level of growth required within the district over the Local Plan Period. This includes the housing requirement for the district. Policy GROWTH 1 is accepted by the Council as being out-of-date as it uses an out of date housing requirement figure, and consequently this has triggered the preparation of the 'single issue review' of the Local Plan, in order to bring GROWTH 1 back in date. That updating of the policy remains at a relatively early stage, and therefore little weight should be given to its emerging content.

6.1.2 Policy GROWTH 2 of the Local Plan 2015 provides the locational strategy for development within the district and provides a hierarchy for the location of housing development. That hierarchy seeks to focus the majority of development on the market towns of Ely, Soham and Littleport. It provides for more limited development within villages with a defined development envelope. The policy states that outside defined development envelopes, development will be strictly controlled to protect the countryside and the setting of settlements and will be restricted to the exceptions listed within the policy.

6.1.3 The weight to be given to policy GROWTH 2 is a matter of judgement for the decision maker. An important factor is the consideration of whether the Policy is "out of date" and the allied question of whether the policy is consistent with NPPF for the purposes of NPPF 219. Applying national policy, there are three main reasons it could be out of date, as follows:

- (a) If the Council cannot demonstrate a Five Year Land Supply (NPPF 11d, footnote 8) This is not the case. The Council can demonstrate a healthy supply of deliverable homes, well in excess of five years' worth, and this position has persistently been agreed by recent Inspector appeal decisions;
- (b) If the Council 'fails' the Housing Delivery Test. This is not the case. The Council presently sufficiently 'passes' the Test; or
- (c) If the Policy is considered 'out of date' on a separate basis. This has been defined by the Courts as "have been overtaken by things that have happened since it was adopted, either on the ground or in some change in national policy, or for some other reason (*Bloor v SSCLG* [2014] EWHC 754 (Admin); [2017] PTSR 1283). However the courts have further noted "*The acid test in relation to whether or not a policy is out of date is, it will be recalled, the extent to which it is consistent with the Framework.*" (*Gladman Developments Limited v SSHCLG and Central Bedfordshire* [2019] EWHC 127 (Admin), [34]). Datedness will always be a "case-sensitive exercise" (*Gladman*, [36]) and will "encompass the manner in which a policy operates in relation to the determination of a particular application" (see *Ewans v Mid Suffolk District Council* [2021] EWHC 511, [47]).

- 6.1.4 The Council has considered the approach taken in recent appeal decisions, noting that each case must always turn on its specific facts.
- 6.1.5 In APP/V0510/W/21/3282449 Land to the North East of Broad Piece, Soham (dated 11 February 2022), the Planning Inspector found that policy GROWTH 2 was out-of-date in respect of a proposal for housing on the edge of Soham, a market town identified as a location for growth. That site was also within a broad location for housing (identified in the supporting text to policy GROWTH 4), where housing was anticipated to come forward during the Local Plan period (2011-2031). He concluded that as the housing requirement in GROWTH 1 was out of date and therefore uncertain, it was not clear that adequate housing could be provided in settlements and via allocations. The Inspector found that general objectives of GROWTH 2 "to manage patterns of development and protect the setting of settlement were good ones" and consistent with the NPPF, however in the specific location of the Appeal Site he found that continued strict application of GROWTH 2 was not justified given that the Local Plan anticipated housing in that location and at the market towns. The Inspector also gave weight to the fact that, while outside the development envelope for Soham, the proposal was considered to comply with the development plan as a whole, including the location of the development at one of the three market towns, consistent with GROWTH 2. It is important to appreciate that this was a case where no other development plan conflicts were identified, including notable in respect of landscape. The Inspector therefore did not have to consider these specific wider considerations in assessing the datedness of the policy and its consequent consistency with NPPF.
- 6.1.6 Elsewhere recent Inspectors have found policy GROWTH 2 up-to-date, albeit in respect of proposals for housing on the edge of villages (i.e. not market towns) with such settlements falling lower down the locational strategy hierarchy detailed within GROWTH 2.

- 6.1.7 Turning to the facts of this particular application, the proposal is located outside of the development envelope, and is not one of the exceptions listed in GROWTH 2. The proposal is also not located at one of the three market towns, where growth is directed to by GROWTH 2. It is, therefore, clearly contrary to policy GROWTH 2.
- 6.1.8 The Council have considered whether GROWTH 2 (including development envelopes derived by it) should be considered out of date or not, and in particular in doing so considering recent appeal decision on this matter. A number of appeal decisions in settlements beyond the market towns have indicated that GROWTH 2 is up to date. The Inspector in a recent decision at Soham (i.e. a Market Town) concluded that GROWTH 2 is out of date APP/V0510/W/21/3282449 Land to the North East of Broad Piece, Soham (dated 11 February 2022).
- 6.1.9 The Council has carefully considered all of these decisions and in particular whether the circumstances are similar to those in the recent appeal decision in Soham (in respect of the nature of the conflict). The Council considers that the Soham decision is distinguishable.
- 6.1.10 For the purposes of this application, GROWTH 2 is considered up to date. All recent decision makers (including the Appeal Inspectors) have concluded that the locational strategy of the policy is consistent with the NPPF. As the Soham Inspector observed at DL17: “general objectives of the policy to manage patterns of growth and protect the setting of towns and villages are good ones that are consistent with the Framework”
- 6.1.11 This proposal, in this location (i.e. not a market town), is not consistent with that strategy.

Whilst GROWTH 1 is out of date, the locational strategy within GROWTH 2 is not out of date. The locational strategy remains entirely valid and consistent with NPPF.

This view is reinforced by the fact that the Council can demonstrate it has a Five Year Land Supply, and passes the Housing Delivery Test.

In conclusion, therefore, for this particular proposal in this location, GROWTH 2 is considered up to date, and should carry full weight. And, as already described, the proposal is clearly contrary to GROWTH 2, and therefore this proposal is contrary to the development plan.

- 6.1.12 Under application 20/01389/ARN, prior approval was granted for a conversion of the barn to a dwelling under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 – agricultural barns to dwellinghouses. The barn has since been demolished with the planning statement setting out the following:

‘Following the planning stage and after further detailed investigations of the building on site were undertaken, it was found that the option of strengthening the existing structure, including roof, foundations and external walls (all major elements of the structure) made the projects unfeasible. The decision was then made to design the structure in a way that would enable the structure to be re-built exactly as the existing barn including the proposed conversion. This not only ensured that the

building would be much better future proofed structurally, but also meant the building would be much more environmentally friendly with modern insulation values. The detailed plans were produced for Building Control approval on this basis and were approved’.

- 6.1.13 As the barn has been demolished, the conversion approved under Class Q can no longer take place as there is no building to convert. Planning Practice Guidance states that the permitted development right assumes that the agricultural building is capable of functioning as a dwelling. A structural report was submitted at the time of the application that concluded the building was capable of conversion.
- 6.1.14 Class Q also permits building operations to allow the conversion to take place, including partial demolition but this is only permitted to allow the installation of windows, doors, roof, exterior walls and necessary services (electricity, gas etc) but does not permit the total demolition of the barn.
- 6.1.15 There are only certain elements that the Local Planning Authority (LPA) can consider as part of a Class Q prior approval. Planning Practice Guidance states: *‘that an agricultural building is in a location where the LPA would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval’.*
- 6.1.16 It is established in case law that permitted development rights can represent a fall-back position for alternative proposals at the same site (Mansell vs Tonbridge and Malling Borough Council [2017]). However, the fall-back position only exists where there is a realistic prospect of such development going ahead. As the barn no longer exists, there is no realistic prospect that the conversion of the barn could go ahead and therefore the fall-back position does not exist.
- 6.1.17 As the barn can no longer be converted under permitted development rights and there is no fall-back position as there is no realistic prospect that the conversion could go ahead, a planning application has been submitted. The current application is for a dwelling in the countryside which does not fall within one of the exception policies within GROWTH 2 and is therefore contrary to that policy.

7.0 Applying the Development Plan Policies

- 7.1.1 The Council considers the ‘basket’ of most important policies, all of which are not out of date, for determining this application are:

GROWTH 2	Locational strategy
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 7	Biodiversity and geology

- 7.1.2 It is established nationally that one potential way for the tilted balance to apply under Paragraph 11(d) of the NPPF, is for the most important policies to be out of date. That does not mean one policy being out of date, but means the basket is out of date. It means the basket when taken as a whole, is out of date, likely on the basis that more than half of the policies are demonstrated to be out of date. Of the above listed policies, this is clearly not the case.

- 7.1.3 In relation to policy GROWTH 2 of the Local Plan, the Council considers that this policy is not out of date as explained in section 6.1 of this Committee Report.
- 7.1.4 In relation to policies ENV 1 and ENV 2 of the Local Plan, whilst these policies predate the current NPPF, the general principles of protecting the landscape and respecting context are consistent with the objectives of paragraph 130 of the NPPF, namely b) and c):

“Planning policies and decisions should ensure that developments:

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including their surrounding built environment and landscape setting, while not preserving or discouraging appropriate innovation or change”.

- 7.1.5 It is therefore the Council's view that these policies are fully consistent with the NPPF and should be given full weight in the determination of this planning application and there is no reason to believe that these policies are out of date. The proposed development is therefore contrary to Policy Growth 2 of the Local Plan, 2015 and is unacceptable.

8.0 Visual Amenity

- 8.1.1 Policy ENV 1 of the East Cambridgeshire Local Plan, 2015 states that development proposals should ensure that they provide a complementary relationship with the existing development and conserve, preserve and where possible enhance the distinctive and traditional landscapes and key views in and out of settlements. Policy ENV 2 states that development proposals ensure that the location, layout, massing, materials and colour of buildings relate sympathetically to the surrounding area.
- 8.1.2 The proposed dwelling will be on the same footprint and will be the same scale as the barn previously granted prior approval; the barn was approximately 13.6 metres (44.61 feet) in length, 5 metres (16.40 feet) in width and 4.9 metres (16.07 feet) in height. It is also proposed to have the same appearance as previously approved with a red brickwork plinth, timber featheredged boarding, new timber casement windows and profiled metal sheet cladding for the roof.
- 8.1.3 One of the elements that can be assessed by the Local Planning Authority under Class Q prior approval applications is the design or external appearance of the building, which was considered to be acceptable. As the proposed dwelling will look almost identical to the Class Q conversion and the barn which was on site, it is considered that officers cannot allege that there will be visual harm resulting from the proposed dwelling itself.
- 8.1.4 Class Q only allows a very small curtilage. The current application includes much more land within the red line, which would result in more agricultural land being used as domestic garden resulting in incursion of domestic land into the countryside and siting of incidental paraphernalia that such a use carries with it. The submitted landscaping plan does show a smaller area of lawned garden,

sectioned off from the remainder of the land by a fence and while permitted development rights could be restricted, other domestication of the land could take place such as the introduction of residential paraphernalia which would not represent development and therefore could not reasonably be controlled by a planning condition once a residential garden use had been established.

- 8.1.5 Furthermore, the plans show the provision of a long driveway with turning head. It is considered that this represents further encroachment into the countryside, introducing a large amount of hardstanding. The planning statement notes that this was shown on the previously approved block plan; it was actually removed from the proposal as the works could not be carried out under Class Q. While the site is set back from the main road and is somewhat isolated, there are Public Footpaths running along the access to the site and along the north eastern boundary of the application site, therefore the site is visible from the public domain.
- 8.1.6 While it is considered that the proposed dwelling itself would not result in visual harm, the introduction of a domestic garden and hardstanding to form a large driveway would result in encroachment into the countryside and therefore result in harm to the character and appearance of the area.
- 8.1.7 The proposal is therefore considered contrary to Policy ENV 1 of the East Cambridgeshire Local Plan, 2015 and chapter 12 of the NPPF

8.2 Residential Amenity

- 8.2.1 Policy ENV2 of the East Cambridgeshire District Council's Local Plan 2015 requires that proposals ensure that there are no significantly detrimental effects on the residential amenity of nearby occupiers and that occupiers and users of new buildings, especially dwellings, enjoy high standards of amenity.
- 8.2.2 The only dwelling in close enough proximity to be potentially affected by the proposed dwelling is the farmhouse at Redtile Farm. When measuring the plans, the proposed dwelling is approximately 21.6 metres (70.8 ft) from the farmhouse which would be considered a sufficient distance to avoid any significant overbearing, overlooking or overshadowing impacts.
- 8.2.3 The proposal is therefore considered to comply with Policy ENV 2 of the East Cambridgeshire Local Plan, 2015 in respect of residential amenity.

8.3 Highway Safety and Parking

- 8.3.1 Policy COM 7 of the East Cambridgeshire Local Plan, 2015 states that development proposals shall provide a safe and convenient access to the highway network. The Local Highway Authority have been consulted as part of the application and have commented that they do not object to the proposal on the basis that the impacts on the public highway are no different to those considered under application 20/01389/ARN.
- 8.3.2 Policy COM 8 of the East Cambridgeshire Local Plan, 2015 states that development proposals should provide adequate levels of car and cycle parking in accordance with the Council's parking standards, which is two car parking spaces per dwelling.

Although no parking has been shown on the proposed block plan, it is considered that there would be ample space on site for vehicle parking and to provide cycle parking.

- 8.3.3 The County Council Definitive Map Team have been consulted as part of the proposal as there are two Public Footpaths; number 10 which runs along the access to the site and number 14 which runs to the west and north of the site. While the Definitive Map Team have no objections to the proposal, they have commented that the footpaths must remain open and unobstructed at all times.
- 8.3.4 The proposal is therefore considered to comply with Policies COM 7 and COM 8 of the East Cambridgeshire Local Plan, 2015.

8.4 Ecology

- 8.4.1 Policy ENV 7 of the East Cambridgeshire Local Plan, 2015 states that all applications for development that may affect biodiversity and geology interests must be accompanied by sufficient information to be determined by the Local Planning Authority, including an ecological report, to allow potential impacts and possible mitigation measures to be assessed fully. It also states that all development will be required to protect the biodiversity and geological value of land and buildings and minimise harm to or loss of environmental features, such as trees, hedgerows, woodland, wetland and ponds. Policy ENV 1 states that development proposals should protect, conserve and where possible enhance the pattern of distinctive historic and traditional landscape features such as watercourses, characteristic vegetation, individual and woodland trees, field patterns, hedgerows and walls and their function as ecological corridors for wildlife dispersal. Policy ENV 2 states that all development proposals will be expected to make efficient use of land while respecting the density, urban and village character, public spaces, landscape and biodiversity of the surrounding area.
- 8.4.2 The Council has adopted the Natural Environment SPD which states that all developments must result in biodiversity net gain.
- 8.4.3 An Ecological Impact Assessment has been submitted which has concluded that the site is of very limited wildlife value and the proposal will result in long term positive impacts as garden and landscape planting will replace the species poor habitats currently present. The proposed landscaping includes areas of species diverse grassland, rough grass, fruit trees and bushes.
- 8.4.4 A report and a biodiversity metric calculation have also been submitted to address Biodiversity Net Gain. This document demonstrates that a Net Gain of 253.89% is achievable on the site with the proposed landscaping scheme. This would include the planting of 3 new trees, 122sqm/1313sqft of wildflower planting, 50no gooseberry bushes, 946sqm/10182sqft of rough grassland.
- 8.4.5 The proposal is therefore considered to comply with Policies ENV 1, ENV 2 and ENV 7 of the East Cambridgeshire Local Plan, 2015 and Natural Environment SPD, 2020 and paragraph 180(d) of the NPPF.

8.5 Flood Risk and Drainage

- 8.5.1 Policy ENV 8 states that all developments and re-developments should contribute to an overall flood risk reduction. The sequential and exception test will be strictly applied across the district and new development should normally be located in flood zone 1; the application site is situated in flood zone 1 and therefore is considered to be acceptable.
- 8.5.2 The application site is in Flood Zone 1; however, it is in close proximity to ditches. The Environment Agency have been consulted as part of the application and have no formal comments to make but have advised the applicant that the site is located above a principal aquifer and therefore should address risks to controlled waters from contamination. This was done as part of the Phase I and Phase II investigations submitted under 20/01389/ARN; this will be addressed in the contaminated land section of this report.
- 8.5.3 The Internal Drainage Board initially commented that the application states that surface water will be disposed of via soakaways and provided that soakaways form an effective means of surface water disposal in this area, they would not object to the application. They also advised that if the proposed package treatment plant discharges into a watercourse, the consent of the Board is required. Following correspondence with the planning agent, they further commented: *'the agent for the scheme has confirmed that this application will use the surface water system that has previously been approved by the Board. Therefore, the Board has no objections to the application.'*
- 8.5.4 The plans also show the diversion of the existing ditch at the site. Although not recorded in their comments, the Internal Drainage Board have confirmed that the watercourse is not one of the Boards main drains and they issued a Byelaw consent for the diversion of the existing ditch and the installation of new culverts which was issued in June 2021 and therefore there is no objection to the planning application.

8.6 Contaminated Land

- 8.6.1 Policy ENV 9 states that all development should minimise and where possible reduce all emissions and other forms of pollution, including light and noise pollution and ensure no deterioration in air and water quality.
- 8.6.2 The Council's Scientific Officer has been consulted as part of the application and has commented that they have commented on and approved a previous contamination report for this site under application 20/01389/ARN and although that report covered an area of the site which is smaller than that for the current application, the Planning Design and Access Statement states that the development will be the same except for the rebuild element and therefore further site investigation is not required. The Scientific Officer has recommended that a condition for the reporting of unexpected contamination is attached to any grant of permission.
- 8.6.3 The proposal is therefore considered to comply with Policy ENV 9 of the East Cambridgeshire Local Plan, 2015.

8.7 Energy, water efficiency and renewable energy in construction

- 8.7.1 Local Plan Policy ENV4 states: *'All proposals for new development should aim for reduced or zero carbon development in accordance with the zero carbon hierarchy: first maximising energy efficiency and then incorporating renewable or low carbon energy sources on-site as far as practicable'* and *'Applicants will be required to demonstrate how they have considered maximising all aspects of sustainable design and construction.'* The adopted Climate Change SPD encourages all development to include sustainability measurements within their proposal. The Parish Council and both neighbours have commented on the sustainability measures of the proposal, however, with the exception of a mention in the planning statement of the building being environmentally friendly with modern insulation values, there are no measures put forward. However, it is considered that this would not result in a reason for refusal of the application.

8.8 Other Material Matters

- 8.8.1 The Council's Environmental Health Officer has been consulted as part of the application and have commented that they have previously commented at the site where they advised:

"Due to the location I have no issues to raise concerning the air source heat pump.

The Design and Access Statement advises that the dwelling will be on a working farm, with some of the barns and outbuildings remaining. As long as the remaining structures do not contain noisy mechanical plant (such as drying fans) I will have no concerns to raise as it would be expected that future occupiers will understand the context of the location with the associated seasonal noises and smells. However, the applicants should be advised that planning permission does not confer immunity from action under statutory nuisance. Either by local authority or a private individual.

- 8.8.2 In respect of the current application, they have commented that if the proposed dwelling is to be of the same footprint and in the same location as the Class Q barn conversion that the previous comments are still valid.
- 8.8.3 They have further advised that construction times and deliveries during the construction and demolition phases should be restricted and if ground piling is required then a method statement would need to be produced and be agreed in writing with the LPA. These can both be conditioned.
- 8.8.4 One of the neighbours has mentioned in their comments that the proposal is in line with the neighbourhood plan for Swaffham Bulbeck. The Swaffham Bulbeck Neighbourhood Plan is still in draft form and is therefore given limited weight in the determination of the application.

8.9 Planning Balance

- 8.9.1 The proposal seeks to erect a dwelling outside of the development envelope and within the countryside. The proposal does not fall within one the exception policies for GROWTH 2 and therefore is contrary to it. Furthermore, as the barn has been demolished, it cannot benefit from permitted development rights and there is no fall-

back position for a replacement dwelling. While the building itself is not considered to result in visual harm due to its similarities to the barn and the Class Q prior approval scheme, the proposal also includes a larger curtilage and the provision of a long driveway, both of which is considered to result in encroachment into the countryside.

8.9.2 It is considered that the application does comply with policy in respect of residential amenity, highway safety and parking, flood risk and drainage and contaminated land. However, these considerations do not outweigh the visual harm of the proposal nor that it is unacceptable in principle. The application is therefore recommended for refusal.

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:

- The site is outside of the development envelope and proposes a new dwelling in the countryside, contrary to Policy GROWTH 2;
- There has been a prior approval granted at the site, however the barn has been demolished and therefore the Class Q rights no longer exist and there is no longer a fall back position for a replacement dwelling.

10.0 APPENDICES

None

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
22/00431/FUL	Rachael Forbes Room No. 011 The Grange	Rachael Forbes Planning Officer 01353 665555
20/01389/ARN	Ely	rachael.forbes@eastcambs.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>