

**F/YR15/0134/O**

**Applicant: Showfields Ltd**

**Agent : Mr Mark Flood  
Insight Town Planning Ltd**

**Land North Of Whittlesey East Of, East Delph, Whittlesey, Cambridgeshire**

**Hybrid application: Outline application for the erection of 220 dwellings (max) with access, public open space and associated works/infrastructure. Full application for the engineering works associated with the formation of the vehicular access road off B1040 East Delph**

**Reason before Committee: This application is before committee due to the level of objection received from local residents and the views of the Town Council.**

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## **1 EXECUTIVE SUMMARY**

This site has been the subject of a previous appeal; the outline planning application for up to 249 dwellings with associated works (including land compensation works) (F/YR13/0714/O) was refused on the basis of there being insufficient information at that time in relation to: flood risk; landscape and highway safety matters. In the lead up to the Public Inquiry the Council withdrew, following the receipt of additional details, its objections in relation to highways and landscape matters and, therefore the appeal was contested by the Council solely on flood risk grounds.

The appeal proposals included some housing within the functional floodplain (Flood Zone 3b) was summarily dismissed in November 2014 on the basis that the appellants had not undertaken a sequential based assessment of other sites, at lower risk of flooding, where the housing could be located.

In response to the appeal the application has reduced the proposal to a maximum of 220 dwellings. The development is now within a hybrid form. It seeks full planning permission for engineering works in order to facilitate the vehicular access from the B1040 (East Delph) with outline planning permission, with all matters reserved except for the access, for up to 220 dwellings.

All of the proposed dwellings are situated within Flood Zone 1 and are therefore on land which is at the lowest risk of flooding. As part of the appeal the Council contended that the sequential approach is only engaged for housing that was not within Flood Zone 1; the Inspector agreed with this approach (see paragraph 21 of the appeal decision in Appendix A). The sequential approach is not therefore engaged for the purposes of this application.

The remaining planning considerations are, except for the access details on to East Delph and Teal Road, submitted in indicative form at this time. A series of planning conditions are considered necessary in order to ensure that any reserved matters submission adheres to the principles of the masterplan.

The access, traffic and transport considerations have been assessed in full by the County Council Highway Authority (LHA) and following additional information being provided the LHA is now satisfied with the proposal. In light of the LHA comments it is not considered that there are any severe impacts that would prevent the development from proceeding. This was the same approach adopted by the Council at the previous appeal (for 249 dwellings).

Other planning considerations have been assessed below and these are all considered to be acceptable subject to conditions.

Section 106 negotiations are ongoing and an update will be provided to Members in this regard.

In conclusion therefore, the previous scheme was contested by the Council at a Public Inquiry solely on one single ground, that being issues of flood risk. This was upheld at appeal. Having fully considered the technical data it is considered that this latest submission has fully addressed the previous reason for refusal and for this reason, having considered all the planning considerations associated with this new proposal, the development is considered to fully comply with the policies of the Local Plan and also with the NPPF and national guidance.

Accordingly, it is considered, subject to the planning conditions and the satisfactory conclusion of Section 106 negotiations that the proposal is acceptable and accordingly it is recommended that outline planning permission be granted.

Attached to this report are:

**Appendix A: Appeal Decision APP/D0515/A/14/2210915**

**Appendix B: Whittlesey Town Council response dated 7/4/15 to this application**

**Appendix C: Housing supply calculations**

**Appendix D: Flooding and Drainage response from the Council's consultants Peter Brett Associates LLP**

## **2 SITE DESCRIPTION**

The application site comprises a total area of 14.90 hectares. It lies to the north-east of Whittlesey, adjacent to the edge of the built settlement, which comprises fairly modern housing development focussed around Bassenhally (Teal Road/Otago Close) and East Delph (Hemmerly Drive/Viking Way/Wash Lane).

The northern site boundary in the main adjoins agricultural land, which extends northwards from the town into the Whittlesey (River Nene) Washes. The western site boundary adjoins two open fields (also owned by the applicant to the south of Wash Lane) and in the north-west corner an area of common land (which is mainly wooded) alongside the B1040.

There are a number small drains and ditches that run across the site in a northerly direction, towards the Whittlesey Washes. There are some mature hedgerows, with some large trees within them, which subdivide the site into separate fields. The majority of the site is unmanaged grassland. A mature hedgerow also defines the northern site boundary.

The site is roughly L-shaped and is currently vacant former agricultural land, with informal paths crossing it in various directions from the ends of Teal Road, Otago Road and Whiteacres. In the past this land has been used for temporary agricultural shows – hence its name “The Showfields” – although this use has not taken place for some time. The existing main access to The Showfields is gained from the B1040 East Delph.

### **3 PROPOSAL**

An outline planning application for 220 dwellings (maximum) has been submitted on this site. All matters, except for access, are being reserved for later approval

These will include:

- The layout of the site (although an illustrative masterplan has been submitted to indicate the amount of development, proposed uses and their locations and other development principles);
- The scale of buildings;
- Their appearance; and
- Landscaping.

Key elements of the scheme include:

- 220 dwellings located on 8.3 hectares of developable area on the site (approximately 27 dwellings per hectare);
- Informal open space facilities;
- An equipped play area, football pitch and allotments within a wider area of open space to the north-east of the residential area;
- A new link road to serve the development, extending from the existing highway end of Teal Road to the existing Showfields Access off the B1040;
- A pedestrian/cycle link into the site from the existing highway end of Otago Road.

The proposal also seeks full planning permission for engineering works in order to facilitate the vehicular access from the B1040 East Delph.

#### 4 SITE PLANNING HISTORY

F/YR15/0143/F	Change of use from agriculture to public amenity space (no operational development)	Pending consideration
F/YR13/0714/O	Erection of 249 no. dwellings with associated infrastructure vehicular and pedestrian access public open space and associated flood mitigation works	Refused 20/12/2013 and Dismissed on Appeal 18/11/2014
F/YR04/3036/F	Change of Use of Showground to a Sunday Market and Car Boot and stationing of portable lavatory unit for a period of two years	Refused 26/04/2004
F/YR02/2020/CW	Continued use of land for the storage processing and transfer of topsoil	Deemed Consent 04/02/2003
F/YR01/1100/O	Residential Development (16 ha)	Refused 16/10/2002
F/1420/89/F	Erection of 42 dwellings and garages	Withdrawn 04/06/2001
F/92/0249/O	Residential Development - 500 dwellings	Withdrawn 04/06/2001
F/92/0270/F	Construction of distributor road and associated roundabouts	Withdrawn 04/06/2001
F/YR00/0699/SCO	Screening opinion: Residential Development (12 ha)	Further Details Not Required 08/08/2000
F/97/0404/F	Continued use of land for the storage processing and transfer of topsoil	Granted 25/09/1997
F/96/0314/F	Use of land for car boot sale	Withdrawn – insufficient fee
F/92/0298/F	Use of land for the storage processing and transfer of topsoil	Granted 16/10/1992
F/92/0181/F	Change of use of Showground to car boot sale and market together with the stationing of 2 No.portable units and construction of roadway	Granted 22/07/1992
F/0276/89/F	Erection of a 4 bed house with integral double garage	Granted 06/08/1989

F/0113/85/F	Erection of 6 houses and 7 bungalows with garages	Refused 18/04/1985
F/0283/80/O	Erection of 12 detached houses with garages	Refused 22/07/1980
WU/68/75/O	The erection of dwellings	Refused 13/02/1969
OA/2124	Residential development	Refused 06/12/1964
OA/1285(1)	Use of land for residential purposes (Parcel No 2124)	Granted 27/07/1961
OA/1285(2)	Use of land for residential purposes (Parcel Nos 2128 & 2129)	Refused 27/07/1961

## 5 CONSULTATIONS

**Whittlesey Town Council:** Recommend refusal. Main issues are with regard to Whittlesey exceeding the housing target set out in the Local Plan, highway issues, flooding, biodiversity, and capacity of nearby primary schools, emergency services, and residents' concerns. See **Appendix B:** Town Council's full response. No further comments received on the revised details.

**Environment Agency:** Initial comments: pleased to note the key revision to the application and general intention to contain built development within flood zone 1. However, in the absence of an acceptable Flood Risk Assessment (FRA) object to the application.

Further comments: following a revised FRA remove objection on flood risk grounds subject to condition stating that the development shall be carried out in accordance with the approved Flood Risk Assessment (see condition 12 below for the full wording of this condition). Informative comments also made on surface and foul water drainage. Recommend a condition in respect of surface water drainage scheme for the site (see condition 13 below for the full wording of this condition).

**North Level IDB:** Further to the original response have met with the applicant where it was confirmed that the detailed drainage design will not utilise soakaways, with all surface water drainage via the open watercourses to attenuation lagoons. All other issues raised can be addressed in the new S106 agreement in the same manner they were in the original agreement. Care will need to be taken in producing the necessary conditions to satisfy these requirements; refer to condition 2 (surface water drainage scheme) as proposed by the Environment Agency in its response to the application.

**Anglian Water:** The foul drainage from this development is in the catchment of Whittlesey Water Recycling Centre that will have available capacity for these flows. Request a condition requiring the foul water strategy to be submitted and approved before development. The surface water strategy is not relevant to Anglian Water and is outside our jurisdiction for comment.

**CCC Highways:** Initial comments: submits a holding objection pending the provision of additional information. Revised information submitted and the LHA have withdrawn their objection on the basis that a number of planning conditions and S106 are included within any recommendation of approval.

**CCC – Economy, Transport & Environment:** The site falls within the designated Mineral Safeguarding Area for sand and gravel, this is to a minimal extent and therefore this Council has no objection to the proposed development. Recommend planning conditions to cover waste management, which will require a RECAP Waste Management Toolkit assessment to be submitted with the reserved matters application and for the development to maximise the re-use, recycling and recovery of inert waste stream, including construction waste.

**Natural England:** This application is in close proximity to the Nene Washes and Bassenhally Pit Sites of Special Scientific Interest (SSSI's). The Nene Washes SSI forms part of the Nene Washes Wetland of International Importance under the Ramsar Convention (Ramsar Site) and Special Protection Area. Advises that the proposal is not likely to have a significant effect on the interest features for the Nene Washes Ramsar and SPA has been classified. Advises that the Council is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives. In addition, are satisfied that the proposal as submitted will not damage or destroy the interest features for which the Nene Washes and Bassenhally Pit SSSI's have been notified and therefore advise that these SSSI's do not represent a constraint in determining this application. In respect of protected species, refer to standing advice.

**RSPB:** No objections. With regards to potential effects on nature conservation interests, the RSPB does not consider that any potential pressure from the proposal, would have a likely significant effect on the designated features of the Nene Washes SPA. The RSPB recommends that the detailed application presents a more detailed consideration of the potential effects and identifies appropriate mitigation to remove or reduce the significance of such effects, if required. Also recommend that the detailed application demonstrates how the green space and open space provisions of the proposal accord with relevant best practice guidance.

**Archaeologist (CCC):** Records indicate that the site lies in an area of high archaeological potential. Archaeological evaluations conducted on the site have revealed evidence of Iron Age and Romano-British occupation. Further to our advice given in September 2014 we recommend that an archaeological condition is required for this site in order to secure a programme of investigation on archaeological remains in advance of the proposed development. In this instance we recommend a phased condition, which will enable the developer to have areas of site released for construction during an ongoing post excavation programme.

**FDC Environmental Health Team:** Note and accept the submitted information and have no objections to the proposed development in principle, as it is unlikely to have a detrimental effect on local air quality or the noise climate. An initial study has shown that further investigations are needed with regard to potential ground contamination therefore the contaminated land condition needs to be added if permission is granted. Due to the size of the development a construction management plan is needed to ensure that the environmental effects (noise dust etc) during construction are mitigated and do not cause a nuisance to existing residents.

**Police Architectural Liaison Officer:** As on previous applications I still have reservations regarding the access from B1040 especially the need to close this road when flooding occurs. There have been numerous incidents of motorists ignoring the road closure of East Delph in times of flooding and consequently committing a crime of failing to comply with a lawful traffic sign. Indeed some motorists have removed barriers from across the road in order to drive through the flooded area. Some of the instances have resulted in motorists becoming stranded which can be a risk to life. Usually any closure needs to occur at a point equivalent to the highest flood level shown on the environmental agency maps which last year was at a point adjacent to the last house along East Delph. This will result in the access to the proposed site being shut off for vehicular and pedestrian traffic and increasing the traffic flows within Drybread Road leading to Otago Road, Teal Road and access to the site in question.

Having assessed the information provided by the applicant/applicant's agent I can inform you that whilst having reservations regarding access from East Delph in respect of traffic management when this road becomes flooded together with increased traffic around the area accessed by Drybread Road I have no comments to make at this present time concerning the proposal for residential development of the site in respect of crime prevention and fear of crime. I would however wish to be consulted further in respect of reserved matters applications, preferably by the architect prior to reserved matters application for this site being submitted, should outline approval be granted.

**Housing Strategy (FDC):** Policy LP5 of the Fenland Local Plan seeks 25% affordable housing on all development sites on which 10 or more dwellings are proposed. Therefore on this development where up to 220 dwellings are proposed I would anticipate the provision of 55 affordable dwellings on site subject to viability. In accordance with Local Plan Policy LP5, the mix of affordable tenures should be informed by and compatible with the latest government guidance and an up to date local Strategic Housing Market Assessment (SHMA). An affordable tenure mix of 70% affordable rented and 30% intermediate tenure is considered appropriate for this development. The applicant is proposing a mix of house types although the final mix will only be determined by a reserved matters application. I would expect an affordable housing mix to reflect the mix on the site overall but expect that the affordable homes will predominantly be 2 and 3 bedroom properties. In accordance with Policy LP5 of the Local Plan, all units should meet the lifetime homes standard where appropriate and viable. Ideally, all affordable housing should meet the Homes & Communities Agency's quality and design standards to ensure the homes can be included within a housing association's HCA framework delivery agreement.

**Cambridgeshire Fire & Rescue Service:** Request that adequate provision is made for fire hydrants, which may be secured by a planning condition.

**NHS:** No comments received within the consultation period.

**FDC Valuation & Estates Officer:** No comments received within the consultation period.

**CCC Growth & Economy:** Set out contribution requirements for pre-school, primary, secondary education, libraries and lifelong learning, strategic waste, and monitoring fee.

**National Planning Casework Unit:** Should the Committee be minded to approve the application the Secretary of State would wish to consider the application against his Call-in Policy as outline in the Written Ministerial Statement on Call-in dated 26 October 2012.

**Local Residents/Interested Parties:** 134 letters/emails of representation and objections received which may be summarised as follows:

- Issues with flooding; and this development exacerbating flooding issues
- The town cannot withstand additional developments; and waiting times for doctors and other health services.
- Additional pressure on local schools
- Additional traffic congestion, particularly the B1040 (and when this is closed during periods of flooding) and A605 roads as well as Teal Road which leads onto Drybread Road;
- Existing parking difficulties in the vicinity of Alderman Jacobs school particularly during morning and afternoon pick up times;
- Existing wildlife in the area would suffer and impact on the nearby SSSI and Ramsar sites;
- Whittlesey has almost met its required allocation of house building;
- Land abuts and affects existing Common land; and
- This application is identical to the planning application which was refused and dismissed on appeal last year.

A further 44 letters/emails of objections from 41 number of households received following re-consultation of revised access realignment for East Delph and revised Transport Assessment. In the main, objections are reiterated from those set out above. However, new concerns are summarised as follows:

- Revised plans do not address the traffic problems; and
- The relocation of the 30mph sign to reduce traffic speed will not work, as drivers will not take notice.

## 6 POLICY FRAMEWORK

### **National Planning Policy Framework (NPPF)**

Paragraph 2: Applications must be determined in accordance with the development plan unless other material considerations indicate otherwise

Paragraph 14: Presumption in favour of sustainable development.

Paragraph 17: Seek to ensure high quality design and a good standard of amenity for all existing and future occupants.



Paragraph 47: Supply of housing

Paragraph 64: Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Paragraphs 100-104: Development and flood risk.

Paragraph 109: Minimising impacts on biodiversity

Paragraphs 203-206: Planning conditions and obligations.

### **National Planning Policy Guidance (NPPG)**

Flood Risk and Coastal Change

Flood Zone and Flood Risk Tables

Housing and economic land availability assessment

### **Fenland Local Plan 2014**

LP1 – A Presumption in Favour of Sustainable Development

LP2 – Facilitating Health and Wellbeing of Fenland Residents

LP3 – Spatial Strategy, the Settlement Hierarchy and the Countryside

LP4 - Housing

LP5 – Meeting Housing Need

LP11 – Whittlesey

LP13 – Supporting and Mitigating the Impact of a Growing District

LP14 – Responding to Climate Change and Managing the risk of Flooding in Fenland

LP15 – Facilitating the creation of a More Sustainable Transport Network in Fenland

LP16 – Delivering and Protecting High Quality Environments across the District

LP17 – Community Safety

LP18 – The Historic Environment

LP19 – The Natural Environment

### **Cambridgeshire and Peterborough Minerals and Waste Development Plan 2011**

CS16 – Household Recycling Centres

CS28 – Waste Minimisation, Re-use, and Resource Recovery

## **7 KEY ISSUES**

- **Principle of Development (including Housing Supply)**
- **Whether the Proposed Development Would Cause Undue Harm to Flood Risk**
- **Highway safety and traffic generation**
- **Visual amenity and landscape impacts**
- **Ecology**
- **Archaeology**
- **S106 Planning Contributions**
- **Health and wellbeing**
- **Economic Growth**
- **Other matters**

## 8 BACKGROUND

This site was the subject of a previous appeal in relation to the refusal of outline planning permission by the Council for the erection of up to 249 dwellings together with associated works including land compensation works. That planning application (F/YR13/0714/O) was refused permission on a single ground which stated that there was insufficient information submitted at that time in respect of flood risk, landscaping and highway grounds. An appeal was lodged against the refusal of the application.

Following the submission of additional information leading up to the Public Inquiry this Council withdrew its grounds for objection on landscaping and highway grounds.

It is crucial to understand in the consideration of this application that the Council contested the appeal solely on the grounds of flood risk – the Council considered all the other aspects of the development were acceptable subject to appropriate control through Conditions and a legal agreement.

The appeal was dismissed on the basis that the appellant had failed to apply the sequential approach to flood risk in relation to the land on which housing was proposed in Flood Zone 3b.

This proposal seeks outline permission for up to 220 dwellings which, save for the access onto East Delph, only involves development on land which is within Flood Zone 1.

## 9 ASSESSMENT

### **Principle of Development (including Housing Supply)**

Paragraphs 10 to 12 of the appeal decision sets out the planning policy considerations pursuant to the principle of the development.

In essence the development is proposed on a site which satisfies Local Plan Policy LP4 inasmuch as it would constitute a small scale housing development (it being below 250 houses) whilst also being situated on the edge of the market town of Whittlesey.

The Town Council have made reference to the delivery of housing within the town within the life of the Local Plan thus far (housing projection is based from April 2011 despite the Local Plan being adopted in May 2014 and despite a month in 2011 not being expressly set out in the Local Plan). The Town Council suggest that 1,063 new homes have been approved since January 2011.

Officers have reviewed the planning permissions which have been issued since April 2011 and the amount of new residential units which have been approved and planned is calculated to be 816 in Whittlesey at this time. The full details on housing figures are provided at Appendix C of this report.

The remaining delivery required to achieve the 2031 Local Plan target (1,000 dwellings) is therefore 184 houses. The proposal would exceed this figure by 36 houses which amounts to 3.6% of the 1,000 dwelling target.

Overall the proposal would comply with Local Plan Policy LP4 inasmuch as it is located within an appropriate location on the edge of a market town and is of a scale which is considered small scale for the purposes of the Local Plan. Given that the housing targets are not expressed as minimum or maximum figures and that the development would exceed the housing target for Whittlesey by 36 houses (or 3.6% of the 1,000 houses target) it is not considered that a sufficient justification to refuse the application on this basis could be upheld at appeal.

Crucially, it is important to note that the previous scheme dismissed at appeal, proposed 249 houses which is 29 more than currently proposed. Housing numbers in the context of Policy LP4 were not objected to by the Council at that point and was not a reason why the appeal was dismissed. Accordingly, the principle of a development of this scale in this location was previously accepted and, for this reason, is therefore considered to be acceptable in principle, subject to the other planning considerations which are assessed below.

### **Assessment in Context of the Previous Appeal Issues**

As detailed above, the previous application was initially refused on the basis of there being insufficient information at that time in relation to: flood risk; landscape and highway safety matters. Whilst the issues of landscape and highway safety were subsequently agreed during the life of the appeal, and therefore, did not form part of the Council's case at the Appeal, concerns over the flood risk were maintained. The Council's concerns over flood risk were upheld by the Inspector and the appeal was dismissed. Accordingly, for this current proposal to be acceptable it must address the previous concerns raised within the Inspector's decision in respect of this matter. The assessment of the issue of flood risk is detailed below.

### **Whether the Proposed Development Would Cause Undue Harm to Flood Risk**

Unlike the previous application at this site, the proposal does not involve, save for the access onto East Delph, any operational development within any area of the site which is above Flood Zone 1 of the Environment Agency's mapping. All of the 220 houses would be capable of being accommodated within Flood Zone 1 (this would need to be the subject of a planning condition) and in accordance with the findings of the Council previously (and the Planning Inspector (see paragraph 21 of the appeal decision)) the sequential approach to site selection is not required for this application. This was in essence the main reason why the appeal was dismissed by the Planning Inspectorate.

It is noted that the areas of open space shown on the indicative site plan are located within Flood Zone 3b, however open space is classified in national planning guidance as 'water compatible development' and as such is considered permissible in such areas and accordingly a sequential test is not required to be applied.

The original Flood Risk Assessment (FRA) has been revised following objection from the Environment Agency (EA). The revised FRA is now considered acceptable and the EA have removed their objection on flood risk grounds subject to suitable planning conditions.

North Level IDB have met with the applicant, agent and their drainage engineer where it was confirmed that the detailed drainage scheme will not utilise soakaways, with all surface water draining via the open watercourses to attenuation lagoons (the final surface water drainage strategy will be the subject of a planning condition). North Level IDB also consider that all other issues can be addressed through a S106 agreement in the same manner to that agreed during the appeal, as well as through the necessary conditions proposed by the EA. This will mean that the provisions for future management and maintenance will be secured via the S106 agreement and the applicant covenants a payment for this purpose for the first 50 years.

The Council has retained a flood risk and drainage consultant to advise on this application. That consultant gave evidence at the Public Inquiry in relation to the previous appeal.

The advice from the Council's specialist consultant is that there are no technical or policy reasons to object to the proposals on flood risk grounds (Please see Appendix D for the full response). For this reason it is considered that the single point issue which resulted in the previous application being dismissed at appeal has now been fully addressed through the submission of this application and that the scheme is now considered to be fully in accord with Policy LP14 and the provisions of the NPPF.

### **Highway safety and traffic generation**

As noted previously the Council did not contest the previous appeal on highway grounds. Paragraph 36 of the Inspector's report does not particularly deal with this matter as it states that the failure of the appeal on flooding grounds led to it being considered unnecessary to consider this and other matters. Notwithstanding this however, the Council agreed to not object to the scheme at the appeal and therefore accepted that the proposal was acceptable from a highway perspective.

In assessing this application, the Council must therefore consider the material differences between the previously acceptable scheme and the one now currently before the Council.

Following an initial objection from the Local Highway Authority (LHA) the applicants have submitted further information. That information has been assessed by the LHA who have concluded that the revised information is acceptable and accordingly they have withdrawn their objection on the basis that a number of planning conditions and Section 106 Obligations are included within any planning approval.

It is acknowledged there are concerns locally with regard to traffic matters including parking at school times. The NPPF sets a 'severe' threshold over which proposals will be considered unacceptable. The Council relies upon the LHA in relation to this matter in order to consider matters including potential traffic congestion and analysis of accident data. Whilst it is understandable that local residents raise concerns, as clearly this proposal will create additional traffic, the 'severe' threshold as detailed within paragraph 32 of the NPPF is not considered to be breached.

A further concern is the potential rat running between the area locally known as the Birds Estate on to East Delph. As part of the LHA's response they have considered the safety of the East Delph junction together with appropriate junction capacity assessments. The indicative plan also shows details of potential speed reduction measures in order to make the potential rat running route less attractive to potential users. It is considered reasonable to condition a scheme for this as part of any reserved matters submission.

In conclusion, therefore it is important to recognise that the matter of highway safety had been satisfactorily addressed in the lead up to the Inquiry in relation to a larger application and that the Inspector did not consider that there was justification to sustain a reason for refusal on highway grounds. In relation to this application the issues of highway safety have again been carefully considered, and subject to the imposition of planning conditions, the proposal is considered to be acceptable having regard to the provisions of Policy LP15 and the NPPF.

### **Visual amenity and landscape impacts**

Again the issue of visual amenity and landscape impact was initially raised as a concern in relation to the previous application although, following submission of additional supporting information the Council did not contest the previous appeal on this basis.

Having regard to the above therefore, the principle of development in this location in terms of visual amenity and landscape impacts was previously accepted. In assessing this application, the Council must therefore consider the material differences between the previously acceptable scheme and the one now currently before the Council.

The proposal includes an indicative landscaping scheme in order to demonstrate that the development would be screened, where appropriate, from certain viewpoints. The development is of an appropriate density at 27 dwellings per hectare to the area.

The indicative development now includes sufficient details to be satisfied that the visual impacts (both in terms of amenity and wider landscape effects) are capable of being considered acceptable when these are fully assessed at the reserved matters stage.

For this reason the proposed development is considered to accord with the provisions of Policy LP16 and the NPPF in principle subject to this matter being carefully assessed at the reserved matters stage.

### **Ecology**

Again the Council did not contest this matter at the previous appeal. The application is supported by a Biodiversity Statement which has reviewed the previously submitted ecological assessment and presents the findings of the ecology survey undertaken in January this year.

As with the previous application Natural England and RSPB have not objected to the proposal on the basis of any ecological concerns.

It is acknowledged that the Town Council have raised concerns with the findings of the ecological report. However the submitted report follows best practice and was undertaken at an appropriate time of the year.

The matter was discussed at the Public Inquiry and the appeal decision does not include any criticism of the methodology or reports produced by the applicant. It is not considered that the proposal would result in any unacceptable impacts in this regard.

Nevertheless a planning condition is proposed to provide full details of an Ecological Mitigation and Enhancement Strategy based on up-to-date survey information prior to any development. Accordingly the proposal is considered to accord with Policy LP19 of the Local Plan in this regard.

### **Loss of Agricultural Land**

The Town Council have raised concerns regarding the use of some Grade 3a agricultural land (which, as stated in the Agricultural Land Classification Report, constitutes 3.25 hectares (23%) of the site). The remainder of the site is Grade 3b land and so is not deemed as the best and most versatile agricultural land for the purposes of paragraph 112 of the NPPF. The land does not appear to have been used for agricultural production for some time.

Importantly, loss of agricultural land was not raised as an objection by the Council in respect of the previous application and neither did it form a reason for the application being dismissed by the Planning Inspector. For this reason the principle of the development in this location, involving the loss of agricultural land has already been established.

The development will result in the permanent loss of 14.90 hectares of Grade 3a/3b agricultural land. In order to achieve the objectives of the Council's Local Plan policies it was always likely that the loss of such land would result. The amount of land being lost for agricultural purposes does not require any consultation with Natural England, as required by Schedule 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, as the threshold for such consultation is 20 hectares or more. Accordingly whilst the loss of 14.90 hectares of land is unfortunate, it is not, in this instance, considered unacceptable as the policy direction within the Local Plan would have required the use of sites at the periphery of the market towns and the amount of land being lost is not of a scale which requires consultation with Natural England.

Having regard to the above therefore the development is considered to accord with the provisions of Policy LP12 of the Fenland Local Plan 2014.

### **Archaeology**

A first phase of an archaeological evaluation has been undertaken at this site previously. The County Council have requested a condition in order to secure a programme of investigation on archaeological remains in advance of the proposed development. In this instance the County Council have recommended a phased condition, which will enable the developer to have areas of site released for construction during an ongoing post excavation programme.

Having regard to the above therefore the application is considered to fully accord with the provisions of Policy LP18 of the Fenland Local Plan 2014.

### **S106 Planning Contributions**

Discussions are ongoing with the agent regarding Section 106 requirements. The current Heads of Terms which the Council intends to seek are:

- i) 25% affordable housing;
- ii) Pre-school (£509,273), primary (£165,011) and secondary (£1,466,685) education contributions;
- iii) Libraries and Lifelong Learning at £23,166;
- iv) Public open space – a minimum of 3.36 hectares to be provided on site;
- v) Transport - £25,000 towards access improvements for pedestrians and cyclists at the A605/Cemetery Road/Blunts Lane roundabout, £500 towards the provision of cycle standards at key locations in the town centre, £9,000 towards the introduction of real time passenger information display at the Victory Avenue bus stop and maintenance and provision of seating within the bus shelter, £750 towards measures contained with the Alderman Jacobs Primary School Travel Plan and a Residential Travel Plan for the site itself;
- vi) Waste recycling at £1,457;
- vii) Drainage – North Level IDB to provide details of any sum requested by the IDB to be paid on adoption for the maintenance of the surface water drainage infrastructure forming part of the development for a period of 50 years;
- viii) Rail enhancements - £157,141.60 towards a new station car park in Whittlesey.

Having regard to the above therefore, the application is considered to fully accord with the provisions of Policies LP5 and LP13 of the Fenland Local Plan 2014 subject to the signing of an appropriate S106 agreement.

It should be noted that the public open space provision relates to this application site only – the parallel application (F/YR15/0143/F) is considered separately.

### **Health and wellbeing**

In accordance with Policy LP2 of the Local Plan development proposals should positively contribute to creating a healthy, safe and equitable living environment. In doing so development proposals, amongst other things, should create sufficient and the right mix of homes to meet people's needs, and in the right location. The scheme will deliver housing in a sustainable location with access to services, facilities and public transport links. A S106 agreement will be secured as part of the proposal to ensure that necessary infrastructure is provided alongside the development.

### **Economic Growth**

The proposal will boost the supply of housing as sought by Government through the NPPF. The development would provide a degree of local employment during construction of a site which is considered sustainable.

## **Other matters**

There is an undetermined application on the adjacent land for the change of use of that land from agriculture to public amenity space (F/YR15/0143/F) which is being considered by Members at this Planning Committee.

Whilst the Police Architectural Liaison Officer has not objected to the scheme they have raised concerns regarding access on East Delph in terms of flooding and subsequent increased traffic around Drybread Road. In terms of the issue of motorists failure to adhere to traffic restrictions this is a clearly a policing issue and to one which does not relate to planning. In terms of the concerns over increased traffic on Drybread Road, this is only associated with flooding events affecting the neighbouring highways and therefore is of a temporary nature. Moreover, this is a matter for the LHA to properly assess.

## **10 CONCLUSIONS**

This site was the subject of an appeal determined in November 2014 for the erection of 249 dwellings together with associated works. The Council contested the appeal on the basis of flood risk matters only and specifically the failure of the appellant to assess other sequentially preferable sites for the new housing which was proposed within Flood Zone 3b. As a result the appeal was dismissed on these grounds.

This current outline planning application seeks a smaller amount of development (a maximum of 220 dwellings) and in doing so the scheme no longer proposes the development of dwellings within Flood Zone 3b (indeed all of the housing is within the lowest area of flooding: Flood Zone 1). Therefore, the proposed development has addressed the single reason for refusal put forward in relation to the previous application.

In relation to the delivery of housing it is acknowledged that the development would, when considered with other extant planning permissions and planned housing within the Local Plan, exceed the 1,000 homes which are proposed for Whittlesey within the Local Plan. However this relates to an additional 36 dwellings (or 3.6% of the total target) and this is not considered to be of a scale which would undermine the policy approach to the development of the town. Furthermore the policy is not written in a manner which restricts development above the target.

It is important to also note that the previous application, which proposed more housing than is currently being applied for, did not raise housing numbers issues as a reason for refusal and neither did it form a reason why the appeal was dismissed. It is not therefore considered the proposal could be refused on this basis. The site is considered to be suitable with regard to the approach set out within Policy LP4 Part B of the Local Plan. The principle of the development of the site can therefore be supported.

The remaining planning considerations are, except for the access details on to East Delph and Teal Road, submitted in indicative form at this time. A series of planning conditions are considered necessary in order to ensure that any reserved matters submission adheres to the principles of the masterplan.



The access, traffic and transport considerations have been assessed in full by the LHA. Further information has been provided and this satisfies the LHA. Consultation is ongoing in relation to this matter with the Town Council and local residents and any updates will be reported to Members. In light of the LHA comments it is not considered that there are any severe impacts that would prevent the development from proceeding. This was the same approach adopted by the Council at the previous appeal (for 249 dwellings).

Other planning considerations have been assessed above and these are all considered to be acceptable subject to the imposition of appropriate conditions.

Section 106 negotiations are ongoing and an update will be provided to Members in this regard.

Overall, the proposal has addressed the previous reason for refusal and, therefore the development is considered to fully comply with the policies of the Local Plan and also with the NPPF and national guidance. Accordingly it is considered, subject to the planning conditions listed below and the satisfactory conclusion of Section 106 negotiations that the proposal is acceptable and accordingly it is recommended that outline planning permission be granted.

## 11 RECOMMENDATION

**Delegated authority to the Head of Planning in discussion with the Chair, Vice Chair and Ward Members to grant subject to:**

- i) The agreement and completion of a Section 106 obligation relating to affordable housing, open space, education, library provision, rail enhancement, transport, waste and drainage.**
- ii) Conditions listed below**
- iii) Referral to the Secretary of State if required.**

**Or**

**Delegated authority to REFUSE in the event that the applicant is unwilling to enter into the Section 106 obligation within a period of 4 months.**

Conditions relating to the Outline Application

1.	Approval of the details of: <ul style="list-style-type: none"><li>i. the layout of the site;</li><li>ii. the scale of the building(s);</li><li>iii. the external appearance of the building(s);</li><li>iv. the landscaping</li></ul> (hereinafter called "the Reserved Matters" shall be obtained from the Local Planning Authority prior to the commencement of development).
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	Reason - To enable the Local Planning Authority to control the details of the development hereby permitted.
2.	<p>Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.</p> <p>Reason - To ensure compliance with Section 92 of the Town and Country Planning Act 1990.</p>
3.	<p>The development hereby permitted shall begin before the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.</p> <p>Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
4.	<p>The East Delph site access junction shall be completed in accordance with the approved plan prior to commencement of the development. The works shall thereafter be completed in accordance with the approved details and programme.</p> <p>Reason – In the interests of highway safety and to ensure that the appropriate infrastructure is provided in a timely manner in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
5.	<p>Full detail design drawings and a programme of implementation for the Teal Road site access junction and Otago Road pedestrian and cycle access shall form part of the future reserved matters submission. The works shall thereafter be completed in accordance with the approved details and programme.</p> <p>Reason – In the interests of highway safety and to ensure that the appropriate infrastructure is provided in a timely manner in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
6.	<p>The reserved matters shall include traffic calming measures to control vehicle speeds as part of the design, layout and construction details of any principal highway within the development linking Teal Road and East Delph; and the traffic calming measures shall be fully implemented and retained thereafter.</p> <p>Reason – In the interests of highway safety in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
7.	<p>No development shall take place until details of Flood Warning Signs to be located to the south of the East Delph site access have been submitted to, and approved in writing by, the Local Planning Authority. The works shall thereafter be completed in accordance with the agreed details and programme.</p> <p>Reason – In the interests of highway safety in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
8.	<p>Prior to the commencement of the development hereby approved a scheme and timetable to deal with contamination of land and/or groundwater shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall then be implemented on site in accordance with the</p>

	<p>approved timetable.</p> <p>The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:</p> <p>a) A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. This should include a conceptual model, and pollutant linkage assessment for the site. Two full copies of the desk-top study and a non-technical summary shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>IF during development any previously unsuspected contamination is discovered then the Local Planning Authority must be informed immediately. A contingency plan for this situation must be in place and submitted with the desk study. If a desk study indicates that further information will be required to grant permission then the applicant must provide, to the Local Planning Authority:</p> <p>b) A site investigation and recognised risk assessment carried out by a competent person, to fully and effectively characterise the nature and extent of any land and/or groundwater contamination, and its implications. The site investigation shall not be commenced until:</p> <p>(i) A desk-top study has been completed, satisfying the requirements of paragraph (a) above.</p> <p>(ii) The requirements of the Local Planning Authority for site investigations have been fully established, and</p> <p>(iii) The extent and methodology have been submitted to and approved in writing by the Local Planning Authority. Two full copies of a report on the completed site investigation shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>Following written LPA approval of the Site Investigation the LPA will require:</p> <p>c) A written method statement for the remediation of land and/or groundwater contamination affecting the site. This shall be based upon the findings of the site investigation and results of the risk assessment. No deviation shall be made from this scheme without the express written agreement of the Local Planning Authority.</p> <p>d) The provision of two full copies of a completion report confirming the objectives, methods, results and conclusions of all remediation works, together with any requirements for longer-term monitoring proposals shall be submitted to and approved in writing by the Local Planning Authority. This should also include any contingency arrangements.</p> <p>Reason - To control pollution of land or water in the interests of the environment and public safety and in accordance with Policy LP16 of the Local Plan.</p>
9.	<p>No development shall take place within the area indicated (this would be the area of archaeological interest) 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. This written scheme will include the following components,</p>

	<p>completion of each of which will trigger the phased discharging of the condition:</p> <p>(i) Approval of a Written Scheme of Investigation;</p> <p>(ii) Fieldwork in accordance with the agreed Written Scheme of Investigation;</p> <p>(iii) Completion of a Post-Excavation Assessment report and approval of an approved Updated Project Design: to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority;</p> <p>(iv) Completion of analysis, preparation of site archive ready for deposition at a store approved by the Planning Authority, production of an archive report, and submission of a publication report: to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority.</p> <p>Reason – To secure the provision of the investigation and recording of archaeological remains and the reporting and dissemination of the results in accordance with Policy LP19 of the Fenland Local Plan Adopted May 2014.</p>
10.	<p>The details submitted in accordance with condition 1 of this permission shall include:</p> <p>a) An Arboricultural Impact Assessment in accordance with BS5837: 2012 and an Arboricultural Method Statement for the protection of trees and hedges during construction; and</p> <p>b) A landscape scheme which shall include:</p> <p>i) a plan(s) showing the planting layout of proposed tree, hedge, shrub and grass areas;</p> <p>ii) a schedule of proposed planting – indicating species, size at time of planting and numbers/densities of plants;</p> <p>iii) a written specification for root barriers and other measures to be used to ensure new planting, and retained trees and hedges are protected from damage before and during the course of development;</p> <p>iv) proposed finished levels or contours;</p> <p>v) means of enclosure and boundary treatments; and</p> <p>vi) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.</p> <p>Reason – To ensure the appearance of the development is satisfactory and that it contributes to the visual character and amenity of the area and to protect the character of the site and in accordance with Policy LP16 of the Local Plan.</p>

11.	<p>No development shall take place until full details of an Ecological Mitigation and Enhancement Strategy based on up-to-date survey information is submitted to and approved in writing by the Local Planning Authority. The details shall include:</p> <ul style="list-style-type: none"> <li>i) updated ecological surveys including a dedicated bat survey;</li> <li>ii) a review of the site's ecological constraints and potential;</li> <li>iii) a description of target habitats and range of species appropriate for the site;</li> <li>iv) extent and location of proposed works;</li> <li>v) details of precautionary and protection measures to ensure protected species and retained habitats are not harmed during and after construction;</li> <li>vi) appropriate strategies for creating/restoring target habitats or introducing target species;</li> <li>vii) method statement for site preparation and establishment of target features;</li> <li>viii) sources of habitat materials (e.g. plant stock); and</li> <li>ix) timing of the works.</li> </ul> <p>The Ecological Mitigation and Enhancement Strategy shall be implemented in accordance with the approved details..</p> <p>Reason – To protect the habitats of protected species in accordance with Policy LP19 of the Fenland Local Plan Adopted May 2014.</p>
12.	<p>The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (JPP Consulting R-FRA-P5617T-08 issue 7, April 2015) and the following mitigation measures detailed within the FRA:</p> <ol style="list-style-type: none"> <li>1. Limiting the surface water run-off generated by the 1% plus climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site as set out in Section 5 of the FRA.</li> <li>2. No built development, other than the access road, below the 5m contour shown on drawings FRA02, Rev E and the Showfields, Whittlesey Revised Masterplan September 2014, Plan 5.</li> <li>3. Provision of compensatory flood storage as set out on Section 4.10.2 of the FRA and shown on drawings FRA13 Rev A.</li> <li>4. Finished floor levels are to be set no lower than 5.3m above Ordnance Datum (AOD). The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.</li> </ol> <p>Reason: 1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.  2. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.  3. To reduce the risk of flooding to the proposed development and future occupants and in accordance with Policy LP14 of the Local Plan.</p>

13.	<p>No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1% plus climate change allowance critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.</p> <p>The scheme shall also include:</p> <ul style="list-style-type: none"> <li>• Appropriate mitigation arrangements in the event the surface water drainage system is flood locked when Whittlesey Washes are in use and avoidance of pumping at other times</li> <li>• Consideration of overland flow routes (“Designing for Exceedance”)</li> <li>• Accommodation of the existing network of drains and ditches on the site to ensure that existing development continues to drain effectively</li> <li>• Details of how the scheme shall be maintained and managed after completion</li> </ul> <p>Reason - To prevent the increased risk of flooding on and off the site and in accordance with Policy LP14 of the Local Plan.</p>
14.	<p>Prior to the commencement of any development, a scheme and timetable for the provision and implementation of foul water drainage shall be submitted and approved in writing by the Local Planning Authority. The works/scheme shall be constructed and completed in accordance with the approved plans/specification at such time(s) as may be specified in the approved scheme and thereafter retained in perpetuity.</p> <p>Reason - To prevent environmental and amenity problems arising from flooding and in accordance with Policy LP14 of the Local Plan.</p>
15.	<p>Prior to the commencement of the development a scheme and timetable for the provision of fire hydrants to serve the development shall be submitted to, and agreed in writing by, the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme before any dwelling is occupied.</p> <p>Reason - To ensure a satisfactory form of development and in accordance with Policy LP16 of the Local Plan.</p>
16.	<p>Prior to the commencement of development or any reserved matters approval, a site wide Construction Environmental Management Plan (CEMP), shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall accord with and give effect to the waste management principles set out in the adopted Cambridgeshire &amp; Peterborough Minerals and Waste Core Strategy (2011) and Waste Hierarchy when completed. The CEMP shall include the consideration of the following aspects of construction:</p> <ol style="list-style-type: none"> <li>a) Site wide construction and phasing programme</li> <li>b) Contractors’ access arrangements for vehicles, plant and personnel including the location of construction traffic routes to, from and within the site, details of their signing, monitoring and enforcement measures, along with location of</li> </ol>

	<p>parking for contractors and construction workers</p> <p>c) Construction hours</p> <p>d) Delivery times for construction purposes</p> <p>e) Soil Management Strategy including a method statement for the stripping of top soil for reuse; the raising of land levels (if required); and arrangements (including height and location of stockpiles) for temporary topsoil and subsoil storage to BS3883:2007</p> <p>f) Noise monitoring method including location, duration, frequency and reporting of results to the LPA in accordance with the provisions of BS 5228 (1997)</p> <p>g) Maximum noise mitigation levels for construction equipment, plant and vehicles</p> <p>h) Vibration monitoring method including location, duration, frequency and reporting of results to the LPA in accordance with the provisions of BS 5228 (1997)</p> <p>i) Setting maximum vibration levels at sensitive receptors</p> <p>j) Dust management and wheel washing measures to prevent the deposition of debris on the highway</p> <p>k) Site lighting</p> <p>l) Drainage control measures including the use of settling tanks, oil interceptors and bunds</p> <p>m) Screening and hoarding details</p> <p>n) Access and protection arrangements around the site for pedestrians, cyclists and other road users</p> <p>o) Procedures for interference with public highways, (including public rights of way), permanent and temporary realignment, diversions and road closures.</p> <p>p) External safety and information signing and notices</p> <p>q) Liaison, consultation and publicity arrangements including dedicated points of contact</p> <p>r) Consideration of sensitive receptors</p> <p>s) Prior notice and agreement procedures for works outside agreed limits</p> <p>t) Complaints procedures, including complaints response procedures</p> <p>Membership of the Considerate Contractors Scheme</p> <p>u) Location of Contractors compound and method of moving materials, plant and equipment around the site</p> <p>The Construction Environmental Management Plan shall be implemented in accordance with the agreed details, unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason: To ensure the environmental impact of the construction of the development is adequately mitigated and in the interests of the amenity of nearby residents/occupiers in accordance with Policy LP16 of the Fenland Local Plan and to comply with Guidance for Local Planning Authorities on Implementing Planning Requirements of the European Union Waste Framework Directive (2008/98/EC), Department for Communities and Local Government, December 2012.</p>
17.	<p>Prior to the commencement of development or any reserved matters approval, a Detailed Waste Management and Minimisation Plan (DWMMP) shall be submitted to and approved in writing by the Local Planning Authority. The DWMMP shall include details of:</p> <p>a) Construction waste infrastructure including a construction material recycling facility to be in place during all phases of construction</p>

	<p>b) anticipated nature and volumes of waste and measures to ensure the maximisation of the reuse of waste.</p> <p>c) measures and protocols to ensure effective segregation of waste at source including waste sorting, storage, recovery and recycling facilities to ensure the maximisation of waste materials both for use within and outside the site.</p> <p>d) any other steps to ensure the minimisation of waste during construction</p> <p>e) the location and timing of provision of facilities pursuant to criteria a/b/c/d.</p> <p>f) proposed monitoring and timing of submission of monitoring reports.</p> <p>g) the proposed timing of submission of a Waste Management Closure Report to demonstrate the effective implementation, management and monitoring of construction waste during the construction lifetime of the development.</p> <p>h) a RECAP Waste Management Guide toolkit shall be completed, with supporting reference material</p> <p>i) proposals for the management of municipal waste generated during the occupation phase of the development, to include the design and provision of permanent facilities e.g. internal and external segregation and storage of recyclables, non-recyclables and compostable material; access to storage and collection points by users and waste collection vehicles</p> <p>The Detailed Waste Management and Minimisation Plan shall be implemented in accordance with the agreed details, unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason: In the interests of maximising waste re-use and recycling opportunities; and to comply with policy CS28 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (2011) and the Recycling in Cambridgeshire and Peterborough (RECAP) Waste Design Guide 2012; and to comply with Guidance for Local Planning Authorities on Implementing Planning Requirements of the European Union Waste Framework Directive (2008/98/EC), Department for Communities and Local Government, December 2012.</p>
18.	<p>The development hereby permitted shall be carried out in accordance with the following approved plans and associated documents:</p> <ul style="list-style-type: none"> <li>- Application forms dated 19 February 2015 and 26 February 2015</li> <li>- Location Plan (titled Extended Masterplan February 2015) dated 19 February 2015</li> </ul> <p>Reason – In the interests of proper planning and for the avoidance of doubt.</p>
19.	Approved plans
	<b>Informative</b>
1	<p>The details supplied in respect of conditions 4 and 5 shall be suitable for the submission of a Stage 2 Road Safety Audit and it is recommended that the applicant engage with the Local Highway Authority in this regard.</p>



**Conditions relating to the full application pertaining to the formation of the vehicular access road off B1040 East Delph**

1.	<p>The development permitted shall be begun before the expiration of 3 years from the date of this permission.</p> <p>Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
2.	<p>Prior to the first occupation of each dwelling the roads and footways linking the dwelling to the adopted highway shall be constructed to at least binder course level in accordance with a detailed scheme to be approved in writing by the Local Planning Authority and such a scheme shall include levels, forms of construction, street lighting systems and surface water drainage.</p> <p>Reason - In the interests of highway safety and to ensure the appropriate infrastructure is provided in a timely manner in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
3.	<p>No part of any structure shall overhang or encroach under or upon the public highway and no gate/door/ground floor window shall open outwards over the public highway.</p> <p>Reason - In the interests of highway safety in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
4.	<p>The proposed new highway boundary(ies) shall be marked out on site prior to commencement of construction of any part of the development fronting the highway.</p> <p>Reason - To prevent any building being constructed within the proposed highway boundary in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
5.	<p>The gradient of any vehicular access shall not exceed 1:12 for a minimum distance of 5.0m into the site as measured from the near edge of the highway carriageway.</p> <p>Reason - In the interests of highway safety and in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
6.	<p>Prior to the first occupation of any dwelling within the development the vehicular access to that dwelling where it crosses the public highway shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification.</p> <p>Reason - In the interests of highway safety and to ensure satisfactory access into the site in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
7.	<p>Prior to first occupation of the development, a Travel Plan (to include proposals for the appointment of a Travel Plan Co-Ordinator) shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan should include the following elements:</p> <ul style="list-style-type: none"> <li>• Distribution of 'Household Travel Packs', to all residents on first occupation</li> </ul>










	<ul style="list-style-type: none"> <li>• New residents invited to travel induction sessions</li> <li>• New residents offered personalised travel plans and advice by the Travel Plan Coordinator</li> <li>• Provision of a community travel web site and e-notice boards by the Travel Plan Coordinator updated as necessary</li> <li>• Establish “Bus Buddy” database to encourage public transport usage</li> <li>• Establish adult cycle training classes, to improve cycle proficiency and to raise awareness on basic cycle repair and maintenance</li> <li>• Establish walking and cycling buddy schemes.</li> <li>• Establish site wide car share database</li> <li>• Provision of regular updated travel information by the Travel Plan Coordinator</li> <li>• Promotion and awareness raising packages by the Travel Plan Coordinator</li> <li>• Coordination of appropriate reviews and monitoring of the success of the Travel Plan with CCC Highway Authority</li> <li>• Promotion and awareness raising packages by the Travel Plan Coordinator</li> </ul> <p>The Travel Plan shall be implemented as approved.</p> <p>Reason - In the interests of maintaining highway efficiency and safety in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
8.	<p>No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:</p> <ol style="list-style-type: none"> <li>i. the parking of vehicles of site operatives and visitors</li> <li>ii. loading and unloading of plant and materials</li> <li>iii. storage of plant and materials used in constructing the development</li> <li>iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate</li> <li>v. wheel washing facilities</li> <li>vi. measures to control the emission of dust and dirt during construction</li> <li>vii. a scheme for recycling/disposing of waste resulting from construction works</li> </ol> <p>Reason - In order to avoid hazard and obstruction being caused to users of the public highway and in the interest of public safety and amenity in accordance with Policy LP15 of the Fenland Local Plan 2014.</p>

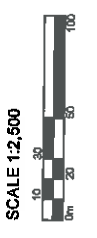
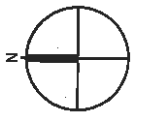
#### **LIST OF APPENDICES FOR F/YR15/0134/O**

<b>APPENDIX A</b>	<b>Appeal Decision APP/D0515/A/14/2210915</b>
<b>APPENDIX B</b>	<b>Whittlesey Town Council response to this application</b>
<b>APPENDIX C</b>	<b>Housing supply calculations</b>
<b>APPENDIX D</b>	<b>Flooding and Drainage response from the Council’s consultants Peter Brett Associates LLP</b>

**The Showfields, Whittlesey  
Illustrative Masterplan  
January 2015**

**Key**

-  Existing Vegetation Retainer
-  Proposed Vegetation
-  Proposed Access
-  Proposed Vehicular / Pedestrian Circulation
-  Structure Nodes
-  Street Space
-  Proposed Public Open Space
-  Proposed SUDs / Lakes
-  Potential Community Use





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## Appeal Decision

Inquiry held on 23-26 September 2014

Site visit made on 26 September 2014

**by Christina Downes BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 18 November 2014**

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**Appeal Ref: APP/D0515/A/14/2210915**

**Land east of East Delph, Whittlesey, Cambridgeshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Showfields Ltd against the decision of Fenland District Council.
  - The application Ref F/YR13/0714/O, dated 19 August 2013, was refused by notice dated 20 December 2013.
  - The development proposed is erection of up to 249 dwellings with associated infrastructure, vehicular and pedestrian access, public open space and associated land compensation works.
- 

### Decision

1. For the reasons given below, the appeal is dismissed.

### Procedural Matters

#### *The nature of the application*

2. The application was made in outline with all matters reserved for future consideration. It was however accompanied by an Indicative Masterplan (Plan A/1), which indicated the land proposed for housing development and the area proposed for open space and a play area. The land within the application site further to the east was proposed for the flood compensation works. This is particularly relevant in this case because much of the application site is in Flood Zone 3b (functional floodplain). Without the Indicative Masterplan housing development could take place anywhere on the application site. This is not the Appellant's intention so, in this case, the Indicative Masterplan, whilst illustrative, assumes a considerable degree of importance.
3. The Council's reason for refusal alleged that there was insufficient information to demonstrate that the scheme could be accommodated without detriment to three matters. Following the submission of further information the Council was satisfied that the concerns regarding landscape impact and highway safety had been satisfactorily addressed.
4. Whilst access is a reserved matter, the application was accompanied by an indicative access layout showing a "T" junction with East Delph. The Indicative Masterplan also shows access from this road with a secondary access from Teal Road. The removal of the Council's objection to highway matters came as a

result of detailed discussions with Cambridgeshire County Council as Highway Authority and it is clear that these were based on the main point of access being from East Delph. I am not aware that any of the discussions proposed access solely from one of the roads to the south. It is not unreasonable in the circumstances of this case to surmise that the main access would be from East Delph in roughly the position shown on the Indicative Masterplan.

5. The Showfields Action Group (SAG) were given Rule 6 status at the Inquiry and fully participated in the proceedings. An evening session of the Inquiry was also held in Whittlesey to allow local people to come and give their views.

### **My Ruling**

6. At the Inquiry the Appellant requested that I make a Ruling on a proposed amendment to the scheme as shown on the Revised Masterplan (Plan B). This was accompanied by an associated planning condition, which had been included in one of the proofs of evidence. The Appellant argued that the change would accord with the *Wheatcroft* principles<sup>1</sup> in that the red line of the application site and the description of the development would remain the same. The difference would be a reduced development area with all housing at or above 5 metres AOD<sup>2</sup>. This would negate the requirement for land compensation works other than in respect of the access road. The Council and the Rule 6 Party objected to this revision on the basis that it would significantly change the nature of the scheme. The land compensation works were considered to be an integral part of the application considered by the Council. Also there was objection to it being introduced late in the day without public consultation, raising the issue of potential prejudice and unfairness.
7. My Ruling took account of the Planning Inspectorate's *Good Practice Advice Note 09*, which advises on accepting amendments to schemes at appeal stage. It also paid careful regard to the *Wheatcroft* principles referred to above. The land compensation proposals would involve the raising of part of the site to bring it above the 5 metre AOD contour. It would be lowered in the eastern part of the site to compensate for the loss of flood storage within the functional floodplain. The application description and the Appellant's representations at appeal stage made clear that this element was "integral" to the proposal as a whole.
8. Although the overall site area would not change the outcome would be that a similar number of houses could be accommodated on a smaller area of land. This is because the application is for "up to" 249 dwellings and therefore the maximum number could be built. Such an increase in density may have implications for residential amenity and landscape impact, for example, which no-one has had a chance to consider. I considered that within the context of this particular proposal the change that I was being asked to accept would be a significant one. Furthermore there would be the potential for unfairness to both the Council and third parties because it had been introduced late in the day without any consultation with anyone. My Ruling was that the amendment should not be accepted and my decision is based on the originally submitted scheme on which the Council made its decision. This was accepted by the parties and the Inquiry proceeded on this basis.

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<sup>1</sup> Bernard Wheatcroft v Secretary of State for the Environment.

<sup>2</sup> The 5 metre AOD contour is used by the Environment Agency to define the limit of the functional floodplain (Zone 3b).

## Reasons

### **Background and Policy Context**

9. The appeal site is on the northern side of Whittlesey and presently comprises a number of fields separated by tall native hedgerows. It is about 18.45 hectares in extent and has a varied topography which, notwithstanding local undulations, slopes down in a northerly direction towards the River Nene. Immediately to the south the site is bordered by residential properties, including those within the area locally known as the Birds Estate.
10. The overarching strategy in Policy LP1 of the recently adopted *Fenland Local Plan* (the LP) (May 2014) is to deliver sustainable growth. Policy LP3 sets out the spatial strategy which seeks to place the majority of new housing within 4 market towns, one of which is Whittlesey. Policy LP4 establishes an approximate target for the town of 1,000 homes, to be delivered between 2011 and 2031. The policy goes on to set out the criteria for assessing housing proposals. Large scale developments, which are defined as being 250 dwellings or more, are directed to the broad locations for sustainable growth. In the case of Whittlesey this is on the eastern side of the town under Policy LP11.
11. Policy LP4 indicates that small scale housing proposals below 250 dwellings, which would include the appeal scheme, are not confined to land within a settlement boundary but rather the LP applies a flexible approach to potential housing sites. In the case of Whittlesey it indicates that 350 dwellings are expected to come forward in this way. It goes on to say that such sites are expected to include the remaining allocations from the former *Fenland District Wide Local Plan* (1993). One such allocation was land on the northern side of Whittlesey, which included the appeal site and was enclosed by a new by-pass. This road was never built and it is unclear from the Proposals Map to what extent the allocation included land which is part of the functional floodplain.
12. In the case of small scale housing proposals within or on the edge of the market towns Policy LP4 directs the decision maker specifically to Policy LP16. This includes a large number of provisions which seek to deliver high quality environments across the district. There is no evidence that the appeal scheme, which is in outline form, would conflict with this policy. However it is also necessary to consider the proposal in terms of all relevant policies in the LP, including those dealing with flood risk. Policy LP11 for example, which relates specifically to Whittlesey, indicates that development proposals, especially to the north of the town, should have particular regard to all forms of flood risk.

### **Main Issue: Whether the Proposed Development Would Cause Undue Harm to Flood Risk**

13. Policy LP14 includes provisions relating to flood risk and makes clear that all development proposals should adopt a sequential approach. This accords with the National Planning Policy Framework (the Framework) as would be expected with a recently adopted local plan. It must however first be considered whether the appeal site is within an area of flood risk. As has already been mentioned, much of it is below the 5 metre AOD contour, which the Environment Agency (EA) treat as the boundary of the functional floodplain.



14. The Nene Washes are an area of low lying land to the south of the River Nene. They play an important role in the defence of towns such as Peterborough from flooding. The Dog-in-a-Doublet sluice is immediately to the north of Whittlesey and is at the limit of the tidal river. At times of high tide it can be closed to upstream river flows and levels can be kept below 4.3 metres AOD thus avoiding over-topping Cradge Bank on the southern side of the river. High flows upstream can be diverted into Morton's Leam via the Stanground Sluice and if necessary the water spills out onto the Washes and is contained to the south by either the South Bank or the natural topography and to the north by Cradge Bank. Generally speaking in such circumstances the water levels would remain below 4.3 metres AOD.
15. That the Washes do their job is illustrated by photographs and a booklet provided by local residents and entitled "*Whittlesey in Flood 2012-2013*". It is clear that extensive areas flood to the north of the town and it is understandable that local people are very worried about any development within this area that may compromise the proper working of the flood defence system.
16. Flooding above 4.3 metres AOD may happen with more intense weather events, for example when a prolonged series of high tides coincides with high rainfall or snow melt. Such events were described in the Statements of Common Ground as "extreme" or "very extreme". In such circumstances it may not be possible to manage the levels as described above and the water could rise to over-top Cradge Bank. The EA has determined that the 5 metre AOD contour defines the extent of the flood storage area. There was a considerable amount of debate at the Inquiry about the actual risk of a flood reaching this point. The highest water level recorded in the Nene Washes was in the 1947 flood where it rose to 4.82 metres AOD at Stanground Sluice. In 1998 the peak at Whittlesey was 3.94 metres AOD.
17. The likelihood of an extreme event occurring is difficult to assess because there are many different hydrological scenarios, each with its own probability and this results in a complex statistical analysis. It is however a reasonable proposition that extreme events will become more likely in the future with climate change. The Appellant's expert witness estimated that a rise in flood levels to the 5 metre AOD mark, taking account of climate change, would increase the annual probability to around 1 in 800 years, although it was emphasised that this was a judgement based on experience. Such an event would necessitate very high tides and rainfall to coincide over a prolonged period.
18. The EA has indicated that with climate change there is a 1 in 100 year annual probability of a maximum water level of 4.57 metre AOD occurring at various nodal points along Morton's Leam to the north of Whittlesey, taking account of climate change. However it seems a reasonable assumption that the 5 metre level representing the edge of the functional floodplain includes some allowance for wave action. This has shown to be a feature of local flooding as evidenced by the DVD provided by local flood wardens. There may also be an allowance for surge tides, which would suggest that the limits of the floodplain have been set by the EA taking a precautionary approach. This seems entirely reasonable in view of the many variables involved.

19. Although the appeal site extends to over 18 hectares, a large part of it would be used for either open space, playing fields or land compensation works. The latter would entail the ground being lowered in order to balance the raising of the development platform on which the houses and access road would be built. In the Government's Planning Practice Guidance (the PPG) dwelling houses are classed as "more vulnerable" development and would not be appropriate in Flood Zone 3 unless a sequential test and an exception test had been passed. Following the mitigation works all of the houses would stand on land above 5 metres AOD and thus in Flood Zone 1, which would have less than a 1 in 1,000 annual probability of flooding and is considered by the EA to be suitable for housing development in this case.
20. The EA has agreed that overall there would be no net reduction in the flood storage area and the capacity of the functional floodplain would not be diminished. In short, the level-for-level compensation works would ensure that flood risk would not be increased. In technical terms the EA is satisfied with the proposal and has raised no objections in this respect. It was agreed, as a result of more detailed topographical survey work, that the land raising would result in about 13% of the application site being taken out of the functional floodplain.
21. The main difference between the parties is whether the failure to undertake a sequential test is fundamental to the acceptability of the appeal scheme in terms of flood risk. SAG and the Council both consider that the sequential test should be applied to all land that is within Zone 3b prior to mitigation. There was a slight difference in approach because SAG believed that the site as a whole should be tested whereas the Council considered it should just be the proposed area for housing. I am inclined towards the Council's view because the PPG classes open space, playing fields and compensation works as "water compatible development" for which the sequential test does not have to be undertaken, providing various conditions are met. There was no evidence that these conditions would provide an obstacle in this particular case. In the circumstances it is the 13% or so of the net developable area that is currently in Flood Zone 3b that is at issue. Whilst the majority of the built development would be in Flood Zone 1, a significant part of it would not.
22. The sequential approach in national and local planning policy seems to me to be based on the underlying principle of sustainability. This is that development should be directed to areas with the lowest probability of flooding and that reliance should not be placed in the first instance on flood defence and flood mitigation. The Framework makes it quite clear that it is only if there are no sites with a lower flood risk that consideration should be given to whether the development could be made safe and not increase the risk of flooding elsewhere through a Flood Risk Assessment and the application of the exception test. The Appellant has jumped straight to the latter part of the process, without considering whether there is better located land to accommodate the development in question. The evidence seems to indicate that there is but, in any event, there is no evidence that there is not.
23. The Appellant contends that the Council's approach is solely policy driven without any consideration of the actual harm that would arise. Attention is drawn to the wording of Policy LP14 which indicates that development in areas known to be at risk of flooding will only be permitted following "the successful completion of a sequential test (if necessary), having regard to actual and



residual flood risks". There was some debate at the Inquiry about what the bracketed words actually mean. The Appellant contends that it means that the sequential test does not have to be applied if there is no actual or residual risk. It was agreed that there is no residual risk but the Appellant's argument is that there are no actual risk either. This is because it is alleged that the risk is so small that it will in reality never happen. For present purposes I start from the proposition that the Appellant's policy interpretation is correct and consider the matter of actual risk.

24. Despite the fact that the flood event would need to be extreme or even very extreme, the probability cannot be exactly known due to the many different hydrological scenarios which could combine in a variety of ways. Whilst the Appellant thought that a flood would only reach the 5 metre AOD level every 800 years that was no more than an informed judgement. Even if it were correct it would still be classified in the PPG as Zone 2, where there is a "medium probability" of flooding. However as already mentioned no account has been taken of the effect of wave action or strong surge tides and the actual probability could be much lower bearing in mind these variables. So in my opinion there would be actual risks and these would give rise to harm which should not be discounted.
25. The sequential test is a necessary requirement in this case for all of the reasons given above. It would only apply to part of the developable site but that is not an insignificant area of land. In any event there is nothing in the Framework, PPG or development plan policy that suggests the sequential test should only be applicable to sites that lie wholly within the flood risk area. It is for the Appellant to undertake the sequential test and for the Council to decide whether it has been successfully completed. The lack of objection from the EA does not infer that this aspect has been satisfactorily resolved. Even though the floodplain could technically be raised and lowered to accommodate such development safely that should not be done without exploring other more benign options first.
26. The Appellant referred to an appeal decision on a site at Steeple Claydon, where 13 dwellings were granted planning permission. This appears to be land within the floodplain with compensation measures being accepted as mitigation. However the Inspector dealt with flood issues very briefly as an "other matter" and it is not made clear whether the sequential test had been applied or not. Reference was also made to development at Oundle Marina but from the information provided it is not possible to draw meaningful conclusions that would be helpful in the context of the current appeal.
27. The PPG makes clear that "flood risk" is a combination of the probability and potential consequences of flooding from all sources and I turn briefly to consider the other identified source, which is surface water. A Drainage Strategy has been submitted and this has been attached to the *Statement of Common Ground on Flood Risk and Surface Water Drainage*. It has been agreed by the Environment Agency, North Level District Internal Drainage Board (IDB) and the Council. It establishes two main options for the surface water drainage of the site but it is likely that the final solution would be somewhere between the two. The matter would be finalised at reserved matters stage but the important point is that the statutory authorities are satisfied that the site could be drained without a risk of flooding from this source.

28. It seems likely that the surface water drainage system would be adopted by the IDB. The provisions for future management and maintenance are included within the Planning Obligation and the Appellant covenants a payment for this purpose for the first 50 years. This is considered appropriate because by then the IDB would have adopted the system and it would be paid for through their funding streams. Whilst it is appreciated that there are concerns about the failure of existing estates to drain properly this is a historic situation and there is no reason why the appeal development should suffer from similar problems. It is relevant that the IDB is a signatory to the Planning Obligation and will assume responsibility for the surface water drainage system in perpetuity.
29. The Drainage Strategy also takes account of water draining from the existing residential development to the south by means of the ditches that cross the appeal site. The evidence shows that there would be no harmful effect in terms of surface water flood risk either to existing properties or to the houses proposed on the appeal site. SAG was concerned about the movement of the 5 metre AOD contour closer to the rear boundaries of properties in Moorhen Road as a result of the land compensation works. Whilst it is the case that the land would be re-modelled in this area there would still be a considerable distance between the rear fence lines and the area where gradients would be reduced. The existing flood risk to these properties would not change as a result of the appeal proposal.
30. In conclusion there would be no significant impact in terms of risk from surface water flooding. However the fluvial flood risk would be unacceptable for all of the reasons given above. The appeal proposal would thus be contrary to Policies LP11 and LP14 in the LP and policies in the Framework relating to flooding. There are no material considerations that indicate that the appeal scheme should be determined other than in accordance with the development plan in this respect.

### ***Imposition of Conditions***

31. It was suggested by the Appellant that in the event that I do not accept its evidence in terms of flood risk then the matter could be resolved through the imposition of planning conditions. These would restrict the development to the land at or above 5 metres AOD. In order to overcome the concern about prejudice to third party interests a condition would limit density and maximum housing numbers up to a maximum of 212 dwellings.
32. The evidence was confused and confusing as to whether I was being asked to consider making a "split decision". The PPG indicates that it may be appropriate to grant permission for only part of a development in exceptional circumstances. I am not convinced that such circumstances apply here. Furthermore the PPG advises that such circumstances will only apply where the acceptable and unacceptable parts of the proposal are clearly distinguishable. In this case, for the reasons given in my Ruling, the compensation works are an integral part of what has been applied for. Even if they were not needed for the housing element they would still be required in association with the access from East Delph, which includes land presently below 5 metres AOD. It is unclear what the extent of the cut and fill would be, where it would take place and what the EA view on it would be.
33. The Appellant refers to Policy LP1 of the LP which requires the Council to adopt a pro-active approach with applicants in order to find solutions. There are

similar exhortations in the Framework. From the submitted evidence it would appear that all parties have worked together in the spirit of co-operation in order to try and resolve differences wherever possible both at application stage and in connection with the appeal.

34. It is difficult to see how what was being proposed towards the end of the Inquiry by way of conditions could result in a scheme that would be substantially the same as the application considered by the Council. Although this is an outline proposal with all matters reserved, the Indicative Masterplan is of considerable significance for the reasons given in Paragraph 2 above. The Appellant is effectively suggesting that the Revised Masterplan (Plan B), which I rejected in my Ruling, should be accepted as the basis for the conditions now being put forward. Whilst I acknowledge that it is now being advanced for a different purpose it would seem perverse for me to accept a plan that I had previously rejected. In any event I do not agree that in this particular case the developable area can be changed in the way proposed by the Appellant without fundamentally altering the scheme on which the Council made its decision. The PPG makes clear that a condition that modifies the development in such a way as to make it substantially different from that set out in the application should not be used. That is the case here.
35. In the circumstances I do not consider that the imposition of conditions would satisfactorily remove the flooding objections to the appeal proposal.

### ***Other Matters***

36. At the start of the Inquiry I identified a number of other issues to reflect the various objections raised by SAG and local people. Particular concerns included traffic generation, highway safety, visual amenity, ecology and the effect on the internationally important nature conservation site of the Nene Washes. I do not discount the importance of this evidence which was presented to the Inquiry at some length. However in view of my conclusions on flood risk it seems to me unnecessary to consider whether there are additional harmful impacts for the purposes of this decision.
37. The Appellant disputed that the Council could demonstrate a 5 year supply of deliverable sites to meet housing requirements. Indeed it was considered that the appeal site, which was within a swathe of land identified for development in the 1993 Local Plan, forms part of the housing land supply under Policy LP4. However this is a broad area enclosed by a proposed by-pass that was never built. It is difficult to believe that the recently adopted LP would have been found sound if its supply had relied on building houses on land that falls within the functional floodplain.
38. Paragraph 47 of the Framework indicates that there should be a significant boost in the supply of housing. The appeal scheme would offer a number of advantages. Whittlesey is identified in the LP for some housing growth and the proposal would make a useful contribution to housing delivery. In addition it would deliver a policy compliant scheme of affordable homes for which there is a considerable need. The development would also provide a large area of open space that would benefit existing residents as well as new occupiers and would address an acknowledged shortfall in the northern part of Whittlesey. Furthermore the site is recognised as being in an accessible location where a number of trips could be undertaken by non-car modes.

39. The Framework states that there are three inter-related dimensions to sustainability. The appeal scheme would contribute towards the economic and social roles for the reasons given in the preceding paragraph. There would also be some environmental benefits, including landscape enhancements that would result in gains to biodiversity. However a not insignificant part of the housing area is within an area of high flood risk. The Framework makes very clear that the aim of the sequential test is to steer new development to areas with the lowest probability of flooding. Following such an approach is not merely a slavish adherence to policy as the Appellant suggests but rather it is central to an understanding of sustainability objectives. If this needs reinforcing, Paragraph 14 of the Framework makes it crystal clear. There is a presumption in favour of sustainable development but even if the development plan is absent, silent or relevant policies are out of date, permission should not be granted where specific Framework policies indicate it should be restricted. Locations at risk of flooding are specifically highlighted as one such policy in Footnote 9.
40. In this case the appeal proposal would be contrary to development plan policy, including Policies LP1, LP11 and LP14 in the LP. Even if there were a shortfall of housing land there is no suggestion that these are housing supply policies. In any event the "adverse impact" test in Paragraph 14 of the Framework would not apply because it is inherently unsustainable and thus harmful to build houses in the floodplain unless there are specific reasons why it is necessary to do so. No such reasons are applicable here because the sequential test has neither been undertaken nor passed.
41. I have considered all other matters raised but have found nothing to alter my conclusion that the appeal should not succeed.

*Christina Downes*

INSPECTOR



*He called:*

Mr R Lobley	Associate with BWB Consulting
Mr S Taber BSc(Hons) MSc MCIEEM	Senior Ecologist with Ecology Solutions
Mr N Taylor	Lay witness and local resident

**INTERESTED PERSONS:**

Mr S Barclay MP	Member of Parliament for NE Cambridgeshire
Mr M Curtis	Cambridgeshire County Councillor for Whittlesey North
Ms D Laws	Whittlesey Town Councillor
Ms C Carlisle	Headteacher at the Alderman Jacobs Primary School
Mr P Nightingale	School Governor and local resident and
Mr M Wollaston	Volunteer Flood Warden and local resident
Mr A Jones	Local resident
Mr I Fleming	Local resident
Mr G M Baldrey	Local resident
Mr K Mawby	Local resident
Mr R Gale	Local resident
Mr J Burch	Local resident
Mrs L Jones	Local resident
Ms S Fleming	Local resident

**DOCUMENTS**

- 1 Council's notification of the Inquiry and list of persons notified
- 2 Fenland Local Plan (adopted May 2014)
- 3 Five Year Housing Land Supply – Final Report (September 2014)
- 4 Statement of Common Ground on Flood Risk and Surface Water Drainage
- 5 Statement of Common Ground on Housing Land Supply

- 6 Statement of Common Ground on Ecology
- 7 Planning Inspectorate Good Practice Advice Note 09
- 8 Copy of e-mail from North Level District Internal Drainage Board (17 September 2014)
- 9 Copy of letter from Cambridgeshire County Council on transport matters (14 July 2014)
- 10 Relevant sections of the Planning Practice Guidance on the use of conditions prepared by Mr Flood
- 11 Development Framework plan of the Snowley Park development submitted by Mr Crean
- 12 Extract from the Snowley Park Planning Statement submitted by Mr Potts  
13 Response on behalf of the Appellant by Stirling Maynard to highway and transportation issues raised by third parties
- 14 Whittlesey in Flood 2012-2013 provided by the third parties
- 15 Written statement to complement oral submissions by Ms C Carlisle
- 16 Written statement to complement oral submissions by Mr P Nightingale, including photographs
- 17 Written statement to complement oral submissions by Cller Laws, including photographs and other information
- 18 Written statement to complement oral submissions by Mr Woolaston, including photographs, a map and a DVD
- 19 Written statement to complement oral submissions by Mr Jones
- 20 Written statement to complement oral submissions by Mr Fleming
- 21 Written statement from Mr and Mrs Baldrey to complement oral submissions by Mr Baldrey
- 22 Written and photographic material to complement oral submissions by Cller Curtis
- 23 DVD of photographs to complement oral submissions by Mr Gale
- 24 Written representations from local residents submitted during the Inquiry
- 25 Supporting information provided by the County and District Councils on planning contributions, affordable housing, Travel Plan and play space requirements
- 26 Draft planning conditions including suggested conditions relating to a restricted development area

27 Supporting information on affordable housing, travel plan and play space provision

28 Planning Obligation by Agreement dated 26 September 2014

**PLANS**

A/1-A/4 Application Plans including the Indicative Masterplan

B Revised Masterplan (Plan 5)



**F/YR15/0134/0 – Hybrid application: Outline application for the erection of 220 dwellings (max) with access, public open space and associated works/infrastructure. Full application for the engineering works associated with the formation of the vehicular access road off B1040 East Delph – Land North of Whittlesey, East of East Delph, Whittlesey**

**F/YR15/0143/F – Change of use from agricultural to public amenity space (no operational development) – Land North and West of Moorhen Road, Whittlesey**

Member's response following Whittlesey Town Council Planning Committee held on Wednesday 25<sup>th</sup> March 2015 – This report was prepared by Cllr Mrs Dee Laws – Chairman of Whittlesey Town Council Planning Committee.

### **Development**

Councillors highlighted Whittlesey Showfield had been removed as a future development site from FDC's local plan which was adopted in May 2014.

Whittlesey Town Council is approachable to any new development and appreciate that we need growth to our Fenland Town, but the May 2014 adopted Local Plan indicates that between January 2011 and December 2031 the Parish of Whittlesey is tasked to provide a minimum 1000 dwellings. Currently we have 1063 approved new dwellings and if our maths serves us correctly we are not only on but exceeding target. There is no question in our minds that we will substantially exceed this target by 2031, but once again we would like to mention that these should be on suitable sites. Although we appreciate this is not a planning condition, on Zoopla and Rightmove have just under 800 freehold properties for sale and just under 280 rental properties.

As a Town Council we do not consider we have a housing shortage as we have knowledge of two individual sites being brought forward for development in the very near future.

Discussions have taken place at Whittlesey Town Council and Fenland District Council for a development South of Eastrea Road adjacent to the A605.

This site is currently at the design stage and the developer is moving swiftly towards a public exhibition.

It's been brought to the attention of Whittlesey Town Council Planning Committee that approximately a 20 acres site with possibly an option of more land in the future to the East of Whittlesey is in the process of being brought forward for housing development. All of this land is in flood zone one of the development of this site. We are informed a reputable developer will for-fill the needs of housing requirements for Whittlesey for a number of years. Whittlesey Town Council would consider this as a possible further suitable and sustainable site.

Both proposed sites fall in to our educational catchments area for Alderman Jacobs, New Road and Coates Primary Schools.

The second site is a possible development area due to the topography of land would produce a definitive boundary area for Whittlesey in the East of our Town.

This clearly demonstrates development is gravitating towards the Eastern side of our Town and these appear to be the suitable development sites for housing.

Larkfleet Homes development between Drybread Road and Eastrea Road under construction and delivering 460 dwellings with a new highways lay-out on A605 to the East of Whittlesey.

## **Highways Issues**

Traffic and parking issues at Alderman Jacobs School and in close proximity; residents have said that parking currently for drop off and collection of children and members of staff now encapsulates Otago Road, Otago Close, Whiteacres, Teal Road, Swan Road, Swan Close, Drybread Road and The Avenues. At present many residents cannot get out of their own driveways; this planning application appears to provide an alternative route for traffic from the Showfield when the B1040 is closed due to flooding entering Teal Road and turning into Swan Road onto Drybread Road. These roads are virtually at capacity with normal on road parking which is permissible as there are no restrictions in place, to add potentially 440 further vehicles would cause chaos and complete congestion, these roads are not suitable for any increased traffic.

Town Council asks that local knowledge is taken in to consideration concerning the highway chaos for this area known as the Birds Estate, in particular between the hours of 8.00 to 9.00 and 14.00 to 15.00 Monday to Friday must be taken in to account.

The B1040 was registered officially with 65 road days closed between November 2012 and February 2013 and 21 days during January 2014. Road closure notices are on record and issued by Cambridgeshire County Council Highways Department following information provided by The Environment Agency

When the B1040 is closed and the Whittlesey Washes are in flood, traffic has to be diverted onto the already congested A605. To add a further 440 vehicles to lead from the Birds Estate through Bassenhally Road to Cemetery Road, where there are numerous parked vehicles daily outside the Cemetery, or to the other direction to the Morton Fork crossroads will actually gridlock the North of Whittlesey.

If the development goes ahead and access is granted onto the B1040, how will the vehicles from Fallowfields, Yarwells Headlands, Headlands Way and West Delph and all the private housing developments gain entry into the flow of traffic crossing towards the Morton Fork crossroads? We are looking at another congestion to the North of Whittlesey and potentially RTA's due to frustrated motorist.

At great cost Cambridgeshire County Council Highways installed two sets of lockable road closure gates, one set in close proximity of the main access to Showfield Developments proposed development. These gates are controlled by Cambridgeshire County Council Highway and installed due to the number of days the B1040 experiences sitting water or in flood.

Further ongoing research needs to be undertaken by Cambridgeshire County Council Highways in respect of other 'potential issues', including infrastructure, traffic management and road safety.

## **Flooding**

We are faced with three types of flooding in this area:

Coastal Events – Tidal (astronomic)/coastal (storm surges) – high tides with The Wash.

Weather Events – Fluvial river, flash (high intensity rainfall), groundwater (high water table) - this is one of our main problems and not controllable, surface water (paved surfaces, run off)

System Failures – Sewage (rising mains, pumping stations), portable water (mains failure).

Although the Environment Agency and Drainage Boards state they both manage water to the North of Whittlesey they admit they cannot control weather events or system failures.

You are probably aware of Whittlesey Washes, South Barrier Bank works four-year project and programme of works strengthening the South Barrier Bank to MAINTAIN its structural stability. The work involves reshaping the slope and placing extra materials at the BASE of the bank. The bank is gaining no further height.

Working partnership - the project is being carried out by the Environment Agency with support of partners: North Level District IDB, Whittlesey Consortium of IDBs, Middle Level Commissioners, Fenland District Council, Peterborough City Council, Cambridgeshire County Council, Natural England and the RSPB.

ALL AGREE the work being done would not change any flooding that happens now, but would only strengthen the South Barrier Bank to manage the water in The Wash.

*How many times have we heard water is being managed not controlled?*

Water will always find its own level and the more that concrete is poured into our valuable storage land may only place even more existing properties at the risk of flooding.

The principal cause of river flooding is excessive rainfall or snow melt within a limited period, which overwhelms the drainage capacity of land, particularly when the ground is already saturated or when channels become blocked. Inundation by the sea is largely due to a combination of high tides, storm surges and wave activity but may also be associated with structural failures of defences. Some areas are subject to combinations of tidal and river impacts.

The Impacts can be aggravated by:

- The growth of built developments in catchments and other changes in use, which increases the rate and volume of run-off;
- Sediment movement that has changed river cross-sections and affected flood levels;
- Lack of maintenance of flood defence system, watercourses, culverts (including flood relief areas around them) and road gullies, particularly where this leads to channel blockages;
- Building of structures (e.g. embankments which restrict flows over historical flood plains and thereby create additional flood risks both upstream and downstream;

Flooding is, therefore, a combination of human activity and natural physical conditions. In determining the risk posed by flooding, account needs to be taken of the likely depth, speed and extent of inundation and potential for anticipatory action to be taken as a result of flood warning, rapid flows due to flash flooding or inundation by the sea.

There is mounting evidence that the global climate is changing as a result of human activity. Sea level will rise globally as a result of thermal expansion of the oceans, melt-water from alpine ice and snow and from polar ice caps in Greenland and Antarctica. The current best estimate is for a 210mm rise between 2000 and 2050. However, this estimate is very uncertain and it could be as low as 100mm or as high as 550mm, depending on the future level of greenhouse gas emission and the sensitivity of the climate system; the best estimate sea-level rise is based on central estimates of each of these. To the climate induced sea-level rise has to be added the movement of land, which is generally falling in the South-East and rising in the North-West. UK climate impacts programme scenarios, which include both sea level rises from climate change and land movement, estimate a rise of 410mm in East Anglia by 2050.

The rise in sea level will change the frequency of occurrence of high water levels. For example, the current 1 in 100 year high water level on the East coast will be expected to be exceeded every 20 years on average by 2050, assuming no change in storminess. There may also be secondary impacts such as changes in wave heights due to increase water depths, as well as possible changes in the frequency and severity of storm events. It should be recognised that sea-level rise and climate change could have a significant impact on levels of risk.

The guidance explains how flood risk should be considered at all stages of the planning development process in order to reduce future damage to property and loss of life. It sets out the importance the

Government attaches to the management and reduction of flood risk in the land-use planning process, to acting on a precautionary basis and not taking account of climate change. It summarises the responsibilities of various parties in the development process. The planning system should ensure that the new development is SAFE and not EXPOSED unnecessarily to flooding by considering flood risk on a catchment-wide basis and where necessary, across administrative boundaries. It should seek, where possible, to REDUCE and CERTAINLY NOT to increase flood risk. It should help ensure that the flood plains are used for their natural purposes, continue to function effectively and are PROTECTED FROM INAPPROPRIATE DEVELOPMENT.

Planning decision should recognise the importance of functional flood plain, overflows and water storage areas, where water flows are held at times of flood, and avoid inappropriate development on undeveloped and undefended flood plains.

In the adopted Local Plan, Whittlesey Town and District Council gave strong representation in the consultation document and asked for any parcels of land without current planning approval to be removed from any consideration of development. Whittlesey Town and District Council were constructive and approachable to development but suggested sites that were well above the 5 metre AOD, well away from Whittlesey Washes and not creating further road congestion. Town Council would like to reiterate that Members are against any large developments to the North of our town when we have far more suitable land available to the West, East and South of our town.

Whittlesey Town Council would like Fenland District Planning to look back historically on registered flood zones, where we were in 1990 to where we are in 2015 as surface water issues and climate conditions continue to change our landscape and designated Flood Zones are moving ever closer to our established housing developments

From March 2013 Whittlesey Town Council has been trying to obtain clarification from Fenland District Council and Anglian Water concerning our waste water treatment works, we have received correspondence from Anglian Water to advise us that Middle Level Commissioners have raised concerns with regard to this and other discharges into their drainage areas and wish to prohibit and/or restrict future discharges, which concerns us greatly. Town Council is still waiting for a response.

We wish to highlight the duty of care all councils have to existing residents and dwellings that have been approved in years gone by are now sitting well below the 5 metre AOD, the Environment Agency has advised us that there are 220 properties at risk of flooding and over 1000 potentially at risk of flooding, located in Delph and Bassenhally Wards. By permitting further development to the North without any question, these properties and households could be placed at further risk, especially if developers continue to build their parcels of land up.

Town Council request no material are imported on to Whittlesey Showground site due to the risk of contamination and no existing materials are moved ensuring the site land levels remain unchanged. We ask The Land Drainage and Sea Defence bylaws issued 12<sup>th</sup> March 1985 must be taken in to account.

Once again Town Council reiterates that water will always find its own level and, as we hear in many presentations the authorities can only manage water, they cannot control it.

Fenland Planning Department is already aware of two approved sites, where guarantees were given that there would be no water issues, one being Mandalay mobile home and caravan park, the other being Fallowfields. We have been advised that the National Building Federation is now involved with the built Fallowfields development, leading from Yarwells Headland and meetings continue concerning land levels at Mandalay Mobile Home and Caravan Park, Commons Road. Both sites are to the North of Whittlesey.

Town Council would like to highlight a planning decision notice has been issued to The Environment Agency for temporary planning consent relating to the Whittlesey Washes South Bank Barrier programme of works. This temporary roadway has been installed with landowner's agreement over part of the

Whittlesey Showfield to accommodate HGV's moving material on/off site. Town Council requests that the conditions are upheld and when The Environment Agency & Partners programme of works to strengthen and maintain structural stability has been completed the temporary carriageway is dismantled and reverts back to a natural fenland landscape.

### **Biodiversity.**

In the deposition of the Planning Application, the agent advises that the land is subject to outline permission and its use is at the discretionary decision of the landowner. The agricultural report of June 2013 states that the land has been left to become derelict and is not farmed. The Aboricultural Survey of June 2013 claims the land is 5 metres AOD, and is of not great use due to soil drought. 77% of the land is grade 3B which is poor quality agricultural land, 23% is 3A which is good quality land. There are a substantial amount of trees and most of them are in pretty good condition, also eight groups of trees are well established and in good condition.

The Biodiversity report of August 2013 claims there are not many birds, however there are 33 species of birds, of which 22 are breeding birds, the RSPB hold 19,000 records of birds on the site. The report also states that when the survey was undertaken only one lizard and one snake was found, however residents have reported there are far more than this.

### **Education**

Whittlesey Town Council understands.

Reception places in the three schools were full in the year 2014/15.

Town Council would like to ask the Education Department at Cambridgeshire County Council if the parents registering to place children in reception classes for September 2015 will indicate the schools in Whittlesey are again to have no vacancies.

At present Park Lane and Alderman Jacobs web sites are stating they are full, New Road only has a few vacancies in reception and the older children classes. Coates Primary School has vacancies and possibly room for expansion but this school is located to the East of Whittlesey.

Consideration must be given to the number of student places available at SHSCC now and moving forward.

### **Emergency Services.**

All members and residents have raised concerns over access to properties when the B1040 is closed and using the highways leading from Drybread Road, off road parking issues and increased vehicles will impact on the response times to emergencies.

### **Residents Concerns.**

It would appear that residents adjacent and in close proximity to Showfield Developments proposed planning applications are still of the same opinion and have highlighted issues of flooding, traffic congestion, ecology issues, surface water issues from adjacent developments and increase traffic on the B1040 and A605.

Whittlesey Town & District Council has received verbal and written objections to both planning applications and advised members of the public to follow the planning process by making their views known in writing to Fenland District Council Planning Department.

Council Town would like bring one particular concerns raised by residents in Kingfisher Road and Moorhen that have continuous drainage problems. Members listened to a verbal presentation delivered by the

assigned Flood Warden and apparently both areas over a period of year's residents have seen the increase of sitting surface water on their rear gardens and during sudden burst of rain manhole covers lift and expose raw sewage.

Allegedly, no authority has addressed these problems, as residents cannot locate anyone that will take ownership for what appears to be an inadequate or defective drainage system.

Naturally residents fear any additional add-ons to the existing drainage system will only generate further problems.

This raises another question for any proposed planning application and being aware Whittlesey has existing water issues any developer should feel confident in their drainage system and sign up to take financial and management ownership for a minimum of 50 or 80 year period.

Whittlesey Town Council has been made aware of several developments with water and drainage issues but the developer has long gone and other Authorities are very reluctant to take ownership due to the financial implications.

Town Council requests our resident's comments are fully taken in to account.

### **Nature Park**

Town Council asks who will financially support, manage and maintain the proposed 23 acre Nature Park?

Whittlesey Town Council has fully supported Sainsbury's planning application to deliver a food store and related 54 acre county park. The Whittlesey Country Park Committee formed in 2013 with a constitution in place, can demonstrate on going financial support, bank accounts, appointed trustees, a park design layout and planting scheme, with 40 to 50 eager volunteers waiting to invest many quality hours to support the country park and public amenity space.

It's very apparent the proposed Whittlesey Country Park has brought together a wealth of enthusiastic, knowledgeable, skilled and qualified volunteers together who have welcomed this scheme and completely embraced it.

Whittlesey already has two existing and established nature reserves Lattersey and Hanson Brick. Both are well used and visited by members of the public and local schools for educational field trips.

Does Whittlesey need another nature park ?

The Whittlesey Washes in close proximity to the Showfield site and surrounding lands already offer an expanse of open amenity space freely used by dog walkers, several walking clubs including Whittlesey Walkers Group, Horse Riders, Bird Watchers and local residents.

The North of Whittlesey is surrounded by RSPB land and designated sites of special interest.

Whittlesey Town Council cannot take on the management or financial burden of a 9.5 hec nature park and probably Fenland District Council are like-minded. The developer may wish to offer financial support for a limited number of years but strong consideration must be given to the next 20 or 50 years and the need to confirm who will manage and be responsible for this area.

## Planning Appeal report – 2014

### Part One

With reference to the Planning Inspectorates report to Fenland District Council by Clare Sherratt Dip URP (an Inspector appointed by the Secretary of State for Communities and Local Government) Report on Examination in to Fenland District Council Core Strategy Local Plan dated 9<sup>th</sup> April 2014 – File reference: PINS/0515/429/4

Page 29 considers Whittlesey

135 – Whittlesey is a broadly linear settlement running east – west, situated close to Nene Washes SAC, SPA and Ramsar site.

This International as well as European biodiversity, designation was recognised, during the early plan preparation stages, to be likely to be particularly sensitive to development to the north of the settlement. The Town is within the Peterborough Water resource Zone with no forecast deficit at peak demand. Similarly there is capacity within the supply network with no new trunk mains or upgrades likely to be associated with new growth.

136 – Flood risk is a major constraint for sites around Whittlesey. To reflect this, a modification is proposed to Policy CS11 that development proposals, especially to the North of the Town, should have particular regard to all forms of flood risk which exist at Whittlesey (MM4/18).

137 – At the time only one strategic allocation is identified on land North and South of Eastrea Road (East Whittlesey), despite a number of sites being assessed through the SA. This allocation is in Flood Zone 1 and would allow substantial housing in the area in accordance with the sequential approach. Whilst there would be expansion of the Town to the East, there would not be any acceptable adverse impact on its morphology. It is relatively well located to the Town Centre, railway station and Sir Harry Smith Community College and Alderman Jacobs Primary School.

Sustainable connections to the remainder of the Town are also possible and new access(es) should be relatively straight forward to provide from the A605 and Drybread Road. There as an extent planning permission to the North of the A605 and Drybread Road for 460 houses and the developer has indicated a likelihood that the site will be built out faster than the Council had anticipated in its housing trajectories.

To ensure sufficient clarity that flood risk issues will be address, consistent with national policy, the developer will be required to demonstrate how flood warning and emergency planning are to be addressed as part of the flood risk issues to be considered (MM4/19).

138 – Other sites considered in the SA are problematic due to locations in Flood Zone 3 or need for an Appropriate Assessment under the Habitats Regulations, impact on the morphology of the Town and distances from the Town.

Accordingly, subject to these main modifications, the overall strategy for development in Whittlesey is appropriate when considered against all the reasonable alternatives and likely to deliver the amount dwellings, employment and other facilities anticipated.

### Part 2

1 – with reference by the Environment Agency Statement Whittlesey Washes South Bank Barrier works. Addendum March 2014.

2 – The term used by the Environment Agency is 'Whittlesey Washes Flood Storage Reservoir' (FSR)

3 – Part A of the document is substantial Habitats Directive

4 – Although the Environment Agency state that **'their'** works – no likely significant effect is anticipated on the habitats. Their work is temporary in a time frame to complete the project.

The applicant to build on land adjacent to (FSR) may well have a more permanent effect on Bird, and wild life habitat.

### **Localism Bill**

Having held a Public Meeting in 2014 to gauge the feeling of our residents as a Town Council Members were asked to take their comments on board.

From March 2015 local residents have contacted Whittlesey Town Council since an article was published in the Evening Telegraph and Cambs Times advising readers of a new planning application being submitted by Showfield Developments. The article and validated planning applications reduce the number of dwellings by 29 with an addition of 9.5 hec allocated for a Nature Park and public amenity space.

Whittlesey Town Council has taken in to consideration resident's comments when formulating our response to Fenland District Planning Department. Local opinion appears to remain the same and the many residents are not in support of Planning Applications: F/YR15/0134/0 & F/YR15/0143/F.

**Therefore please take Whittlesey Town Council's planning response as a recommendation for refusal.**



## Housing Supply Calculations

Policy LP4 of the Local Plan sets out the expected delivery of housing with the market town of Whittlesey being allocated 1,000 dwellings between April 2011 and March 2031. The target is not expressed as a minimum or maximum target within the Plan although paragraph 3.4.2 within the Local Plan sets out that the Council will aspire to continue growth in Fenland in the long term; it also states that if necessary the Council will undertake a review of the Local Plan in order to potentially enable further growth.

With the exception of the Bassenhally Farm site (see below), this figure excludes those permissions which have expired despite being granted permission after April 2011. It does though include 340 dwellings at the Bassenhally Farm site as although the outline planning permission (F/YR10/0904/O) is no longer extant (insomuch as the deadline for the submission of reserved matters has passed) the site is identified as a strategic allocation which is capable of accommodating 500 dwellings. As 120 dwellings are currently being developed at the site it is therefore necessary to factor in a further 40 dwellings as those are committed through the Local Plan. In total therefore there are 816 planned or approved dwellings in Whittlesey at this time.

The remaining delivery required to achieve the 2031 Local Plan target (1,000 dwellings) is therefore 184 houses. The proposal would exceed this figure by 36 houses. 36 dwellings amounts to 3.6% of the 1,000 dwelling target.

Section 6 of the National Planning Policy Framework (NPPF) requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing. The Council's published Five Year Housing Land Supply – Final Report (dated September 2014) demonstrates that the Council has 5.4 years worth of supply and so there is no explicit pressing need for additional housing at this time. This requirement is not intended to create a moratorium of housing development and the consideration of the application against the policies of the development plan still needs to be undertaken.



Your ref:

Our ref: 30921/CBH/PJ/SK

3 June 2015

Fenland District Council  
County Road  
March  
PE15 8NQ

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**Attn: Kathryn Brand**

Dear Kathryn

**RE: Review of Showfields Planning Application**

I have reviewed the documentation submitted by the applicant relating to development and flood risk, notably

- Site Specific Flood Risk Assessment (JPP Feb2015)
- Outline Surface Water Drainage Strategy Report (JPP Feb2015)
- Report on frequency of flooding east delph road (JPP updated Jan2015)

I have also taken note of the comments from EA and NLIDB and the revised FRA.

Principally the submission seeks to address the issues raised at the planning appeal in September 2014 and to adhere to the principals set out in the supplementary statement of common ground. To assist Fenland District Council I have reviewed the submission both in terms of planning policy and the practicality of the measures proposed and compliance with the previous concerns.

**Planning Policy**

It was established by the Inspector at the Inquiry that the sequential test as set out within the NPPF should be applied to the area proposed for residential development or any "development" proposed outside of flood zone 1. Areas within the redline boundary which are at risk of flooding but do not involve land raising or development are not subject to the sequential test.

With this in mind I have provided an opinion on the three key parts of the development.

- The residential development. It is the stated intention that all residential development and private gardens will be outside of the 5.0mAOD contour and as such will be located in flood zone 1. On this basis there would be no need to apply the sequential test or exception test to the residential development and it would be consistent with national and local planning policy. The documentation which I have reviewed does not contain a plan showing the indicative masterplan superimposed onto the agreed flood extent and this should be provided before any consent is granted to confirm the above.
- The application for change of use to POS. There is no material development proposed as part of this application and as such the sequential test should not need to be applied based on the principles above.

J:\30921 - Showfields\Correspondence\pjsk001 Fenland DC.docx

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- The access road to the B1040. This development is within flood zone 3b and thus the sequential test needs to be applied. The applicant argues that since the road is “essential infrastructure” and therefore passes the sequential test. This is a moot point as the road is only essential if the development is approved. Since there is an alternative access it could also be argued that the road is not essential. In considering this point I revert to the overall intent of the policy in terms of directing more vulnerable development to lower areas of flood risk. With this in mind it seems sensible to consider the road as part of a sequentially appropriate development and accept the view that it does not therefore require a separate sequential test. The proposals would need to pass the exception test (see later).

On this basis my advice to the Council would be that the proposals are consistent with national and local policy and should not be refused on these grounds.

### **Flood Risk Assessment**

The site specific flood risk assessment and the outline drainage strategy really go together and the substance of the latter is contained in the former. To avoid confusion it would be better to have a single document. There is cross reference to the previously agreed statement of common ground from the previous appeal. It should be noted that whilst helpful in some regards the SoCG has no particular relevance in terms of policy or guidance as it relates specifically to that appeal.

In purely technical terms and considering this as an outline application the drainage proposals are substantially as they were for the previous application. The strategy sets out a scheme of storage which provides for the 100 year plus climate change event assuming infiltration is not possible. This in the view of JPP represents the worst case.

As this is a new application I would have expected JPP to have discussed the strategy with NLIDB to agree the principles prior to the application. There is no evidence within the FRA that this has taken place and instead reference is made to the position of NLIDB expressed in the SoCG. I note that subsequent to the submission of the FRA a meeting was held on 29<sup>th</sup> April 2015 and following this the NLIDB are content that the various measures can be secured by planning condition or via the S106 Agreement.

On this basis there would be a reasonable prospect that a detailed scheme would be forthcoming which would meet the requirements of NLIDB and thus be adopted by them and its maintenance secured.

Previously the issues raised in addition to these normal factors are the potential for flood locking and whether or not a pump might be required. These factors are acknowledged in section 3.6.3 of the strategy albeit in a caveated and reluctant way. In an ideal world and given the previous concerns on this matter JPP would have made an assessment of these factors prior to submitting an updated strategy.

These matters can be reserved by a planning condition as indicated in the consultation response from NLIDB.

The other issue raised by residents and the Council's expert on the previous application was whether overland flow routes from the existing can be maintained to avoid additional risk to the existing development and creating potential risk to the new development. This has not been considered in either the FRA or drainage report. JPP interpret this issue as being the exceedance risk in the new drainage system. It is not. JPP are failing to consider all flood risks as required by NPPG.



I note the conditions proposed by the Environment Agency in their letter to FDC dated 1<sup>st</sup> May 2015 and in particular Condition 2 which if discharged in its entirety would result in the assessment of impacts on existing properties.

### **The Access Road**

The construction of the access road will require mitigation in the form of flood compensation. This was part of the previous application and JPP assert that since the volume of storage lost in this case is less than the previous and that the previous proposal was agreed by the EA then this application is approved.

This would not be considered sufficient by the EA and indeed their responses had raised this issue. Subsequent to the submission of the FRA there have been discussions between the EA and the applicant and this has resulted in a revised FRA and the EA's conditional approval as set out in their letter of 1<sup>st</sup> May 2015 to FDC. On this basis it can be concluded that the flood compensation calculations now meet the requirements of the EA and the proposals would not increase flood risk.

### **Flooding of the B1040**

This report is largely unchanged from the previous version and so I have not commented in detail. Also since there are alternative access routes the frequency with which the road is flooded does not affect the decision with respect to flood risk.

The flaw in the report is still centrally that JPP misunderstand the hydrology surrounding extreme events. When considering events which may have a return period of between 100 and 1000 years it is simply not relevant that the scale of flooding predicted has not been witnessed during a 10 year period of observation. This absence of flooding cannot be used to infer that the extent of flooding predicted is in some way faulty

The fact remains the road is at risk of flooding, it has flooded and will continue to flood into the future. However, this does not affect the development in flood risk terms.

### **Conclusion**

Based on all the information provided and the additional views of the NLIDB and EA there are no practical or policy reasons to object to the proposals on flood risk grounds.

Yours sincerely

**P Jenkin**  
**Partner**  
For and on behalf of  
**PETER BRETT ASSOCIATES LLP**