

## MARCH EAST INTERNAL DRAINAGE BOARD

At a Meeting of the March East Internal Drainage Board  
hosted at the Middle Level Offices, March on Thursday the 8<sup>th</sup> October 2020

### PRESENT

C E Martin Esq (Chairman)  
C W Albutt Esq  
Councillor J F Clark  
Councillor M Cornwell  
A Coulson Esq

Councillor Mrs M Davis  
A Dunham Esq  
Councillor Mrs J French  
A J N Gee Esq  
Councillor M Purser Esq

Miss Lorna McShane (representing the Clerk to the Board) and Messrs Graham Moore and Morgan Lakey (representing the Consulting Engineers) were in attendance. Messrs Jaimie Wragg, Barry Jordan and Paul English (representing Matthew Homes Ltd) attended as members of the public.

### Apologies for absence

Apologies for absence were received from Councillors C Marks and D Topgood.

B.1336 Residential Development (Nursery Gardens) at land to the east and north of 38 March Road, Wimblington - F/YR14/0232/O – G Scarborough Ltd + F/YR17/0043/F, F/YR17/0039/RM, F/YR17/1023/F, F/YR17/3158/COND, F/YR18/3043/COND & F/YR19/0012/F – Matthew Homes Ltd

Erection of up to 30 dwellings (outline application with all matters reserved) at land north of Stoneleigh, 22A Eaton Estate, Wimblington - F/YR19/0945/O – P Jolley & J S Harvey

Encroachment within the maintenance access strip between Points 80-81 of the Boards Bridge Lane Drain

The Chairman referred to the Consulting Engineer's Report which set out the history of the site and subsequent development by Matthew Homes Ltd. At a Special Meeting of the Board held in December 2001 it was resolved that a reduced Byelaw width of 4 metres be accepted on the Board's Bridge Lane Drain and that if the adjacent site was to be developed then the 9 metre Byelaw width should be reinstated on that side.

Following the issuing of notices of entry to undertake routine maintenance, Matthew Homes advised that fences had been erected within the maintenance access strip between points 80-81 of the Bridge Lane Drain. In response to Matthew Homes' proposals regarding a potential solution to overcome the encroachment a meeting was held on site on the 8<sup>th</sup> September 2020 attended by the Chairman, the Board's Solicitor, Graham Moore (Middle Level Commissioners' Planning Engineer), Morgan Lakey (Middle Level Commissioners' Assistant Operations Engineer) and representatives from Matthew Homes Limited.

A 1.80m high fence had been erected within the previously reduced 4 metre wide maintenance access strip behind Plots 18 to 24 and up to the footpath forming the northern boundary of the site. Plot 18 had been sold with the fence within the reduced 4 metre wide maintenance strip. The other plots had not been sold but potential sales of these plots were imminent. The southern end of the

Board's drain adjacent to Point 81 will be adopted as a public open space and this would enable access to the Board's drain for maintenance purposes.

At the northern end of the site, adjacent to the Balancing Pond, concerns had been raised about the need to travel over an unadopted access road and driveways which were considered to be a potential liability leading to claims for damages being made against the Board.

With regard to the Jolley & Harvey site, Matthew Homes explained that: -

- It would not be possible to implement the proposed development layout with the current 9 metre wide maintenance strip as this would result in the loss of several houses which may affect the viability of the site for which outline planning permission had been obtained.
- It currently owned a 4/5 metre wide access strip on the eastern side between the watercourse and the hedge/landscaping strip. It was suggested that this could be used to undertake maintenance operations particularly if the hedge was cut back to allow a 5 metre wide access strip.

The Bridge Lane drain was constructed in 2001 and was dug in its current position within the boundary of the site rather than the edge due to the presence of the hedge.

Matthew Homes Ltd agreed to the installation of an access culvert at the end of the watercourse which forms the northern boundary of the Jolley and Harvey site and connects with the Board's drain. This will alleviate the need for the Board to travel across the unadopted driveway reducing potential liability and subsequent claims being made against the Board.

Matthew Homes Ltd also suggested that a restrictive covenant concerning the use of the access strip would be included in the sale conditions/conveyance documents on the sale of the properties. Matthew Homes Ltd were advised that the Board could provide a letter to new occupiers of the properties to advise on the status/purpose of the Board's drain and the maintenance access strip explaining why it should remain clear with no encroachment within it.

Matthew Homes Ltd explained that an Estate Management Company would maintain the maintenance access strip and the Board would be responsible for the channel works.

The Chairman proposed that the Board's drains should be cleansed at least every 2-3 years or more frequently as required and flailed once or twice a year as deemed appropriate.

It was agreed in principle subject to formal consideration by the Board that: -

- i) Matthew Homes Ltd should remove the recently erected 1.8 metre high timber fence erected on top of the bank forming the rear boundary to plots 19 to 24 and reposition it 4 metres away from the brink of the Board's drain.
- ii) Matthew Homes Ltd to lower the recently erected 1.8 metre high fence erected on top of the bank beside the Balancing Pond.
- iii) A restrictive covenant to be placed on the title of each dwelling prohibiting the erection of dwellings, garages, workshops and other buildings/structures. Boundary treatment/hard landscaping or other encroachment to secure access in favour of the March East Internal Drainage Board to maintain the Board's drain as necessary and the Estate Management to enable them to clear the maintenance strip of the material removed from the Board's drain.

- iv) On receipt of the appropriate application for encroachment a suitable field access gate wide enough to facilitate maintenance machinery will be permitted at the southern end of the maintenance access strip for security purposes if it is required.
- v) The existing fence on the top of the bank at Plot 18 to remain on the brink of the Board's drain as this property had already been sold by Matthew Homes Ltd. The Board's consent is needed for this encroachment.

Matthew Homes Ltd also referred at the meeting to the adjacent Jolley/Harvey site for which outline planning permission existed for residential development and pointed out that if a 9 metre wide maintenance strip was to be retained at that side it would require the removal of the established hedge boundary. They currently only own the 5 metre strip from the drain to the edge of the hedge. It was also agreed on site that subject to a consent application being submitted Matthew Homes Ltd would construct an access culvert in the watercourse forming the northern boundary in a position to be agreed on site to enable the Board to gain access.

#### RESOLVED

Following some discussion, it was decided that the Board defer the matter for a site visit and this was to be arranged for Thursday the 15<sup>th</sup> October 2020.

## MARCH EAST INTERNAL DRAINAGE BOARD

Site Visit held at the Nursey Gardens/Matthew Homes' site  
on Thursday 15<sup>th</sup> October 2020

### PRESENT

C E Martin Esq (Chairman)	A Dunham Esq
C W Albutt Esq	Councillor Mrs J French
Councillor M Cornwell	J E Heading Esq
A Coulson Esq	D Henson Esq
Mrs M Davis	D Morris Esq
Councillor F H Yeulett Esq	

Miss Lorna McShane (representing the Clerk to the Board), Messrs Graham Moore and Morgan Lakey (representing the Consulting Engineers) and Messrs Paul English and David Bowles (representing Matthew Homes Ltd) were also in attendance.

### Apologies for absence

Apologies for absence were received from Councillors J Clark, M Purser and D Topgood, A Dunham Esq and P M Tegerdine Esq.

Members of the Board walked the site and looked in particular at the following: -

Residential Development (Nursery Gardens) at land to the east and north of 38 March Road, Wimblington - F/YR14/0232/O – G Scarborough Ltd + F/YR17/0043/F, F/YR17/0039/RM, F/YR17/1023/F, F/YR17/3158/COND, F/YR18/3043/COND & F/YR19/0012/F – Matthew Homes Ltd

Members noted the actions taken by Matthew Homes Ltd to reposition and remove the existing fence and hence were content that no further action be taken by the Clerk. They noted the position with the encroachment within the reduced maintenance strip at Plot 18. It was noted on site that the boundary hedge of the Jolley/Harvey site would require pruning of the trees and bushes allow a 5 metre strip to be retained for maintenance purposes.

Following discussion of the options available to the Board, the Chairman referred to a proposal that had been discussed at a previous site meeting with Matthew Homes Ltd to pipe and to fill the Board's drain and the advice he had received on this proposal was that it generally was not a good precedent to culvert such a length of a Board's drain as it was contrary to local and national policy, including both the District Councils planning and the Board's policies.. Members of the Board discussed this and felt on balance that this proposal, although not an ideal solution, would overcome some of the problems for the Board and the Developer in dealing with the drain between the two development sites.

### RESOLVED

- i) That Matthew Homes Ltd culvert the drain at their expense. A consent application should be made for the construction of the culvert and that this would require the provision of a hydraulic model. The culvert is to be constructed by Matthew Homes Ltd with a commuted sum transferred to the Board for future maintenance and to ensure that any increased liabilities as a result of the drain being culverted are not funded directly by the ratepayers.

- ii) Matthew Homes Ltd are to construct an access culvert in the watercourse forming the northern boundary on the Jolley/Harvey site in the position to be agreed on site to enable access for future maintenance of the culvert.
  
- iii) If the culvert is constructed there is no requirement for a 9 metre strip to be retained on the Jolley/Harvey site and an access strip measured from the centre line of the pipe of 5 metres should give sufficient access for future maintenance.
  
- iv) Matthew Homes Ltd to place a restrictive covenant on the title of each dwelling prohibiting the erection of dwellings, garages, workshops and other structures, boundary treatment, soft/hard landscaping or other encroachment to secure access in favour of the March East Internal Drainage Board to maintain the Board's drain/culvert as necessary and the Board would provide a letter to each of the new occupiers of the properties to explain the status and purpose of the Board's drain and the maintenance access strip explaining why it should remain clear with no encroachment within it.