



# East Cambridgeshire District Council

## **Minutes of a Meeting of the Planning Committee**

Held at The Grange, Nutholt Lane, Ely, CB7 4EE at 2:00pm on  
Wednesday 6 September 2023

### **Present:**

Cllr Chika Akinwale  
Cllr Christine Ambrose Smith  
Cllr David Brown  
Cllr Lavinia Edwards  
Cllr Martin Goodearl  
Cllr Bill Hunt  
Cllr James Lay  
Cllr John Trapp  
Cllr Christine Whelan  
Cllr Gareth Wilson

### **Officers:**

Maggie Camp – Director Legal Services  
Caroline Evans – Senior Democratic Services Officer  
Simon Ellis – Planning Manager  
Rachael Forbes – Planning Officer  
Catherine Looper – Planning Team Leader  
Andrew Phillips – Planning Team Leader  
Gavin Taylor – Planning Contractor  
Angela Tyrrell – Senior Legal Assistant  
Hannah Walker – Trainee Democratic Services Officer

### **In attendance:**

Cllr Charlotte Cane (Ward Member, Agenda Item 7 / Minute 27)  
Cllr Lucius Vellacott (Ward Member, Agenda Item 5 / Minute 25)

Sue and Duncan Anderson Margetts (Objectors, Agenda Item 6 / Minute 26)  
Ryan Bruty (Applicant, Agenda Item 5 / Minute 25)  
Dr Claire Daunton (Objector, Agenda Item 7 / Minute 27)  
Philip Kratz (Applicant's Agent, Agenda Item 6 / Minute 26)  
Parish Cllr Jon Ogborn (Agenda Item 7 / Minute 27)  
Harry Pickford (Lead Local Flood Authority, Agenda Item 6 / Minute 26)  
Sophie Rixon (Objector, Agenda Item 5 / Minute 25)  
David Scott (Applicant, Agenda Item 8 / Minute 28)  
Dr Tom Shackleton (Objector, Agenda Item 7 / Minute 27)  
Rob Snowling (Applicant, Agenda Item 5 / Minute 25)  
Kerry Willett (Objector, Agenda Item 5 / Minute 25)  
4 other members of the public

Bobbie Athinodorou – Development Services Support Officer  
Annalise Lister – Communications Manager  
Samar Nakhleh – Planning Support Officer

## **21. Apologies and substitutions**

Apologies for absence were received from Cllr Kathrin Holtzmann.

## **22. Declarations of interest**

No declarations of interest were made.

## **23. Minutes**

The Committee received the Minutes of the meeting held on 2 August 2023.

It was resolved unanimously:

That the Minutes of the Planning Committee meeting held on 2 August 2023 be confirmed as a correct record and be signed by the Chairman.

## **24. Chairman's announcements**

The Chairman made the following announcements:

- Caroline Evans would be leaving the Council for a new position at the University of Cambridge. He thanked her for her work and wished her well in her new role.
- Jasmine Moffatt was welcomed to the Council as a new Planning Assistant.

On the invitation of the Chairman, the Planning Manager informed Members that the Government had published an update to the National Planning Performance Framework (NPPF) earlier in the day. The Strategic Planning Manager had reviewed it and Officers were satisfied that the changes did not affect any items on the meeting's agenda. The update mainly related to wind turbines.

## **25. 21/01048/HYBM – Land rear of 81-111 Brook Street, Soham**

Catherine Looper, Planning Team Leader, presented a report (Y35, previously circulated) recommending approval of a hybrid application seeking:

- full planning permission for the demolition of 81 Brook Street and construction of a replacement bungalow in a new position together with creation of access to the wider site, and:
- outline planning permission for the construction of up to 80 new homes (including 20% affordable housing), public open space and associated infrastructure, with all matters reserved apart from access.

Members were shown the location plan and an aerial overview of its position with existing housing to the south.

The main considerations for the application were deemed to be:

- **Principle of development** – the site was located wholly within the development envelope of Soham and formed part of the wider SOH1 allocation within the Local Plan 2015. It was therefore considered to be acceptable in principle, subject to compliance with other relevant policies in the Local Plan 2015.
- **Affordable housing and self-build** – 5% self-build plots and 20% affordable housing would be secured *via* a S106 legal agreement.
- **Residential amenity** – the proposed replacement dwelling was not considered to create overlooking, overbearing or overshadowing to neighbouring properties. The change of use of the wider site to a residential development would alter the outlook of neighbouring properties and there may be some impact from increased noise and traffic movements from the site. However, this was not considered to be sufficiently detrimental to warrant refusal. Indicative site plans demonstrated that appropriate separation distances and orientations could be achieved at the reserved matters stage to mitigate potential impacts on residential amenity. Conditions were recommended regarding construction times, a construction environmental management plan, and ground piling.
- **Visual amenity** – the proposed replacement dwelling would be of a modest scale and design, set back from Brook Street with a limited street presence. Details of the design, appearance, landscaping and scale of the wider site would be supplied at the reserved matters stage but illustrative plans indicated that an appropriate scheme could be brought forward which retained the existing trees and hedgerows. There would be no conservation impacts and the Landscape Visual Impact Assessment concluded that the small number of visual effects would be localised and limited in extent.
- **Highways matters** – the site access would be a priority T-junction from Brook Street and there were no objections from the Local Highways Authority or the Cambridgeshire County Council Transport Assessment team. The existing footway on the western side of Staples Lane between Brook Street and Fordham would be widened and financial contributions towards the A142/Fordham Road/A1123 roundabout improvement scheme would be secured *via* the S106 legal agreement. A public footpath through the site would be retained and the Definitive Maps Officer had recommended appropriate conditions.
- **Ecology** – the applicant had supplied an Ecological Assessment and there had been no objections from the Wildlife Trust or Natural England. A biodiversity net gain would be achieved by conditioning the provision of high-quality habitats within the open space (+12.6% for habitats and +11.5% for hedges) and the Wildlife Trust were satisfied that this was realistic and achievable. They also considered that the proposed financial contributions (secured *via* the S106 legal agreement) towards the Soham Commons Access and Biodiversity Enhancement Project would provide additional mitigation to reduce the impacts on East Fen Common to negligible.
- **Flood risk and drainage** – the site lay within flood zones 1, 2 and 3 with indicative layouts showing that development could be directed

towards the areas of the site at lower risk of flooding, with open space towards the land in flood zones 2 and 3. The site was a small parcel of land within the wider residential allocation SOH1 in the Local Plan 2015, and as such it had passed the sequential test since development had been accepted on the site. There were no formal objections from the Internal Drainage Board, Anglian Water, the Environment Agency or the Lead Local Flood Authority in relation to flood risk or drainage and they had recommended appropriate conditions.

- **Sustainability** – an Energy and Sustainability statement had been supplied which set out key considerations to be addressed through the application of Building Regulations standards and developer responsibility. A condition was recommended to require submission of an energy and sustainability strategy for the development prior to the commencement of works but the evidence indicated that an appropriate scheme could be designed to maximise energy efficiency and incorporate renewable or low carbon energy sources.

The S106 legal agreement would cover affordable housing, self-build and custom housing plots, open space, SuDS, wheeled bins, and contributions to Soham Common Land, education and libraries, and highway improvements. In summary, the principle of development and the proposed access were considered to be acceptable and, on balance, given the material considerations, the application complied with the Local Plan 2015 as a whole. It was therefore recommended for approval subject to the signing of a S106 agreement.

The Chairman then invited Sophie Rixon and Kerry Willett to address the Committee. Ms Rixon stressed that SOH1 required the site to be developed in a comprehensive way with the preparation of a masterplan for the whole area. This application did not include a SOH1 site-wide masterplan and therefore did not comply with the requirements of the SOH1 allocation, which in turn meant that it contravened the Local Plan 2015. She drew particular attention to the comments from the Environment Agency on the application that had repeatedly referenced the importance of the allocation policy requirement for a masterplan and had stated that the sequential test for the entire allocation was not necessarily relevant in relation to just the application site. They had stated that they considered the proposal to be an unsustainable development and also commented that the Council's Single Issue Review had identified that the District would have a significant excess of housing supply over the plan period, which they suggested should be a consideration with regard to the application. They also highlighted that they were only able to object in various specific circumstances, and their concerns with this application did not fall within their remit for objecting. Ms Rixon considered that the full land allocation not being within the applicant's ownership was not a sufficient justification for the lack of a site-wide plan, and questioned the conclusion that there were adequate flood risk mitigations in place given the comments of the Environment Agency and the proposed flooding condition 42. Ms Willett highlighted multiple concerns with the application including: the negative impact that the development and the potential introduction of domestic cats would have on the wildlife in the lode and on the common; the impact of

increased litter; the lack of commitment to use solar panels and air-source and/or ground-source heat pumps; the unrealistically high number of trees that would be needed for the development to be carbon-neutral; and the additional pressure that would be placed on the town's roads, GP surgery and schools. She commented that the traffic surveys were out of date since they were conducted prior to the construction of three recent estates in Soham and Fordham. She urged the Committee to consider the health and wellbeing of residents and to listen to the views of residents and the responses to surveys.

Cllr Trapp asked for, and received, confirmation that the objectors lived near the application site and then requested further information about their flooding concerns. They explained that many of the local objections referenced flooding issues and one of them had included photographs and high levels of detail. The common flooded in the winter, although they acknowledged that it was separated from the application site by the lode, and residents had also referenced flooding on the application site.

The Senior Democratic Services Officer then read aloud a statement from another objector, Kathy Clarke. The statement focussed on the application site being home to many wildflowers and wildlife, and having views that gave pleasure to many. The ground was usually wet and in winter was waterlogged which raised concerns that the impact of building on the land would be to displace the water to other nearby land and, potentially, to result in future subsidence of the new homes. Further concerns were the capacity of the town's sewage system, the impact of the additional traffic on the already busy Brook Street, and the ability of the town's infrastructure (such as the GP surgery, the dentist and the schools) to cope with a further increase in the local population.

The Chairman then invited Rob Snowling to address the Committee on behalf of the applicant. He introduced himself as the Planning Director for Pigeon and explained that he was accompanied by Ryan Bruty, Technical Director, who would also be available to answer Members' questions. The proposed development would be a high-quality design-led scheme with the existing landscape features incorporated into the public realm together with a linear park along the lode. £400k would be invested in local infrastructure and £900k for education, the Soham Commons, and for junction improvements, therefore the wider town would benefit in more ways than just the provision of new homes. The site was located close to local services and formed part of a larger allocation within the Local Plan 2015. The development would be designed to connect well with the wider site and would include a high-quality green edge. The footway along Staples Lane would be widened to encourage walking and cycling to and from the site. Across the site's 1.5 hectares the intention was to deliver green tree-lined streets with additional planting of trees, wildflowers and shrubs resulting in a biodiversity net gain of over 10% and the S106 agreement would include the transfer of the open spaces for maintenance purposes. SuDS and swales would be included in the extensive open space, with surface water storage sufficient for a 1 in 100 year flood event so that there would be no flooding on or off the site. In addition, the banks of the lode would be maintained and all homes would have finished

floor levels at least 300mm above the flood level for additional protection. Anglian Water had stated that their infrastructure was currently sufficient and they were also committed to undertake any necessary improvements. The site would be constructed on a dwelling-centric fabric-first approach and would include elements such as solar panels, air-source heat pumps and water-saving measures. 20% of the homes would be affordable in line with the 2019 viability study and 5% would be self-build plots. A number of the homes would be bungalows and smaller houses in line with local needs. Extensive consultations had taken place and they were confident that all issues had now been addressed in the proposal or in the S106 agreement. The proposal was well designed and of a high quality that would be a positive contribution to the town.

Cllr Brown asked why the applicants had chosen not to submit a comprehensive plan for the wider SOH1 site allocation. Mr Snowling explained that the SOH1 land outside the application was separate to that owned by the landowners that the applicant was working with and the current application would therefore represent phase 1 of the wider development. Nonetheless, they had submitted illustrative plans as to how the application could fit within a connected SOH1 neighbourhood and facilitate the wider scheme, for example the linear parkland had been specifically designed to be able to extend into the rest of the site.

Cllr Trapp questioned the affordable housing provision being proposed as 20% rather than the 30+% stated in the Local Plan. Mr Snowling explained that 20% affordable housing had been agreed at the pre-application stage in line with the 2019 viability report. They had worked with the housing officer on the proposal and had included a high number of smaller homes within the market provision to be attractive to first-time buyers. Responding to a question from Cllr Akinwale about the provision of accessible parking spaces, Mr Snowling explained that parking details would be addressed at the reserved matters stage but the illustrative scheme included parking in excess of the required standards.

Cllr Trapp asked about the drainage concerns resulting from there being no comprehensive plan for the SOH1 entire allocation. Cllr Akinwale referenced the site's location in part within flood zones 2 and 3, and the Environment Agency's lack of long-term guarantee regarding flood defences, and questioned what measures would be in place for long-term sustainability. Cllr Hunt referred to an objector's comment that there was an unsustainable flood risk on the site and asked for the applicants' viewpoint. The applicants explained that flood modelling across the entire SOH1 site had been undertaken and the design ensured that homes would be located away from the areas that would potentially be subject to flooding, with green infrastructure located closer to the lode. Flood water would only reach the proposed dwellings if the flood defences failed, and for that reason the homes would have 300mm raised floor levels as mitigation for a breach of the defences. The defences to the north of the lode were lower than to the south so the common would flood in preference to the site, and there would be a commitment for the management of the area of the lode adjacent to the

scheme in order to appropriately maintain and protect it. The applicants had engaged with the Environment Agency on this project for several years and their most recent consultation responses recommended various conditions but recorded no concerns because earlier issues had now been resolved. The applicants stressed their confidence that flood risk concerns had been addressed and that the proposal was a technically robust landscape-led scheme.

The Senior Democratic Services Officer then read aloud a statement from Soham Town Council expressing their concerns about the application. They considered that the proposal was unsustainable in terms of the additional burden of sewage and surface water on a system that was already at capacity. They were also concerned that Brook Street would struggle to accommodate further vehicles and the extra traffic would heavily impact the junction with Fordham Road. They did not support building on land in flood zone 3, and they urged the developer to liaise with the landowner(s) for the remainder of SOH1 land to address issues of drainage, flooding and extra traffic for the whole development.

On the invitation of the Chairman, Cllr Lucius Vellacott addressed the Committee in his role as Ward Member for Soham South. Cllr Vellacott explained that, in addition to local residents, he had spoken to the Case Officer, the Town Council, and the developer, and he intended to represent his residents' views with a pragmatic approach. The development would build new homes on green space and some residents were opposed on those grounds. However, the site was allocated for housing within the Local Plan 2015 and the proposal would provide public open space on what was currently privately-owned land. He considered that the provision of 18 2-bedroom market homes was commendable but below 30% affordable housing was a concern. He stressed the importance of protecting the town's common land and biodiversity, and the use of traditional design in the buildings. Financial commitments should be ringfenced for infrastructure that was currently insufficient, such as the GP surgery. The developers had, to an extent, shown that flood protection was in place but the application lacked a masterplan for the wider site and there were also local concerns about the potential for overloading the sewage system. Similarly, the County Highways team had not objected but Brook Street and Fordham Road would undoubtedly be affected. He stressed that there was strength of feeling on both sides and he considered that there were positive and negative aspects to the proposal. He asked the Committee to balance the needs of the local residents with the need for development, and to ensure that any development took place on the Council's terms.

Responding to questions from Cllr Trapp, Cllr Vellacott stated that there was little parking provision on Brook Street and there were concerns about congestion from the increase in traffic. Regarding the provision of affordable and smaller homes, he explained that the developer's proposal was acceptable because it complied with the 2019 viability evidence but Soham would always need more housing suitable for young people and 30% affordable housing would therefore have been preferable.

Cllr Lay referred to Soham Town Council's comments regarding sewage and asked for assurance that the system would be sufficient. Cllr Vellacott explained that his role had been simply to relay residents' concerns and he asked the committee to be careful about setting a precedent for the future in terms of sustainability.

The Chairman invited further comments from the Case Officer, followed by questions from Members. To address concerns regarding sewage, the Planning Team Leader read aloud part of the most recent comments from Anglian Water in which they stated that they would be obligated to accept the foul flows from the development if it was approved, and that they would take the necessary steps to ensure that there was sufficient treatment capacity if needed. Regarding flooding, the Environment Agency had stated on 13 June 2023 that the development was acceptable in principle subject to conditions, and in their appendix had explained that flood issues were outside their remit. The Lead Local Flood authority and the Internal Drainage Board had also not objected, and she reiterated that no objections had been received from statutory consultees. Elements such as parking would be for consideration at the reserved matters stage but the applicants had submitted an indicative drawing to demonstrate that an appropriate scheme could be designed for the site. To mitigate the impact on Brook Street during the construction phase a Construction Environmental Management Plan (CEMP) would be required by condition. In terms of concerns about the loss of green space, the site was currently private land with a public footpath through it and was not part of the Soham Commons.

Cllr Ambrose Smith requested confirmation that 20% affordable housing, rather than 30%, was recognised as acceptable in Soham and Littleport. The Planning Team Leader agreed, and it was later confirmed by Cllrs Goodearl and Hunt that the relative house prices in the towns compared to the villages was the reason for the altered figures. Responding to a query from Cllr Lay, the Planning Team Leader stated that 77% of the affordable housing would be for rent and the remainder would be shared ownership. The Housing Officer was satisfied with the provision and it would be secured *via* the S106 agreement.

Cllr Brown received clarification that, if the application was approved, the subsequent reserved matters application would not automatically be presented to the Committee for determination but Members could request that as part of their decision today if they wished.

Returning to the issues of potential flooding, Cllr Trapp drew attention to the Environment Agency's latest comments on p.23 of the Officer's report that indicated concerns about the lack of a masterplan or sequential approach. The Planning Team Leader reiterated that the Environment Agency's full response stated that they were satisfied that the proposal could be allowed in principle. All of the concerns that they had raised focussed on flood issues that were outside their remit.



The Chairman then opened the debate. Cllr Goodearl considered that the proposed access and the proposed demolition/replacement dwelling were both acceptable but that the future details of the main site should be determined by the Committee rather than by Officers under delegated powers. He therefore proposed the Officer's recommendation, with an additional requirement for the reserved matters application to be brought to the Committee for decision. Cllr Lay seconded the proposal.

Cllr Whelan expressed safety concerns about the access for up to 80 houses being at a location, close to a pub, on a road that had been stated by some residents to be a "rat-run". Cllr Trapp agreed with those concerns and the impact of the additional traffic on Brook Street. Whilst recognising that the site was allocated in the Local Plan 2015 for development, he questioned why 20% affordable housing should be accepted rather than 30%, criticised the lack of a masterplan for the wider site, and remained concerned about the flood risk being significant for some areas of the development.

It was resolved with 7 votes in favour, 3 votes against and 0 abstentions:

- i) That planning application ref 21/01048/HYBM be APPROVED subject to the signing of the S106 Legal Agreement and conditions as detailed in Appendix 1 of the Officer's report, with authority delegated to the Planning Manager and Director Legal to complete the S106 Legal Agreement and to issue the planning permission with any minor revisions to the conditions delegated to the Planning Manager.
- ii) That the Planning Manager be given delegated powers to refuse planning permission on the basis of the absence of an agreed S106 Legal Agreement should the applicant not agree any necessary extensions to the statutory determination period to enable the completion of the S106 Legal Agreement.

It was further resolved:

That the application be brought back to Committee at the Reserved Matters stage.

## **26. 21/01600/FUL – Site west of 7-10 Skylarks, Witchford**

Gavin Taylor, Planning Contractor, presented a report (Y36, previously circulated) recommending approval of an application seeking permission for the construction of four single-storey 2-bed affordable dwellings accessed *via* the existing Skylarks development and located along its western boundary. The bungalows would be two pairs of semi-detached dwellings each with a driveway to accommodate two cars. The properties would be connected to the existing foul and surface water drainage infrastructure serving the Skylarks development.

A location plan and aerial photographs illustrated the site's location on the western side of Witchford with open countryside to the south and linear development to the north. It was a parcel of undeveloped land outside, but

immediately adjacent to, the development envelope and accessed *via* a public byway.

The main considerations for the application were deemed to be:

- **Principle of development** – policies in both the Local Plan 2015 and the Witchford Neighbourhood Plan (WNP) sought to control developments outside development envelopes in order to protect the countryside and the setting of towns and villages. However, policy H2 of the Witchford Neighbourhood Plan supported small-scale affordable housing exception sites for people with a Witchford connection, subject to various caveats which were addressed in turn:
  - Although the applicant had not undertaken a detailed housing needs assessment for Witchford, the 2021 Strategic Housing Market Assessment had suggested that 35-45% of affordable housing should be 2-bed dwellings and community feedback on the neighbourhood plan had highlighted the need for access to affordable housing and bungalows. The Council's housing register in August 2023 indicated two Witchford applicants waiting for 2-bed properties and over 500 applicants in immediately adjacent settlements also waiting for 2-bed properties. It was therefore not considered that the development would exceed demand.
  - The application would form a small extension to the existing Skylarks development which had not been refused on connectivity grounds and therefore the proposed development was also considered to be in a sustainable location.
  - The applicant had agreed to enter into a S106 legal agreement to secure the affordable housing in perpetuity and that it would be available to those with a Witchford connection as required by policies H2 of the WNP and HOU4 of the Local Plan 2015.
  - The site's location immediately adjacent to the development envelope on its northern and eastern boundaries, and abutting the Skylarks development, caused it to relate more to the built environment than the countryside. The single-storey units would have minimal impact on the wider countryside and, subject to suitable materials and boundary treatments could assimilate well into the built environment.

It was therefore considered that the principle of development complied with the relevant development plan policies for the delivery of affordable housing exception sites.

- **Visual amenity** – the proposed development would form a low-scale natural extension to Skylarks and would complement the character and appearance of the area. It was therefore considered to be in accordance with policies LC1 and H3 of the Witchford Neighbourhood Plan, policies ENV1 and ENV 2 of the Local Plan 2015, and paragraphs 127 and 130 of the NPPF.
- **Access and highways** – access would be *via* the existing Skylarks access and there were no Highways objections. There would be two parking spaces for each dwelling and waste collection would be from a central collection point that was currently already in use by the existing Skylarks residents. The proposed development was therefore

considered to comply with policies COM7 and COM8 of the Local Plan 2015.

- **Residential amenity** – there would be suitable separation distances between the existing and proposed dwellings, with no overlooking, overshadowing or overbearing, and each property would have an adequate private garden area. Boundary treatments and restricted construction hours would be secured by condition. It was considered that the development would result in a high-quality living environment for existing residents and for future occupiers of the development in accordance with policy H3 of the Witchford Neighbourhood Plan, policy ENV2 of the Local Plan 2015, and Chapter 12 of the NPPF.
- **Ecology and biodiversity** – the application had been supported by an ecological survey and the site was of relatively low ecological importance. The boundary hedge and trees were not within the applicant's ownership and a condition was recommended regarding protection and maintenance. Biodiversity enhancements would be secured by condition and there would be no net loss of biodiversity. It was therefore considered that, subject to delivery of an agreed scheme for biodiversity, the proposed development would comply with policy GI13 of the Witchford Neighbourhood Plan and policy ENV7 of the Local Plan 2015.
- **Flood risk and drainage** – the development would link to the existing Skylarks drainage system (which had sufficient capacity) and underground storage would discharge surface water to the open drainage next to the byway to the east of the site. Although there was an objection from the neighbour regarding the western ditch, there were no objections from the Lead Local Flood Authority (LLFA) and it was considered that a suitable management strategy could be determined. The development would not increase flood risk and was considered to comply with policy ENV8 of the Local Plan 2015 and policy IC4 of the Witchford Neighbourhood Plan.
- **Energy and sustainability** – a condition was recommended to ensure that the development maximised energy efficiency before relying on renewable or low carbon energy sources, in accordance with policy ENV4 of the Local Plan 2015.

In summary, the scheme proposed four affordable bungalows where there was a strong indication of need. They would be built to M4(2) standards for accessible and adaptable homes to ensure longevity for the occupiers. The development would accord with the development plan when taken as a whole and would constitute sustainable development subject to conditions and a S106 agreement. The application was therefore recommended for approval.

On the invitation of the Chairman, objectors Sue and Duncan Anderson Margetts addressed the Committee after first handing round copies of their comments and some related photographs. Mrs Anderson Margetts detailed multiple concerns with the application and said that she was speaking on behalf of several residents from Sutton Road and Skylarks. The site had been contentious for around 8 years, with the latest issues having run for 4 years including a previous application that had been withdrawn before a

refusal decision regarding overdevelopment could be made. In terms of wildlife and habitat disturbance, no full ecological survey had been provided and the preliminary survey stated that there was no evidence of protected species. However, bats, lizards and newts were all present in the immediate area and the 250m long, 3-15m high dense hedge, which had been there in perpetuity, provided a rich and diverse habitat which they stated should not be disturbed. The Bats Conservation Trust had stated that the hedge was an ideal habitat for bats to roost and feed. Additionally, the report had said that there were no watercourses, whereas there was a ditch by the hedge to the west, to the eastern boundary, and to the south. They stated that the development would be contrary to biodiversity net gain principles since it would result in a net loss of biodiversity. Alternatively, the site could be used for offsetting other developments and providing a nature amenity for Skylarks residents as well as mitigating flooding by planting additional trees. Regarding the hedge and an ash tree with a Tree Protection Order, they were concerned that the planned root protection area would not be sufficient for the size of the tree, and drew attention to photographs of the ivy on the tree that had been highlighted as a wildlife-rich habitat but recently appeared to have died. Their other objection concerned flood risk and drainage, particularly along the contended boundary with their land. They reported that the purpose of the ditch to the west was to capture surface water from the site and prevent flooding of neighbouring land to the west. Issues had already arisen since the Skylarks development was completed and four further dwellings would exacerbate the problem by increasing the surface water. They had no confidence in the proposed drainage plan since it linked to the existing drainage which was already insufficient. Finally, they considered that there was no housing need to justify the development in the face of the concerns, and stated that the Parish Council also continued to object although they had been unable to attend the meeting.

The objectors confirmed to Cllr Wilson that they lived on a smallholding at the western boundary of the application site, and to Cllr Whelan that on average they saw around 12 bats emerging from their side of the hedge and feeding along it each evening.

Cllr Trapp raised various queries regarding the ownership of the hedge and ditch as well as the ditch's use for drainage. The objectors explained that they believed that they owned the hedge and, generally, ownership of a hedge and adjacent ditch was linked but they were hoping to reach an agreement regarding the ditch. Drainage from part of the wider site went to the east but they claimed that Skylarks was not built to plan since there was a sump in place. Water from the site draining to the west currently ran into the ditch and then into a culvert and surface water already flooded the site at times so they had no confidence that the proposals would prevent flooding once the additional building footprints were in place since run-off would be accelerated with no natural on-site retention.

The Chairman then invited Philip Kratz, the applicant's agent, to address the committee. The agent explained that he was representing the Cambridge Housing Society, which was the largest local housing association with over

3000 dwellings housing a total of more than 7000 residents. They were governed by a Board of local people and were very well managed with high standards of customer satisfaction. Their application for four bungalows represented the conclusion of the Skylarks development. In order to be overdevelopment they would need to give rise to adverse effects but the modest scale would not result in overshadowing or other harm. Regarding drainage concerns, he stated that the issues had been carefully considered, including by the Lead Local Flood Authority, the Environment Agency and the Internal Drainage Board, and the conclusion was that the proposal would be beneficial for surface water drainage on the site because it would move the water from the west to the east. He acknowledged that the hedge may be a good feeding location for bats but doubted the likelihood of them roosting there. An objecting neighbour's chartered surveyor had concluded that the hedge belonged to the objectors and the ditch to the applicants. He stated that this was the optimal position because it would ensure that the Cambridge Housing Society would maintain the ditch well, and the hedge would be untouched by them since it was not in their ownership. Only three bungalows had been provided as affordable housing in recent years and this application would provide four more to meet a specific need for an aging population. The homes would be owned by the Cambridge Housing Society in perpetuity and would therefore meet an identified local need.

Responding to a query from Cllr Akinwale about the Parish Council's suggestion that the land should be used as play space instead, the agent commented that the location at the back of other houses would not be suitable for a play area and such a use would also very negatively affect the biodiversity.

Cllr Wilson asked for further information about the claim that the applicant would own the homes in perpetuity, and also asked why they had not been included in the proposal for the existing Skylarks development. The agent explained that, since there would be no public funding, the Cambridge Housing Society could choose not to permit staircasing to 100% for the shared ownership properties. That would be their preference since the properties were intended to meet long term needs, but the details would be finalised in cooperation with the Council's housing officer. The intention had always been to include the proposed bungalows in Skylarks but funding issues had prevented their inclusion in the first phase. Responding to a question from Cllr Trapp, the agent added that the applicant would charge a subsidised social rent on the portion of the home that was not owned, and the starting point was usually 50/50. The Cambridge Housing Society's policy was to provide truly affordable homes, and amongst their very high resident numbers they had a high satisfaction rating.

Cllr Lay raised a concern about the privacy afforded to existing residents behind bungalow 17 (in the north west corner) and Cllr Hunt asked about the general impact on neighbours, in particular regarding overlooking. The agent stressed that bungalows had been designed for this section of the wider site in order to protect residential amenity. 6ft fencing would address most issues

and a boundary treatment condition had been proposed in order to protect and maintain the privacy of all residents.

Cllr Hunt questioned why the original Skylarks development was within the development envelope whereas the new proposal was not, and asked for confirmation that the applicant owned the western ditch and that the ditch maintenance could be required by condition. The agent explained that the existing development had originally been outside the development envelope but the Neighbourhood Plan had redefined the boundary to include the development. The objecting neighbour's chartered surveyor had provided a report the previous week that indicated the ditch belonged to the applicants, they would therefore be able to add it to their maintenance schedule.

Cllr Whelan commented on the position of bungalow 15 (in the south west corner) very close to the western drainage ditch and asked whether this would have an adverse impact. The agent commented that there was sufficient space for the bungalow not to interfere with the ditch and reiterated that he has not seen the ditch with significant levels of water in it. The site had been designed to drain water from the west to the east and the eastern culvert was designed accordingly.

The Chairman addressed Harry Pickford from the Lead Local Flood Authority, who had been invited by the Case Officer to the meeting, and asked for his professional opinion as to whether the proposed development would or would not increase the risk of flooding to Sutton Road and/or Skylarks. Mr Pickford explained that the proposals would take surface water on the site from the west to the east – including water that would previously have drained to the west – and this would reduce the natural discharge into the western ditch. Based on the information provided he had concluded that the flooding risk would not increase. Cllr Hunt suggested that the culvert to the east of Skylarks looked to have excess capacity at present, and asked about the permeability of the road surface. Mr Pickford confirmed that the culvert appeared large, although he had not been involved in discussions around its installation, and confirmed that permeable paving would be used that would allow surface water to percolate through the road surface to be collected in the sub-base of the road.

The Senior Democratic Services Officer read aloud a statement from District Councillor Caroline Shepherd and County Councillor Lorna Dupré which drew attention to the Parish Council's objections on the grounds of drainage and flood risk, location outside the development envelope, and the loss of amenity space. The statement expressed concern about the vulnerability of nearby properties to flooding, especially those to the southern side of Sutton Road, since such incidences had occurred since the building of Skylarks and four further dwellings could add to the risk. In addition, the uncertainty about the ownership of the ditch to the west of the site could affect its maintenance and thus further increase the flooding risk. The Committee were also requested to avoid creating a situation of multiple riparian responsibilities, as advised in the LLFA's consultation response. The site was located outside the development envelope that had been established by the Witchford Neighbourhood Plan

and although it had been classed as a rural exception site the applicant had not commissioned and submitted a local housing needs survey to evidence the need for the development, despite requests to do so. The Committee were therefore asked to uphold the status of the Neighbourhood Plan. The proposed loss of amenity space was criticised, particularly given the wider development being family homes, with the suggestion that it had the potential to negatively affect the quality of life for existing and future residents. The existing access road to Skylarks was not as wide as originally planned and the addition of further traffic to the access was a concern. Finally, the Committee were asked to carefully consider the biodiversity information provided by the earlier objector.

The Chairman invited further comments from the Case Officer, followed by questions from Members. The Planning Contractor responded to various points raised during the public speaking section:

- Overdevelopment was generally assessed in terms of aspects such as visual impact and in this instance the application was considered to function well within the site, with no overdevelopment concerns.
- The submitted biodiversity survey work was considered to be sufficient, particularly with regard to planning practice guidance for a proportionate response. It was considered that appropriate conditions could mitigate the concerns and, if protected species were found during construction, then the developers would have obligations towards them to ensure they were protected.
- In terms of biodiversity net gain, he read aloud a passage from the conclusion of the biodiversity net gain assessment highlighting that enhancement opportunities were available, for example by the inclusion of log piles in the post-development phase, to provide a net gain for the site and the biodiversity aspects accorded with policy.
- Although a housing needs assessment had not been submitted, available information from the housing register and the 2021 Strategic Housing Market Assessment indicated that four new 2-bed bungalows would not be an overprovision.
- The scheme's relationship with the existing development would not result in undue harm to the countryside and the land was neither allocated for amenity/green space in the Neighbourhood Plan nor had it been defined as such in the original Skylarks application.
- There were no Highways concerns regarding access.
- There would not be multiple riparian responsibilities for the drainage; it would be managed by the housing provider and a suitable strategy would be secured by condition for its maintenance in perpetuity.

Cllrs Wilson and Trapp asked for, and received, clarification about colour coding on a presentation slide about the flood risk on the site. The Planning Contractor also explained that the details of drainage and hard landscaping would be secured by condition, but the expectation was for permeable surfaces on the highways and drives to enable surface water to be stored below the surface, together with water from roofs *via* the guttering, and then drain to the east. He agreed with Cllr Trapp's estimate that approximately 50% of the site's surface water would therefore drain to the east.

Responding to queries from Cllr Trapp regarding Parish Council comments on drainage and on the proposal being contrary to the Neighbourhood Plan, the Planning Contractor explained that the culvert to the east of the site, under the main access point, then drained south to a culvert that turned 90° west before eventually turning north to the outflow, and reminded Members that the Lead Local Flood Authority considered the capacity to be adequate. Regarding the Neighbourhood Plan, Officers had carefully considered all of the criteria and concluded that the application was, on balance, acceptable due to an identified housing need and meeting other exception criteria. Cllr Trapp also asked about the prior flooding of Skylarks that had been mentioned by the objector, and questioned whether a S106 agreement could be used to address ditch and culvert maintenance to prevent flooding. The Planning Consultant explained that no details had been provided regarding previous flooding, and suggested that it could either be related to heavy winter rainfall in 2020 or, if there had been a blockage or similar issue then concerns should be addressed to the housing provider. In terms of a potential S106 agreement to address flooding concerns, he stated that if Members were concerned that the existing proposal could not manage any flood risk, taking into account the proposed planning conditions, then they should consider whether they felt the development to be appropriate.

The Chairman then opened the debate. Cllr Ambrose Smith commented on the attractive and well-maintained character of the existing Skylarks development and commended the proposal to add four small bungalows that she was sure would be popular. She proposed that the Officer's recommendation for approval should be accepted. Cllr Wilson seconded the proposal, adding that a small development of small affordable homes was ideal for the District. He was also pleased that the ditch situation had been resolved and that the Cambridge Housing Society would have to keep it clear.

Cllr Trapp agreed that there was substantial need for smaller bungalows and they would be a beneficial addition to the housing mix. He was concerned about the existing flooding but accepted that draining half of the site to culvert at the east could decrease the risk. While Neighbourhood Plans were very important he considered that the application represented a genuine exclusion site and, on balance, he supported the application.

Cllr Hunt stressed that Planning Committee members were not technically qualified and therefore relied on expert opinions to inform aspects of their decision making. Making a decision that disregarded or contradicted an expert opinion would not be wise. In this case, a flood expert had clearly stated that the flood risk would not be increased by the development. With that expert opinion provided, other aspects needed to then be considered such as whether the development would cause significant harm to the character of the village. In his view, that would not be the case and he therefore supported the proposal to approve the application.



It was resolved with 8 votes in favour, 0 votes against and 2 abstentions:

- i) That planning application ref 21/01600/FUL be APPROVED subject to the conditions detailed in Appendix 1 of the Officer's report and finalising the terms and completion of the S106 agreement, with authority delegated to the Planning Manager to complete the S106 agreement.
- ii) That delegated authority be given to refuse the application in the event that the Applicant would not agree any necessary extensions to the statutory determination period to enable the completion of the S106 agreement.

*4:12 – 4:24pm the meeting was adjourned for a comfort break.*

## **27. 23/00205/OUM – Land rear of 163-187 High Street, Bottisham**

Andrew Phillips, Planning Team Leader, presented a report (Y37, previously circulated) detailing reasons that an application seeking permission for a class C2 retirement care home comprising up to 170 individual dwellings and up to 30% (approximately 51) affordable dwellings would have been refused on. The development would also include a café/bar, a wellness centre, a gym, a library, a salon and therapy/treatment rooms. All matters were reserved apart from access.

A location plan and aerial views were provided to illustrate the site's location on the edge of Bottisham on undeveloped land with existing housing to the west and south and an existing care home to the east. The main vehicle entrance for the retirement village would be to the south, and for the affordable housing to the west. A narrow strip of land not in the applicant's ownership separated the parcel intended for the retirement village and public open space from that planned for the affordable homes and it was not yet known whether there would be access between the two sections. The public right of way on the western boundary would remain and there would also be some off-site footpath works to provide easier access from the retirement village to the existing bus stops. An indicative site plan was shown for the entire site, including the proposed public open space to the south.

The main considerations for the application were deemed to be:

- **Planning history** – the application was fundamentally the same as a previously-refused application that had been dismissed at appeal with the Inspector agreeing with the Council's decision that the development would cause harm to the green belt. The main differences between that application and the current application were a reduction in the indicative maximum building heights (from 12m to 10m) and the provision of an Alternative Site Assessment.
- **Green belt** – the site was entirely within the green belt. Paragraphs 147 and 148 of the NPPF were highlighted, which stated that inappropriate development was by definition harmful to the green belt and should therefore not be approved except in very special circumstances, and that such circumstances would not exist unless the

harm was clearly outweighed by other considerations. The Inspectors decision in the previous appeal had stated that the proposal would harm the green belt permanence and openness and would encroach into the countryside.

- **Alternative site assessment** – the applicant had provided an alternative site assessment to try to justify the development in the proposed location but an independent review had concluded that it was not robust in the way in which it had been undertaken. The District's land was approximately 3% green belt and no specific special need was evident for why the retirement care village should be built on this specific green belt site. There was therefore no change in circumstances that would warrant going against the Inspector's previous decision to dismiss the appeal.
- **Need for development** – there were no specific allocations for C2 use class (care or residential institutions) within the Local Plan 2015 although policies HOU6 and HOU1 supported C2 and Lifetime Homes respectively. It should therefore be accepted that there was a need to provide dwellings for those aged 65+ and that some of those dwellings would be in the form of retirement villages. A table illustrating the elderly care spectrum was provided to show the range of accommodation and care provision for different types of elderly housing provision. The proposed retirement care village spanned the range from sheltered housing provision to care home provision in terms of the level of care that would be needed and available.
- **Single issue review** – a Single Issue Review was expected to be presented to Full Council for adoption on 19 October, subject to the Inspector's timetable, and if it was agreed then policies GROWTH1 and GROWTH2 in the Local Plan 2015 would regain full weight. The Committee were therefore recommended to agree a reason for refusal would be the conflict with policy GROWTH2, but to recognise that Officers would make a judgement as to the weigh of the conflict when addressing the public inquiry for the appeal.
- **Impact on medical/health providers** – in considering the impact of the application, NHS England had requested a contribution of £68,680 towards the ambulance service, the Cambridgeshire and Peterborough Integrated Care Board had stated that there was very little capacity to accommodate the development and had requested £115,733, and the Bottisham Medical Practice had stated that the additional development would overwhelm their service such that they may be forced to close. The Council and the developer were therefore seeking to add suitable contributions into the S106 agreement if the application were approved, but, based on the recommendations in the previous appeal decision it was considered likely that the Inspector would remove those contributions.
- **Heritage and visual amenity** – the site was partially within the conservation area and there was a public right of way through the site. It was considered that the proposal would have less than substantial harm on built heritage and moderate harm to the visual rural character of the area, subject to the final design.

- **Affordable dwellings** – within the whole District it was considered that there was significant under-provision of affordable housing. Since the site was outside the development envelope and in the green belt it would usually first be considered as an exception site under policy HOU4 of the Local Plan 2015 and as such the starting point would be 100% affordable housing for those with a local connection. The proposal sought 30% affordable housing either on-site or off-site *via* a contribution. Since the affordable housing would be grouped together and clearly separate from the retirement village the proposal would be likely to fail the usual good practice of ensuring that affordable housing was tenure-blind.

In summary, the benefits to the scheme were considered to be: the provision of affordable housing and a large C2 use class allocation to meet the housing needs of the elderly; the employment that would be generated; a biodiversity net gain; public open space; and the provision of additional services for Bottisham. However, those benefits were considered to be clearly outweighed by the substantial harm caused by the provision of both the retirement housing and the affordable housing (not specifically for local community needs) in the green belt, and the harm to heritage and the impact on the rural area. The applicant had not demonstrated that the development needed to be placed on green belt land and the application was therefore recommended for refusal. The Council was being asked for its view at a public inquiry and the Committee was therefore recommended to conclude that the Council's view was to refuse the application.

The Chairman then invited Dr Tom Shackleton to address the Committee. Dr Shackleton explained that he was speaking as a GP and partner at the local medical practice. The practice served approximately 6000 patients and already covered a high proportion of care homes. Other local GP practices had an average of 0.6% of their patients in care homes whereas 7.8% of the Bottisham patients were care home residents. The new proposal would result in an increased density of people with high care needs who required proactive GP services. The practice already dedicated a significant amount of GP time each week to rounds at care homes and a further increase would destabilise the practice. Care home residents also tended to require additional care such as physiotherapy and a high density of users would place an excessive pressure on the locality teams for those services. The GP practice had very little space into which it could expand and the costs to support additional care residents would also be ongoing. He stressed that increasing the density of patients with high or complex needs was extremely concerning for the GP practice and would very negatively impact the services that they could provide.

Responding to a question from Cllr Lay, Dr Shackleton stated that there were currently some vacancies in the village's existing care homes but since there had been some updating of the buildings he did not know whether the vacancies were all related to demand.

Cllr Ambrose Smith asked about the expected number of new patients if the development was approved. Dr Shackleton explained that the Cambridgeshire and Peterborough Integrated Care Board had submitted figures in order to determine a S106 contribution but there was an inherent and large uncertainty since the units could accommodate either a single individual or a couple. Nonetheless, the expected figure would be in the region of 200 new patients, which would be significant. The practice valued the doctor-patient relationship for continuity of care and therefore currently limited their doctors to the number of patients they could see on their ward rounds. Additional patients would also impact services such as ambulances (for emergencies and for routine transfers), palliative care and physiotherapists.

Responding to related questions from Cllr Trapp, Dr Shackleton added that the practice's current proactive ward rounds for the village's care homes occupied 4 GP sessions per week. Without those ward rounds there would be 68 additional GP appointments available each week, and with more care home residents to serve more surgery-based appointments would be lost. In addition to the planned rounds there was also a significant time commitment relating to emergency home visits, the majority of which were for care home residents. Staff time for activities such as registering patients, arranging repeat prescriptions, preparing reports for other agencies was also a notable burden. Their patient list currently included approximately 220 care home residents so the proposed facility would double that commitment if the same level of proactive ward rounds was required. Dr Shackleton also agreed with Cllr Brown that the elderly often had high dental needs so the proposal would also be likely to place a significant pressure on local dentistry.

Jon Ogborn, Chair of Bottisham Parish Council, was invited by the Chairman to address the Committee. Mr Ogborn stated that the Parish Council had commented on the previous application and subsequent appeal and they did not support the proposed development for many reasons. Firstly, the proposed site was on green belt land that had a high landscape value and was special to the village. Only 3% of land in East Cambridgeshire was designated as green belt land. 50 new affordable homes were already under construction in Bottisham and more were not needed. Just 7 miles away in Stapleford a near-identical scheme was being built by the same developer; a local resident with knowledge of county-wide planning for care provision had stated that a new retirement home in Bottisham was not required and staff recruitment in the village's existing residential care provision was already difficult due to the poor transport options in the rural setting. The Parish Council also echoed the concerns already highlighted about the pressure on the GP practice. He summarised that there was no need for affordable homes or a residential care village in Bottisham that would justify a new development in the green belt. The proposal would also negatively impact the available medical care for residents in Bottisham and nearby settlements.

The Chairman then invited Dr Claire Daunton, County Councillor for the Fulbourn Division, to address the Committee. Dr Daunton explained that she was a patient at Bottisham's GP surgery, a member of the surgery's Patient

Participation Group (PPG), and the division she represented at Cambridgeshire County Council bordered Bottisham. Many of the neighbouring villages and settlements relied on the services and facilities of Bottisham. She outlined three particular areas of concern: an overprovision of elderly facilities in the area, impact on the GP practice, and the use of green belt land. Bottisham already had two elderly care facilities very close to the proposed site and such co-location was poor for diversity and an integrated community. The proposed C2 class would not preclude full nursing care, although a retirement village was specified in the application. The village's GP facility was small compared to others, with only 3 partners (2 of which worked part-time), and with a disproportionately high number of patients over 65 years of age (26%). The practice already served the existing care homes which placed a large burden on the surgery, as had already been explained. Areas such as dispensing time would be impacted in addition to the GPs and the surgery could not cope with an additional 170 or more elderly patients. Even if the surgery could be extended, the funding for the necessary additional staff was unlikely to be forthcoming. The general facilities of Bottisham were well used, including by those from nearby villages, and the resulting traffic caused problems at times. The inevitable increase in vehicles for both residents and staff would exacerbate the existing pressures on the local roads.

On the invitation of the Chairman, Cllr Cane addressed the Committee as the Ward Member for Bottisham. She reminded Members that in March 2021 they had refused the previous application and that decision had been upheld at appeal. The application site was in the green belt, outside the development envelope, and partly in the conservation area, all of which meant that there would need to be a very strong case of exceptional need for it to be suitable for approval. However, Bottisham already had a high level of good provision for elderly residents and vacancies existed in those establishments. There had also been substantial amounts of affordable housing built in the village, including 50 properties under construction, all of which were in locations that were more integrated to the wider community. The applicant's Alternative Sites Assessment had considered sites that were available to them, whereas the District should look to where provision was most needed, to the north. Not only did Bottisham already have substantial accommodation for the elderly, but the applicants had recently received planning permission for a similar development nearby and an internet search had indicated a further 11 similar facilities within 10 miles. She therefore did not consider that the applicant had demonstrated an exceptional need for the development in the proposed location. In her opinion, there were many other reasons why the application should be refused, but fundamentally they all related to there being no exceptional need. She urged the Committee to refuse the application and provide Officers with a clear case to submit to the Inspector at the appeal.

Cllr Trapp referenced comments in the report regarding foul water backing up and asked whether the situation had been resolved. Cllr Cane explained that the issue was not immediately adjacent to the application site but would use the same services. Although Anglian Water would necessarily accept responsibility for developments that were approved, the systems did not

always cope with the demands of the village and, to the best of her knowledge, the particular issue that had been highlighted remained unresolved.

The Chairman invited further comments from the Case Officer, followed by questions for him from the Committee Members. Responding to points raised by the public speakers, the Planning Team Leader provided further clarification:

- He stressed that the description of the proposal was for a retirement care village, not a care home or a retirement village, and explained that a retirement care village catered for a broad range of needs from low level domestic help through to the high demands of care home needs.
- The medical providers had estimated that there would be 383 residents across the entire site including both the retirement care village and the affordable dwellings.
- S106 contributions could only be used for infrastructure (such as an extension to a GP surgery) rather than ongoing costs (such as the salaries of additional staff for an extended GP surgery). It was also important to note that the Inspector at the previous appeal had stated that it would be for the Clinical Commissioning Group, not a S106 agreement, to allocate any necessary funds for the surgery.
- Anglian Water had confirmed that there was sufficient capacity for waste water.

Cllr Trapp asked whether the proposed 170 units would include provision for the nursing staff since there would be 24/7 staffing, and highlighted the very limited bus service to Bottisham meaning that staff would have issues getting to and from the site by public transport. He also asked for clarification about the appeal for non-determination that was mentioned on p.3 of the Officer's report. The Planning Team Leader explained that the 170 units were all for care provision and there were no floor plans or other detail provided regarding staff accommodation or how the 24/7 care would be delivered. In terms of the appeal, all applications had a statutory timeframe and in this case the applicant chose not to continue negotiations regarding an extension of time but to submit an appeal for non-determination instead. It would therefore be up to the Planning Inspector to determine whether or not the application should be approved and the Committee's decision would form the basis of the Council's response to the appeal.

The Chairman then opened the debate and proposed that the Officer's recommendation be approved. He stated that there had been a clear strength of feeling that the residents of Bottisham and people from a wider area did not want the proposed development. Cllr Brown seconded the proposal and reminded Members that a very similar proposal had been previously refused by the Committee and the subsequent appeal had been dismissed by the Inspector. He stated that its location on green belt land was entirely unacceptable and he urged the Committee to send the strongest possible message to the Planning Inspectorate by unanimously voting against the proposal.

Cllrs Akinwale, Whelan, Lay, Wilson and Trapp all spoke against the proposal, highlighting its inappropriate location and noting the lack of anyone, including the developer, speaking in favour of it.

It was resolved unanimously:

That planning application ref 23/00205/OUM would have been REFUSED for the reasons detailed in paragraph 1.1 of the Officer's report, had the Council been able to determine the application before the applicant lodged an appeal against non-determination.

*5:15pm Cllr James Lay left the meeting and did not return.*

## **28. 23/00656/FUL – 4 Church Farm Close, Wentworth**

Rachael Forbes, Planning Officer, presented a report (Y38, previously circulated) recommending approval of an application seeking retrospective planning permission for the change of use of paddock land to domestic garden including the siting of garden structures.

Members were shown a location plan and aerial view illustrating the site's location partly within the development envelope of Wentworth, with open countryside to the west and countryside and the A142 to the north. Plans of the former paddock boundary and the locations of the new ponds, paving and greenhouse were shown.

The main considerations for the application were deemed to be:

- **Principle of development** – change of use from paddock land to garden land outside the development envelope was contrary to policy GROWTH2 of the Local Plan 2015. However, paragraph 47 of the National Planning Policy Framework (NPPF) stated that applications should be determined in accordance with the development plan unless material considerations indicated otherwise. In this case, the 2005 approved plans for the dwelling and garage showed no physical boundary between the garden and paddock and the planning statement set out that in 2008 the previous owners had constructed a patio and shed partly on the garden and partly on the paddock as well as establishing a grass lawn across the garden and paddock. In 2015 the current owners had purchased the property and continued to use the land as a single space, as had been shown on the sales particulars. Since then they had introduced additional domestic structures across the site including two ponds and a greenhouse. Various aerial photographs were provided in support of these descriptions. Since there was clear evidence of the use of the paddock as a domestic garden, with no demarcation between the paddock and garden, for more than 10 years this was a material consideration in the determination of the application.
- **Visual impact** – the site was bounded to the north, west and south by hornbeam hedging planted by the applicants, pre-existing hawthorn hedge and a pre-existing 1.3m post and rail fence. There were limited views of the site from the public realm and the proposed garden land

did not extend beyond the cluster of dwellings to the south of the site. It was not an isolated location and if viewed from outside the site only the boundary treatments would be visible, which would potentially be no different to the view if the land was in use as a paddock. The greenhouse, ponds and paving were all of a domestic scale, a high standard of design, and there was limited visibility of any of them from outside the site. It was therefore considered that the proposal would not result in a significant adverse impact to the character and appearance of the area, or result in significant harm to the countryside, and was therefore compliant with policies ENV1 and ENV2 of the Local Plan 2015.

- **Other matters** – it was considered that the proposal would not result in any adverse impacts to residential amenity of neighbouring properties. The proposal would provide a biodiversity net gain and was acceptable in terms of flood risk.

In summary, although the proposal did not accord with policy GROWTH2 it would not cause harm to the character of the countryside, which was a key aim of the policy. It was acceptable in all other aspects and complied with all other relevant policies of the Local Plan 2015. It was therefore considered that no demonstrable harm would arise from the proposed development. Evidence had also been provided to suggest that the site had been laid to lawn and in use as a private garden for long enough to establish a lawful use through the passage of time; this was not definitive but had been given some weight. All of these aspects were material considerations of sufficient weight to warrant departure from the Local Plan 2015 in respect of the strict application of policy GROWTH2, and the application was therefore recommended for approval.

On the invitation of the Chairman, the applicant David Scott addressed the Committee. He explained that the lawn had been established since 2009 and in use as a garden since then. There had been no clear separation between the paddock land and garden land when he purchased the property, and there was no clear view of the land from outside the application site. He detailed the wildlife that was attracted to the site by the installation of the ponds, introduction of a log pile, and keeping the grass long in places. He stressed the importance that his family placed on supporting nature and encouraging increased biodiversity. They were planning to introduce a wildflower meadow and many trees had already been planted with the long-term intention to create a tree corridor across the garden to encourage more birds.

There were no further comments from the Case Officer, or questions for her, so the Chairman opened the debate. Cllrs Hunt, Wilson and Akinwale complimented the quality and beauty of the garden. The Officer's recommendation for approval was proposed by Cllr Wilson and seconded by Cllr Akinwale. Cllr Trapp agreed with their comments but reminded the Committee to consider the application in terms of planning policy. He stated that a planning application should have been submitted much earlier but accepted that the current owners had been unaware of the need. On balance, he supported the proposal but with some reservations.



It was resolved unanimously:  
That planning application ref 23/00656/FUL be APPROVED subject to the recommended conditions detailed in Appendix 1 of the Officer's report.

## **29. Planning performance report – July 2023**

Simon Ellis, Planning Manager, presented a report (Y39, previously circulated) summarising the performance of the Planning Department in July 2023, and provided the Committee with an update from the department.

Jasmine Moffatt had been appointed as a Planning Assistant on 4 September and Charlotte Elston as a Planning Officer on 14 August. There remained two vacancies that were currently filled by Planning Consultants with the net effect of a full complement of staff in the department. Recruitment of new Senior Planning Officers remained difficult. Workload was high, with the main challenge being the backlog of applications from previous years that Members would see coming to Committee over the next few months.

The public inquiry for the Bottisham application that had been considered earlier in the meeting would commence on 17 October and would be held in the Council Chamber. It had been scheduled for 6 days but there was an expectation that this would be shortened since there was a relevant previous Inspector's decision so the inquiry focus would be narrowed to whether there was sufficient new evidence to overcome the previous decision. There would be a case conference later that week for the Inspector and both parties' barristers to discuss the details. The Council's focus would be on the green belt but today's public speakers could also contribute their viewpoints to the inquiry.

Several appeals had recently been allowed. The Government measured appeal decisions for major applications, so there was no cause for concern from that perspective, but he was monitoring the situation and if appeals continued to be allowed then he would review the process for delegated refusal decisions.

Responding to a question from Cllr Trapp, the Planning Manager explained that the statutory determination date for major applications was 13 weeks and for minor applications was 8 weeks. Once that date was passed the applicant could submit an appeal for non-determination but mostly agreed an extension date with the Officers. In the case of the Bottisham application, the records would permanently show that the Council did not determine the application; the applicants' appeal for non-determination meant that the Council were no longer the decision-maker.

It was resolved unanimously:  
That the Planning Performance Report for July 2023 be noted.

The meeting concluded at 5:39pm.

