

23/00656/FUL

4 Church Farm Close

Wentworth

Ely

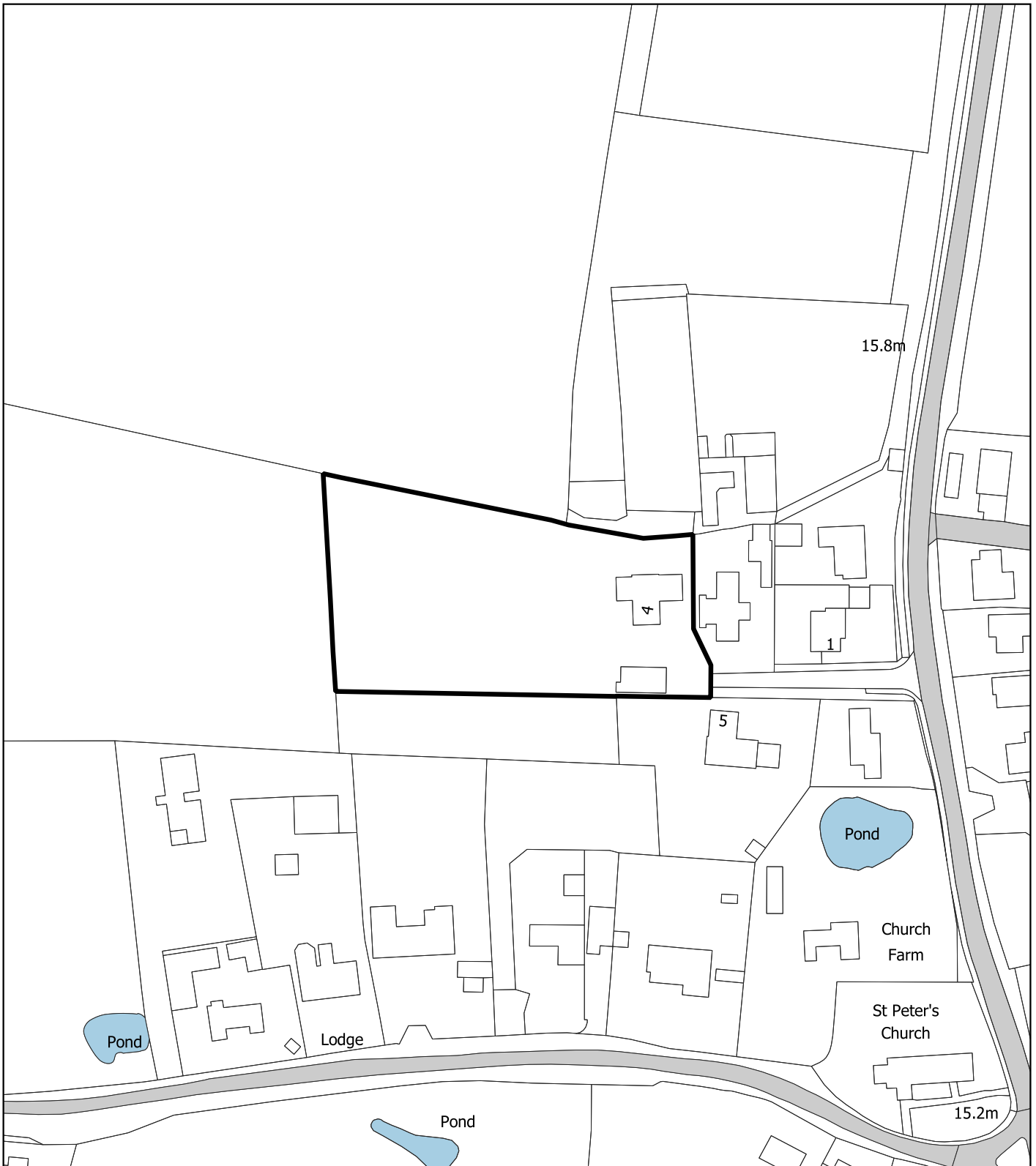
CB6 3QL

Change of use of paddock land to residential garden and siting of domestic garden structures - retrospective

To view all of the public access documents relating to this application please use the following web address or scan the QR code:

<http://pa.eastcambs.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RVZEXDGGGLBR00>





23/00656/FUL

4 Church Farm Close
Wentworth



East Cambridgeshire
District Council

Date: 14/08/2023
Scale: 1:1,500



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TITLE: 23/00656/FUL

Committee: Planning Committee

Date: 6 September 2023

Author: Planning Officer

Report No: Y38

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Site Address: 4 Church Farm Close Wentworth Ely Cambridgeshire CB6 3QL

Proposal: Change of use of paddock land to residential garden and siting of domestic garden structure - retrospective

Applicant: D & W Scott

Parish: Wentworth

Ward: Sutton

Ward Councillor/s: Lorna Dupré
Mark Inskip

Date Received: 22 June 2023

Expiry Date: 13 September 2023

1.0 RECOMMENDATION

1.1 Members are recommended to APPROVE the application subject to the recommended conditions summarised below: The conditions can be read in full on the attached appendix 1.

1 Approved Plans

2.0 SUMMARY OF APPLICATION

2.1 The application seeks retrospective planning permission for the change of use of paddock land to domestic garden and the siting of garden structures. The description originally included reference to 'paraphernalia', however this does not require planning permission and therefore has been removed from the proposal description.

2.2 The application is being heard at Planning Committee as it is a departure from the development plan.

2.3 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council's Public Access online service, via the following link <http://pa.eastcambs.gov.uk/online-applications/>.

3.0 PLANNING HISTORY

3.1	01/00246/FUL	Construction of five detached dwellings	Approved	07.05.2002
	03/01243/FUL	Erection of three bedroom chalet bungalow and single garage	Approved	21.01.2004
	04/00521/FUL	New house and garage	Approved	06.09.2004
	05/00410/FUL	New house and garage	Approved	29.06.2005

4.0 THE SITE AND ITS ENVIRONMENT

4.1 The application site consists of a two-storey detached dwelling and garage. The dwelling and most of the garage are within the development envelope; the land proposed to change use is outside of the development envelope and is therefore considered to be in the countryside. The land is bounded by post and rail timber fencing and a two-metre (6.5ft) hornbeam hedge.

5.0 RESPONSES FROM CONSULTEES

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

Parish Council - 30 June 2023

No objections to raise

Ward Councillors - No Comments Received

Enforcement Section - No Comments Received

5.2 A site notice was displayed near the site on 10th July 2023 and a press advert was published in the Cambridge Evening News on 13 July 2023.

5.3 Neighbours – five neighbouring properties were notified; no responses were received.

6.0 THE PLANNING POLICY CONTEXT

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan

unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted East Cambridgeshire Local Plan (2015) and the Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021).

6.2 East Cambridgeshire Local Plan 2015

GROWTH 2	Locational strategy
GROWTH 5	Presumption in favour of sustainable development
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy and water efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
ENV 8	Flood risk

6.3 Supplementary Planning Documents

Design Guide
Flood and Water
Natural Environment SPD
Climate Change SPD

6.4 National Planning Policy Framework 2021

- 2 Achieving sustainable development
- 4 Decision-making
- 12 Achieving well-designed places
- 14 Meeting the challenge of climate change, flooding and coastal change
- 15 Conserving and enhancing the natural environment

6.5 Planning Practice Guidance

7.0 **PLANNING COMMENTS**

The main considerations in the determination of this application are the principle of development, visual amenity, residential amenity, ecology and climate change.

7.1 Principle of Development

7.1.1 Policy GROWTH 2 of the East Cambridgeshire Local Plan, 2015 states that outside defined development envelopes, development will be strictly controlled, having regard to the need to protect the countryside and the settings of towns and villages. Development will be restricted to the main categories listed in the policy and may be permitted as an exception, providing there is no significant adverse impact on the character of the countryside and that other Local Plan policies are satisfied.

7.1.2 The proposal seeks the change of use of paddock land to garden land and the siting of domestic structures which is not an exception listed in Policy GROWTH 2. As it is not listed an exception, the proposal is therefore contrary to GROWTH 2.

- 7.1.3 However, paragraph 47 of the National Planning Policy Framework states *'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise'*. This is a reflection of the requirements of the Planning and Compulsory Purchase Act referred to above.
- 7.1.4 The dwelling and garage were granted approval in 2005 (05/00410/FUL). The submitted drawings show the red line boundary around the area where the dwelling and garage are sited and the access leading to the property. In the blue line is a 'one-acre paddock'. On the site plan from this application, it is noted that the land beyond the red line is arable land but that there will be no physical boundary treatment between the two.
- 7.1.5 The submitted planning statement sets out that in 2008 the previous owners constructed a garden patio and shed partly on the former paddock and partly on the approved garden, that they established a grass lawn extending fully across the approved garden and paddock and that all boundaries and demarcations between garden and paddock were removed.
- 7.1.6 The current owners purchased the site in 2015. The planning statement states *'Since their purchase of the site in 2015, the current owner and their family have continued to use the former paddock land as an integral part of their domestic garden. They have gradually introduced additional domestic structures to the land over the c.8 years since 2015'*. As part of the application, the sales particulars have been provided. The pictures included in the sales particulars show the grass lawn extending across the approved garden and paddock. The external area is described in the particulars as *'The remaining garden and grounds are laid to lawn enclosed by a post and rail fence with a number of trees to the rear'*.
- 7.1.7 The available aerial photographs of the site are from 2007, 2008, 2009, 2016, 2018, 2020 and 2023. In the 2007 and 2008 aerial images, the site does not appear to be laid to lawn but there also does not appear to be any demarcation or boundary between the two land uses. In the 2009 image, the garden and paddock land is laid to lawn as it is in the aerial views from 2016 and this is consistent with the pictures from the sales particulars. The aerial images from 2018 onwards show the site much as it is now.
- 7.1.8 The first page of the planning statement states *'Because the change of use occurred more than 10 years ago, the applicants have grounds to apply for a Certificate of Lawful Use. This full planning application does not purport to provide those grounds and does not preclude the submission of such an application at a later date, to be determined on its own merits'*. For the change of use to be lawful, the breach would need to have occurred for at least 10 years without challenge from enforcement action.
- 7.1.9 While officers are not making a determination as to whether the change of use is established as lawful through the passage of time, it appears that the land has been laid to grass, with no demarcation between the two pieces of land since 2009. The applicant has provided pictures in the planning statement showing the paddock land being used as garden from 2016 (following their purchase of the site). It is

considered the length of time the land has been used as domestic garden forms a material consideration in the determination of the application.

7.2 Visual Amenity

- 7.2.1 Policy ENV 1 of the East Cambridgeshire Local Plan, 2015 states that development proposals should ensure that they provide a complementary relationship with the existing development and conserve, preserve and where possible enhance the distinctive and traditional landscapes and key views in and out of settlements. Policy ENV 2 states that development proposals ensure that the location, layout, massing, materials and colour of buildings relate sympathetically to the surrounding area.
- 7.2.2 The proposal seeks the change of use of paddock land to garden land and the siting of domestic structures. The domestic structures include a greenhouse, the laying of sandstone paving and two ponds, one with an artificial beach.
- 7.2.3 The planning statement includes an aerial image of the site in 2003, prior to the construction of the dwelling, which shows the land parcel, edged on the western and northern boundaries with hedging/vegetation. The site at present is bounded on the north, west and southern boundaries by hornbeam hedge planted by the applicants, pre-existing hawthorn hedge and a pre-existing 1.3 metre (4.2ft) post and rail fence. There are limited views of the site from the public realm; the closest roads (excluding Church Farm Close itself) are Church Street (east), Main Street (south) or the A142 (north). The nearest Public Right of Way (PRoW) is approximately 690 metres (2,263ft) away to the west.
- 7.2.4 While the proposed garden land does extend into the countryside, it does not extend beyond the cluster of dwellings to the south of the site. It is not in an isolated location and there is residential development and gardens in very close proximity to the site. Furthermore, it is considered that if viewed from outside of the site all that will be visible is the boundary treatments, which would potentially be no different to the view that would be available if the land was in use as a paddock.
- 7.2.5 Turning to the development within the site, the domestic features are all largely located to the east of the site, closest to the dwelling. The greenhouse is of a design and scale that would be expected in a domestic garden, as are the eastern pond and sandstone paving. It is considered that they are all of a high standard of design and would not result in harm to the character and appearance of the area, further assisted by the fact that they have limited visibility from outside of the site.
- 7.2.6 The pond with artificial beach to the west of the site is situated away from the dwelling. However, this is low to the ground with planting and vegetation around it. Further to this, the pond is considered to have positive biodiversity benefits (this is expanded on in the relevant section). Again, there will be very limited, if any visibility of this outside of the site.
- 7.2.7 Planning permission goes with the land and while the current owners have planted hedging and the features that they have installed are of a high quality, it is accepted that this may not always be the case. Even if the hedging were not present, it is considered that the site would have limited visibility from the public realm. Officers

have considered the removal of Class E permitted development rights, however, Planning Practice Guidance states that *'conditions restricting the future use of permitted development rights or changes of use may not pass the tests of reasonableness or necessity... Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.'* Class E of the General Permitted Development Order, 2015 restricts heights, siting and size of development and any ancillary development that would constitute permitted development would be domestic in scale and in keeping with the scale of the house. It is therefore considered that it would not be reasonable to remove permitted development rights in this case.

- 7.2.8 It is considered that the proposal would not result in a significant adverse impact to the character and appearance of the area nor result in significant harm to the countryside and is therefore considered to comply with Policies ENV 1 and ENV 2 of the East Cambridgeshire Local Plan, 2015.
- 7.3 Residential Amenity
- 7.3.1 Policy ENV 2 of the East Cambridgeshire Local Plan, 2015 states that new development will be expected to ensure that there is no significantly detrimental effect on the residential amenity of nearby occupiers and that occupiers and users of new buildings, especially dwellings, enjoy high standards of amenity.
- 7.3.2 4 Church Farm Close has five neighbours; 3 Church Farm Close to the east, 5 Church Farm Close to the south east, Victoria House and Tanglewood to the south and Woodward to the south west.
- 7.3.3 As noted in the above sections, it is considered that the existing use has been occurring for a number of years.
- 7.3.4 The domestic structures include the erection of a greenhouse, the laying of sandstone paving and two ponds. Of these, the only one that could potentially have any impacts to neighbouring dwellings (due to the others being on the ground) is the greenhouse. This is situated adjacent to the southern boundary. The greenhouse is approximately 3 metres (9.84ft) in height (3.3 metres (10.82ft) including the finial). It is a low height transparent building and is separated from the dwellings to the south by a strip of land and from 5 Church Farm Close by the garage building at number 4. It is considered that this outbuilding would not result in any overbearing, overshadowing or overlooking impacts to neighbouring dwellings.
- 7.3.5 Whilst the area of the site is large compared to the existing residential garden, the use of the site by a single residential property is not considered to result in any significant increase in noise and disturbance to the neighbouring residential properties.
- 7.3.6 The proposal is considered not to result in any significant adverse impacts to the residential amenity of neighbouring occupiers and is therefore considered to comply with Policy ENV 2 of the East Cambridgeshire Local Plan, 2015.

7.4 Ecology

- 7.4.1 Policy ENV 7 of the East Cambridgeshire Local Plan, 2015 states that all applications for development that may affect biodiversity and geology interests must be accompanied by sufficient information to be determined by the Local Planning Authority, including an ecological report, to allow potential impacts and possible mitigation measures to be assessed fully. It also states that all development will be required to protect the biodiversity and geological value of land and buildings and minimise harm to or loss of environmental features, such as trees, hedgerows, woodland, wetland and ponds. Policy ENV 1 states that development proposals should protect, conserve and where possible enhance the pattern of distinctive historic and traditional landscape features such as watercourses, characteristic vegetation, individual and woodland trees, field patterns, hedgerows and walls and their function as ecological corridors for wildlife dispersal. Policy ENV 2 states that all development proposals will be expected to make efficient use of land while respecting the density, urban and village character, public spaces, landscape and biodiversity of the surrounding area.
- 7.4.2 The Council has adopted the Natural Environment SPD which states that all developments must result in biodiversity net gain.
- 7.4.3 The planning statement sets out that following the change of use occurring in 2008, the following features have been added to the site:
- The creation of two ponds with wildlife ramps. The western pond also has an artificial beach.
 - The planting of 70+ native tree specimens including hornbeam hedgerows.
 - The planting of new beds and borders with shrubs, plants, flowers and grasses.
 - An underground frog den (appearing as a log pile) installed near the western pond.
 - Five bird boxes have been installed around the site.
- 7.4.4 The planning statement sets out that the applicants' future intentions are to create a wildflower meadow in the west of the site,
- 7.4.5 Pictures have been provided of the above enhancements within the planning statement and within appendix 2 of the planning statement.
- 7.4.6 The Natural Environment SPD gives an example of net gain: *'If development is to take place on, say, a current agricultural field with perhaps a hedgerow around it, by the time the development is complete, there should be more land set aside for wildlife to thrive than there was before development took place. This will require new habitats to be created, such as woodlands and ponds, as well as homes that incorporate wildlife friendly measures such as bird and bat boxes.'*
- 7.4.7 From the information available, the site previously had hedging/vegetation on the northern and western boundaries and the aerial images show that the site has been laid to grass since 2009. It is considered that the biodiversity value of the site has

been increased through the implementation of the features set out above. Further to this a section of the site has been left as grass. New habitats have been created alongside other measures to enhance biodiversity. It is considered that most of the changes that have occurred on the land over time have biodiversity benefits and are proportionate to the development proposed.

- 7.4.8 The proposal is therefore considered to comply with Policies ENV 1, ENV 2 and ENV 7 of the East Cambridgeshire Local Plan, 2015 and the Natural Environment SPD.
- 7.5 Flood Risk
- 7.5.1 Policy ENV 8 states that all developments and re-developments should contribute to an overall flood risk reduction. The sequential and exception test will be strictly applied across the district and new development should normally be located in flood zone 1; the application site is situated in flood zone 1 and therefore is considered to be acceptable.
- 7.5.2 Due to the nature of the development, the disposal of foul sewage is not relevant to the application. No information has been provided in respect of surface water, however, the only surface water created would be from the sandstone paving and greenhouse. The greenhouse has guttering and there are areas of planting around the greenhouse and grass adjacent to the sandstone paving which water could drain into. It is considered that it would not be necessary to seek any further information relating to drainage given the scale of the physical development that permission is sought for.
- 7.5.3 The proposal is therefore considered to comply with Policy ENV 8 of the East Cambridgeshire Local Plan, 2015.
- 7.6 Climate Change
- 7.6.1 Local Plan Policy ENV4 states: *'All proposals for new development should aim for reduced or zero carbon development in accordance with the zero carbon hierarchy: first maximising energy efficiency and then incorporating renewable or low carbon energy sources on-site as far as practicable'* and *'Applicants will be required to demonstrate how they have considered maximising all aspects of sustainable design and construction.'* The adopted Climate Change SPD encourages all development to include sustainability measures within their proposal. No measures have been put forward as part of the application, however, due to the nature of the development proposed, it is considered that the inclusion of sustainability measures reasonably related to the development would be difficult and in this instance it is considered acceptable not to provide any such measures.
- 7.7 Planning Balance
- 7.7.1 Whilst the proposed development does not accord with policy GROWTH 2 as it does not fall within one of the exemptions for development in the countryside, it would not cause any harm to the character of the countryside which is a key aim of policy GROWTH 2.

- 7.7.2 The proposal is considered to be acceptable in all other aspects including impacts of the proposal upon the character and appearance of the surrounding area, impacts to the amenity of neighbouring occupiers and it results in an enhancement to biodiversity and complies with all relevant Local Plan policies regarding those considerations. It is therefore considered that no demonstrable harm would arise from the proposed development.
- 7.7.3 As detailed in the principle section, the site has been laid to lawn and in use as residential garden for a significant period, with some evidence suggesting that this has been for a period that would be sufficient to establish lawful use through the passage of time. While not definitive, some weight has been given to this in the weighing of the application.
- 7.7.4 Taken together, the lack of any demonstrable harm to the character of the countryside, the lack of any other detailed harm and the length of time the site has been laid to lawn and in use as residential garden are considered to form material considerations of sufficient weight to warrant a departure from the Local Plan in respect of the strict application of policy GROWTH 2. The application is therefore recommended for approval.

8.0 COSTS

- 8.1 An appeal can be lodged against a refusal of planning permission or a condition imposed upon a planning permission. If a local planning authority is found to have acted unreasonably and this has incurred costs for the applicant (referred to as appellant through the appeal process) then a costs award can be made against the Council.
- 8.2 Unreasonable behaviour can be either procedural ie relating to the way a matter has been dealt with or substantive ie relating to the issues at appeal and whether a local planning authority has been able to provide evidence to justify a refusal reason or a condition.
- 8.3 Members do not have to follow an officer recommendation indeed they can legitimately decide to give a different weight to a material consideration than officers. However, it is often these cases where an appellant submits a claim for costs. The Committee therefore needs to consider and document its reasons for going against an officer recommendation very carefully.

9.0 APPENDICES

- 9.1 Appendix 1: Conditions

Background Documents

23/00656/FUL

National Planning Policy Framework -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60777/2116950.pdf

East Cambridgeshire Local Plan 2015 -

<http://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>

APPENDIX 1 - 23/00656/FUL Conditions

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

Plan Reference	Version No	Date Received
02	3	22nd June 2023
01	2	22nd June 2023
Greenhouse		9th June 2023

- 1 Reason: To define the scope and extent of this permission.