

MAIN CASE

Reference No: 17/00703/FUM

Proposal: Residential development of 10 dwellings together with new access from The Paddocks

Site Address: Land East Of The Paddocks, Cheveley, Cambridgeshire

Applicant: Lightdoor Ltd

Case Officer: Julie Barrow, Senior Planning Officer

Parish: Cheveley

Ward: Cheveley
 Ward Councillor/s: Councillor Peter Cresswell
 Councillor Mathew Shuter

Date Received: 25 April 2017 **Expiry Date:** 9 August 2017

[S74]

1.0 **RECOMMENDATION**

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

1. The site is located to the west of High Street, beyond an allocated site on which 14 dwellings are in the course of construction. Development of this depth is not a defining characteristic of Cheveley and this proposal will result in the loss of an area of open paddock land to the rear of existing dwellings. A public right of way adjoins the eastern boundary of the site and the proposed dwellings will feature prominently in views of the settlement edge from the footpath. The proposal will lead to further encroachment of the built form of the village into the countryside and will fundamentally alter the character and tranquillity of the area. The scale and form of development is therefore considered to cause significant and demonstrable harm to the visual amenity of the area and is contrary to Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015 and paragraph 109 of the National Planning Policy Framework.
2. The applicant has failed to demonstrate that proposed surface water-drainage scheme comprising a series of open ditches/watercourses connected by pipe work will provide an adequate solution to surface water drainage on the site. In addition the scheme does not address issues of ownership and maintenance. The proposal is therefore contrary to Policy ENV8 of the East Cambridgeshire Local Plan 2015 and the Cambridgeshire Flood and Water SPD.

3. Amendments made to the scheme during the course of the application have resulted in a proposal that may negatively impact upon a number of significant boundary trees and a protected Oak Tree within the site. The application was not accompanied by sufficient information to enable the Local Planning Authority to fully assess the impact of the proposal on the trees and on this basis the proposal is contrary to Policy ENV7 of the East Cambridgeshire Local Plan 2015.

2.0 SUMMARY OF APPLICATION

- 2.1 The application seeks consent for the construction of ten dwellings on land to the east of The Paddocks with access through The Paddocks, a residential development currently under construction and nearing completion.
- 2.2 Amended plans have been submitted during the course of the application with consent now being sought for the following:
- 2 x two bedroom single storey dwellings
 - 2 x three bedroom two storey dwellings
 - 3 x four bedroom one-and-a-half storey dwellings
 - 2 x four bedroom two storey dwellings
 - 1 x five bedroom two-and-a-half storey dwelling
- 2.3 The two single storey dwellings (plots 9 and 10) are being offered as shared ownership affordable dwellings. Plots 1-8 are served by detached garages.
- 2.4 The scheme now includes an above-ground sustainable drainage system comprising a series of swales and ditches. Additional landscaping is also proposed together with an area of open space.
- 2.5 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.eastcamb.gov.uk/online-applications/>. **Alternatively a paper copy is available to view at the East Cambridgeshire District Council offices, in the application file.**
- 2.6 The application has been called in to Planning Committee by Cllr M Shuter as "*there is considerable local anger and opposition to this proposal and the Parish Council is unanimously opposed to it*".

3.0 PLANNING HISTORY

- 3.1
- | | | | |
|--------------|---|----------|------------|
| 13/01139/FUM | Erection of fifteen dwellings and creation of new access onto High Street | Approved | 03.10.2014 |
| 16/01775/FUL | The construction of a 1 in 100 year storm attenuation pond including 30% volume to allow for climate change | Approved | 23.03.2017 |

4.0 THE SITE AND ITS ENVIRONMENT

4.1 The site is located outside the established settlement boundary and within the south-eastern part of the village, to the east of the High Street. Access is via a development known as The Paddocks. The site extends to approximately 1.2 hectares and currently forms part of Brook Stud. A public footpath runs parallel to the eastern boundary, alongside a mature hedge and tree belt. The southern boundary is also marked by a line of mature trees. A tree within the site and another beyond the northern boundary are subject to a recent Tree Preservation Order (E/06/17). A recently constructed balancing pond, which serves The Paddocks, lies just outside the north-eastern corner of the site.

5.0 RESPONSES FROM CONSULTEES

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

Cheveley Parish Council (summary of main points made prior to receipt of amended scheme) –

- Proposal contradicts The Cheveley Planning Policy Document submitted to ECDC as part of the Local Plan review.
- Contradicts Cheveley Village Vision February 2013.
- Site is outside development envelope.
- Will dramatically alter the layout of the village, which is characterised by its linear build on each side of the road, with green fields and paddocks behind.
- Cumulative impact of development already planned. Any more will be unsustainable.
- Harm to local economy from impact on horse racing and breeding industry.
- Village infrastructure cannot cope.
- Further executive homes increase prospect of Cheveley becoming dormitory commuter village.
- A large brownfield site could be developed instead of this greenfield site.
- No identified need for large homes.
- Adverse effect of additional traffic movements.
- Public sewerage system nearing capacity.
- Lack of school places (letter attached from Headteacher of Cheveley C of E (C) Primary School).
- Impact on local environment, Greenfield and open countryside.
- Comments on Planning Statement submitted by applicant:
 - Little to no parish council or public engagement prior to submission of application.
 - Question why plans for this development were not submitted at the same time as The Paddocks development. Would have resulted in more affordable units being provided.
 - Development encourages the need for travel by car.
 - Cheveley has sufficient 'deliverable sites'.
 - Any argument the Authority does not have a five year land supply should be dismissed. Local plan close to being finalised and Cheveley has a clear five year housing land supply.
 - The site is not comparable to the Oak Lane site.

- Claim that Cheveley is well served by public transport is incorrect.

Cheveley Parish Council (response on amended scheme) –

- Maintains strong objection
- Development will still be imposing on surrounding properties and adjacent countryside
- Inclusion of open space has led to denser layout on southern side. Who will maintain this space and prevent it being developed in the future?
- Inclusion of SuDS system could increase risk of flooding.

Ward Councillor – See 2.6 above.

Local Highway Authority (first response) – Objects to scheme as the shared use area leading off The Paddocks is not laid out to a suitable standard. Amendments requested.

Local Highway Authority (response on highway amended scheme) – Amendments address concerns regarding road layout. No objection subject to a condition restricting gates.

Lead Local Flood Authority (first response) – Object to scheme due to lack of information in relation to existing watercourse and the proposed use of a below-ground surface water system.

Asset Information Definitive Map Officer (first response) – Cheveley FP2 runs adjacent to the site. The development should not impact on the Footpath.

Asset Information Definitive Map Officer (response to amended scheme) – Proposed drainage scheme should reduce the risk of FP2 being flooded.

CCC Growth & Development – No comments received.

Minerals & Waste Development Control Team – No comments received.

Ramblers, Newmarket & District – FP2 runs from Pump Green to Broad Green on a route just outside and almost adjacent to the eastern boundary. Some of the proposed dwellings will be relatively close to the footpath but the impact on users is not likely to be great. No objection offered on rights of way grounds but considers that proposal is contrary to horse racing policy.

Designing Out Crime Officer (first response) – Consider this to be an area of low risk to crime. This appears to be an acceptable development.

Designing Out Crime Officer (response to amended plans) – Recommend that security of proposed homes is paramount and all should be secure to ensure access to rear of properties is restricted.

Trees Officer (first response) – Number of trees of significance potentially affected including two subject to a Tree Preservation Order, a belt of mainly Horse Chestnut trees to the south and a belt of trees to the east.

The Arboricultural report indicates retention of the trees of significance and tree protection measures for those outside the site. No objection to the scheme on this basis. If approved the Tree Protection Plan should be secured by condition.

Concerns regarding enrichment upon the root protection area of the Oak tree and the negative impact upon the landscape character.

Trees Officer (response to amended scheme) - The amendments to this scheme include a revised layout that potentially has a negative impact to the boundary trees due to additional drainage within close proximity to the rooting areas of the boundary trees. Additionally the tree protection plan in relation to the application is no longer relevant to this scheme and cannot be conditioned.

It is advised that a revised Arboricultural Impact Assessment is submitted in relation to the revised layout, as it is imperative the trees at and adjacent the site are affectively considered.

Environmental Health (Technical Officer) – Advise that construction times and deliveries are restricted and that a Construction Environmental Management Plan is agreed with the LPA.

Environmental Health (Scientific Officer) – Recommend standard contaminated land conditions as the application is for a sensitive end use.

Waste Strategy Team – ECDC will not enter private property to collect waste or recycling. It is the responsibility of the owners/residents to take waste to the highway boundary on the relevant collection day. Wheeled bin contribution currently set at £43 per property.

East Cambridgeshire Access Group – Request footpaths on shared surface road and good lighting throughout the site.

Newmarket Horseman's Group –

- Loss of land currently in horse racing use
- Value of industry to local economy known
- Newmarket of significance locally and nationally
- ECDC Local Plan seeks to protect the industry
- Existing facilities need to be protected
- Loss of paddock land to Brook Stud – reduces quality of wider site for horse racing uses
- Benefits do not outweigh adverse impacts

5.2 Neighbours – Site notice posted, advertisement placed in the Cambridge Evening News and 25 nearby properties were notified and the responses received are summarised below. A full copy of the responses is available on the Council's website.

53 responses received, including a number on the amended scheme, making the following comments:

- Lack of infrastructure/pressure on local services including school
- Removal of land from stud - effect on equine industry
- Greenfield – not brownfield or infill as previous development
- Will change distinctive character of Cheveley
- Disturbance – noise, dust, traffic etc during construction.
- Exacerbate parking problems on high street
- Contrary to Parish Council and residents' wishes
- Any further housing should be affordable/available to local people
- Impact on wildlife
- Where will development stop?
- Additional traffic will lead to congestion and speeding
- Outside development envelope
- Design out of character for the village
- Overlooking to existing properties
- Abusive behaviour by builders
- History of not carrying out development in accordance with the approved plans
- Full archaeological survey should be carried out
- No consultation with residents
- Was not included in previous application as it was known that it would not be supported
- Drainage issues on site
- No gas – heat pumps required and insufficient electric supply
- Other brownfield sites identified for development
- Outdated and inadequate sewerage system
- Backland development – Cheveley is a rural linear village
- Loss of privacy
- Impact on quality of life from visual impact and tranquillity
- Upset and distress caused to adjacent resident
- Impact on public right of way adjacent to site
- Village beginning to lose its identity
- No co-ordination between ECDC and Forest Heath DC to protect Newmarket stud land
- Lack of trust in ECDC
- Unsustainable development
- Cumulative effects
- Loss of view
- Revised application contains trivial changes and original objections stand
- Revised plans are merely cosmetic and do not address concerns raised
- Visual impact made worse with fences, railings and ditches now included
- Ditches will be difficult to keep clear and may result in vermin and foul smells
- Revised plans are worse and completely unacceptable
- Who will be responsible for maintaining ditches?
- Drainage system will not adequately protect existing properties from flooding
- Dwellings will still overlook existing properties
- Water in attenuation pond has not drained away even in hot weather. Suggests land is not free draining.
- Safety of children and wildlife around open pond and ditches

- If Phase 2 is approved landowners will continue to develop down to Broad Green
- A plot could be omitted to allow access to further land
- Post and rail fencing is a security risk
- Limited improvement on TPO tree. Area could be used by children and create a disturbance or for car parking.

An update will be provided to Planning Committee on any further neighbour or consultee comments received after the publication of this report.

6.0 The Planning Policy Context

6.1 East Cambridgeshire Local Plan 2015

| | |
|----------|--|
| GROWTH 2 | Locational strategy |
| GROWTH 3 | Infrastructure requirements |
| GROWTH 5 | Presumption in favour of sustainable development |
| HOU 1 | Housing mix |
| HOU 2 | Housing density |
| HOU 3 | Affordable housing provision |
| ENV 1 | Landscape and settlement character |
| ENV 2 | Design |
| ENV 4 | Energy efficiency and renewable energy in construction |
| ENV 7 | Biodiversity and geology |
| ENV 8 | Flood risk |
| ENV 9 | Pollution |
| COM 7 | Transport impact |
| COM 8 | Parking provision |
| CHV 2 | Housing allocation, land between 199-209 High Street |
| EMP 6 | Development affecting the horse racing industry |

6.2 Supplementary Planning Documents

Developer Contributions and Planning Obligations

Design Guide

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

Flood and Water

6.3 National Planning Policy Framework 2012

6 Delivering a wide choice of high quality homes

7 Requiring good design

11 Conserving and enhancing the natural environment

7.0 PLANNING COMMENTS

7.1 The main issues to consider in the determination of this application are the principle of development, visual amenity, residential amenity, highway safety, drainage and flood risk and ecology and biodiversity.

7.2 Principle of development

- 7.2.1 The site is located outside the established development framework, adjacent to a site allocated in the 2015 Local Plan for residential development. Planning permission was granted in 2013 for 15 dwellings on the allocated site and that development is nearing completion. The application site has been put forward by the applicant for allocation as part of the Local Plan review process. The outcome of the evaluation process currently being undertaken by the Strategic Planning Team is not yet known.
- 7.2.2 The local planning authority is not currently able to demonstrate that it has an adequate five year supply of land for housing. Therefore, all Local Planning policies relating to the supply of housing must be considered out of date and housing applications assessed in terms of the presumption in favour of sustainable development set out in the National Planning Policy Framework. This means that development proposals should be approved unless any adverse effects of the development significantly and demonstrably outweigh the benefits.
- 7.2.3 Policy GROWTH2 requires that development be permitted only within defined development envelopes provided and restricted in terms of dwellings to affordable housing exception schemes and dwellings essential for rural workers. However, dwellings can be considered as an exception provided there is no significant adverse effect on the character and appearance of the area and that other local Plan policies are satisfied.
- 7.2.4 Given the absence of the 5 year housing land supply, the boundary limitation placed by the settlement's development envelope would not apply with instead, the presumption in favour of sustainable development contained within both Policy GROWTH 5 of the Local Plan and paragraph 14 of the NPPF taking precedence in this respect.
- 7.2.5 Cheveley is described in the 2015 Local Plan as having a good range of local services including a regular bus service to Newmarket. The site lies adjacent to the development envelope with convenient access to the goods and services on offer in the village. The site is therefore considered to be in a sustainable location.
- 7.2.6 This application for ten dwellings would add to the District's housing stock and make a contribution towards the shortfall in housing land supply with the provision of any additional dwellings attracting significant weight in the planning balance. A benefit of this development would therefore be the contribution it would make in terms of housing supply within the District as a whole as well as the economic benefits of construction and additional population to support local businesses.
- 7.2.7 The applicant also proposes to offer two dwellings as affordable units, which is not strictly required by Policy HOU3 on a scheme of this size. This must also attract weight in favour of the proposal. A number of comments made on the application cite the fact that had the allocated site and this site come forward as one parcel of land then a greater total of affordable units could have been secured. The sites did not come forward together and this proposal must therefore be considered on its own merits and there is no mechanism for securing additional affordable units and

the fact that the development may have come forward in two stages does not constitute a reason for refusal at this time.

- 7.2.8 Policy EMP6 relates to development affecting the horse racing industry and states that any development that is likely to have an adverse impact on the operational use of an existing site within the horse racing industry, or which would threaten the long term viability of the horse racing industry as a whole, will not be permitted.
- 7.2.9 The applicants' agent has stated that the field that comprises the majority of the site has never been used as part of the Brook Stud business and is used as paddock for ponies and horses belonging to the family that operates the business. The four small foaling paddocks that are within the site were used at one time but are no longer in use. The whole stud has an operational area of 204 acres and the application site comprises 3 acres, i.e. 1.5% of the total. The applicants' agent therefore contends that the use of the application site for residential development would in no way affect the viability of the business. On this basis The Local Planning Authority considers that the proposal is unlikely to have any impact on the horse racing industry as a whole and the development of this site would not set a precedent for further non-equine uses on the stud land. The proposal is not therefore considered to be contrary to Policy EMP6.
- 7.3 Visual amenity
- 7.3.1 The site is located beyond the site known as The Paddocks and the proposed dwellings will not be readily visible in the landscape when viewed from High Street. Cheveley is primarily a linear village with the most notable development in depth to the west of the site on the opposite side of High Street on Spurling Close. The approved scheme for The Paddocks extends the built form back from High Street with one access point off High Street and the dwellings arranged in a cul-de-sac style format. That proposal effectively went against the linear pattern of development but did not encroach significantly into the countryside.
- 7.3.2 There are a number of recently constructed dwellings to the north of the site, together with a number of buildings and a dwelling on Brook Stud. These buildings are served via an established roadway leading off High Street with the new dwellings infilling a gap between dwellings fronting High Street and Brook Stud.
- 7.3.3 The current proposal seeks to further extend the built form into open countryside with a number of family-sized dwellings with private driveways and detached garages. A Public Right of Way runs alongside the eastern boundary of the site with clear views of the site from its north-eastern corner. The development will feature prominently in views of the village from the footpath and will urbanise the settlement edge in this location. Trees and vegetation along the western boundary will temper views at certain times of the year, however the built form will dominant the landscape.
- 7.3.4 The applicant has sought to minimise the proposals impact on the visual amenity of the area by reducing a number of the dwellings in size and moving them away from the eastern boundary. Additional landscaping is also proposed in this area to help assimilate the development into its surroundings. The proposal will however fundamentally alter the character and tranquillity of this area and it is considered

that the scale and form of the development is such that it will cause significant and demonstrable harm to the visual amenity of the area, particularly to users of the Public Right of Way. The proposal is therefore considered to be contrary to Policies ENV1 and ENV2 of the Local Plan, which seek to protect the settlement edge and the wider landscape setting of a site.

7.4 Residential amenity

7.4.1 The proposal represents a low density form of development (8.3dph/3.4dpa) with space between plots and generous plot sizes. Future occupiers are therefore likely to enjoy satisfactory levels of residential amenity. A satisfactory relationship with The Paddocks development can also be achieved. A number of comments relating to overlooking and loss of privacy have been received from existing residents with the resident of No. 185 High Street in particular detailing the fact that the south facing elevation of her property is largely made up of glazing. The closest dwelling to No. 185 is Plot 6 with a separation distance of approximately 65 metres. At this distance there would not be any direct overlooking although it is acknowledged that there may be a perception of being overlooked in both directions given the layout and design of No. 185. No. 185 itself is located in excess of 35m from the boundary of the application site and any overlooking of the rear part of the garden serving Plot 6 would be negligible.

7.4.2 The existing balancing pond to the north of the site and an area of landscaping separate the site with the rear boundaries of the dwellings on High Street. The proposed scheme would not result in a significantly detrimental effect on the residential amenity of the occupiers of those dwellings.

7.4.3 The view from the rear and side of a number of exiting dwellings will change with the loss of the open paddock land, however, the loss of a view is not a material planning consideration and the application could not be refused on this basis.

7.4.4 On balance it is considered that the proposal complies with the residential amenity element of Policy ENV2.

7.5 Highway safety

7.5.1 As stated above access to the site is proposed through the existing development known as The Paddocks. The applicant is also responsible for that scheme and has omitted one of the approved dwellings in order to create the shared access road required to serve the additional 10 dwellings.

7.5.2 In response to concerns raised by the Local Highway Authority in relation to the layout of the shared access minor amendments have been made by the applicant increasing width of the roadway to 6 metres with a 0.5 metre maintenance strip each side. Gates to dwellings have been removed, as has a small area of parking on the roadway. The Local highway Authority has confirmed that the amended layout satisfies its requirements and there is no objection to the scheme. The proposal therefore complies with Policy COM7 in relation to highway safety.

7.5.3 The proposal includes two parking spaces per dwelling in accordance with Policy COM8.

7.6 Drainage and flood risk

- 7.6.1 The application is accompanied by a Flood Risk Assessment. The site is located in Flood Zone 1, where the majority of development should be directed. At present the site is greenfield with rainfall run-off naturally directed to the local watercourse east of the site.
- 7.6.2 The scheme as originally submitted included a below- ground surface water system. The LLFA raised concerns regarding the suitability of this scheme and directed the applicant to the Flood & Water Supplementary Planning Document, which requires the design and layout of a site to seek to manage and convey surface water above-ground unless there is justification for not doing so.
- 7.6.3 The amended scheme includes a series of open watercourses and ditches, which will direct water to the existing watercourse beyond the eastern boundary of the site. The LLFA requested further information on the presence and capacity of the existing watercourse and asked that the applicant demonstrate that the use of segregated sections of ditch/swale would form a sustainable drainage solution.
- 7.6.4 The applicant's drainage consultants believe that the drainage system proposed has capacity to take the required surface water flow and although additional information was submitted to the LLFA there remains some doubt as to whether this is correct and whether the use of a 150mm pipe is sufficient. In addition the LLFA remains concerned that the system of open watercourses and ditches will be connected by pipework that may become blocked. The LPA also considers that the future maintenance of the proposed system may be difficult to control, particularly when drainage features are enclosed within private garden areas. The preliminary drainage strategy plan submitted also indicates that part of the road and plot 4 are located on top of an existing ditch. The LLFA has indicated that this is unacceptable.
- 7.6.5 Based on the information submitted and advice received from the LLFA the applicant has failed to demonstrate that appropriate surface water drainage arrangements can be accommodated within the site and that issues of ownership and maintenance are addressed. The proposal is therefore contrary to Policy ENV8 and the Cambridgeshire Flood and Water SPD.

7.7 Ecology and biodiversity

- 7.7.1 A tree survey has been submitted with the application, which demonstrates that the main trees of significance can be retained. One low quality/poor longevity tree will be felled and a small section of hedgerow will be removed. Two further individual trees require minor surgery to permit construction space or access. The trees subject to a recent preservation order are unaffected. The Council's Trees Officer commented on the original scheme stating that he is generally supportive of the proposal but does have some concerns regarding the encroachment upon the root protection area of an Oak tree.
- 7.7.2 The amended scheme now includes an area of open space around the Oak tree and informal discussions with the Trees Officer have resulted in confirmation that

this amendment may be of some benefit. However, there are concerns over the future use and management of the area, which are detailed below. The Trees Officer has also confirmed that revised tree works and protection information will be required in respect of the amended layout and in his opinion the revised layout may have a negative impact on the boundary trees due to the additional drainage within close proximity to the rooting areas of the trees. As the impact of the scheme on the boundary vegetation has not been fully explored the Trees Officer has been unable to confirm his support for the proposal. Without the necessary information to fully assess the proposal the scheme fails to comply with Policy ENV7

- 7.7.3 The presence of the existing tree belts around the site means that there is potential for roosting bats. As these trees are to be retained any impact upon bats would be low. The remainder of the site is likely to be of low ecological value given that it has been used as horse grazed improved paddock. Ecological assessments carried out in 2013 indicated that the adjoining development site was unlikely to support any protected species or habitat and given that the characteristics of this site are very similar it is considered that a similar conclusion can be reached. Ecological enhancements in the form of bird and bat boxes can be incorporated into the scheme and could be secured by condition.

7.8 Provision of open space

- 7.8.1 As stated above an area of open space has been included in the scheme around the Oak tree. Under Policy GROWTH 3 and the Developers Contribution SPD schemes of this size are not expected to provide on-site open space. The provision of open space is welcomed, however, the area is unlikely to be adopted by the District Council given its size and the applicant has not provided any detail as to how this area will be managed. In order to ensure the longevity of the Oak tree this area needs to be well managed and kept free from instruction.

7.9 Other matters

- 7.9.1 A number of comments have been received citing the fact that the primary school does not have capacity and a letter from the Head Teacher to this effect was attached to the Parish Council's comments. A development of this size would not be expected to make a financial contribution towards education and the dwellings will be subject to the Community Infrastructure Levy. Cambridgeshire County Council is responsible for ensuring that school places are made available for new pupils and its Growth and Development team has been consulted on the application. As no comments or objections have been received from the County Council the refusal of the application on education grounds would not be justified or reasonable.
- 7.9.2 Environmental Health has advised that contamination could be addressed by a suitably worded planning condition. In response to comments made regarding noise and disruption from the current development it is also recommended that a Construction Environmental Management Plan could be secured by condition.
- 7.9.3 A number of objectors to the scheme have stated that there are other sites available for development in the village. There are no other allocated sites and in the absence of a five year supply of land for housing the application has to be assessed

on its own merits in accordance with the presumption in favour of sustainable development. The presence of other sites that may come forward in the future is not therefore a determining factor in this case.

7.10 Planning balance

7.10.1 As stated above the proposal would provide an additional ten dwellings to add to the Council's housing stock, including the provision of two affordable dwellings. This attracts significant weight in favour of the proposal. The short and long term economic benefits also add weight in favour, albeit limited.

7.10.2 The applicant has demonstrated that matters in relation to residential amenity, and highway safety are acceptable, subject to suitably worded planning conditions. The development of this site is however contrary to the linear pattern of development in Cheveley and would lead to the loss of a valuable area of open paddock land adjacent to a Public Right of Way. It is considered that the encroachment of the built form of the village into this countryside location would lead to significant and demonstrable harm to the character and appearance of the area. In addition, the applicant has failed to demonstrate that appropriate surface water drainage arrangements can be accommodated within the site and that the proposal will not adversely impact upon a number of significant trees, including a protected Oak tree. These matters attract weigh heavily against the proposal and it is considered that the adverse effects are not outweighed by the benefits of the scheme and the application is therefore recommended for refusal.

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 cost 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.

8.4 In this case Members' attention is particularly drawn to the following points:

- No objections from Local Highway Authority

| <u>Background Documents</u> | <u>Location</u> | <u>Contact Officer(s)</u> |
|-----------------------------|------------------------------|---------------------------------|
| 17/00703/FUM | Julie Barrow Room No. 011 | Julie Barrow Senior Planning |

13/01139/FUM
16/01775/FUL

The Grange
Ely

Officer
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National Planning Policy Framework -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

East Cambridgeshire Local Plan 2015 -

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

AGENDA ITEM NO. 3

- In response to the Parish Council's comment that Houghtons Lane did not include street lighting, further lighting would be installed;
- Highways had said there was no public footpath, but one did exist. It was constructed in the 1960s by Highways and was overgrown and therefore not visible.

Councillor Cox commented that looking at the pictures from the Parish Council in relation to flooding and issues with the road, could this application be combined with the previous application opposite the site which included a footpath.

Taking up on the point regarding street lighting, the Chairman asked Mr Fleet if he would be happy to speak to the County Council about this matter. Mr Fleet replied he would do so if Members deemed it necessary. The Planning Officer interjected to say that nothing had been asked for. The application for the site opposite was being resubmitted with some improvements, so there was scope with the agent and applicant for improvements to be made.

Councillor Smith commented that if the County Council adopted the road, it would have to improve the lighting, but the Chairman said the County Council would not put in street lighting, as the extent of the adopted highway stopped just after this development.

Councillor Rouse believed that the concerns regarding access could be resolved, especially with the house beyond having planning permission. He therefore proposed that the Officer's recommendation for approval be supported.

Councillor Edwards seconded the motion and when put to the vote, it was declared carried, there being 6 votes for and 1 abstention against.

It was resolved:

That planning application reference 17/00550/OUT be APPROVED subject to the recommended conditions as set out in the Officer's report.

Councillor Beckett returned to the Chamber at 2.55pm.

43. 17/00703/FUM – LAND EAST OF THE PADDOCKS, CHEVELEY

Julie Barrow, Senior Planning Officer, presented a report (S74, previously circulated) which sought consent for the construction of ten dwellings on land to the east of The Paddocks, with access through The Paddocks, a residential development currently under construction and nearing completion.

On a point of housekeeping, Members were reminded that following publication of the Committee papers a neighbour had submitted comments and a photograph in objection to the application; these had been circulated

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to the Committee prior to the meeting. Members were also asked to note that there were ongoing discussions with the Trees Officer and the Lead Local Flood Authority and following the submission of an updated Tree Survey reason for refusal No. 3 was now removed from the recommendation.

It was noted that the application had been called in to Planning Committee by Councillor Mathew Shuter, as *“there is considerable local anger and opposition to this proposal and the Parish Council is unanimously opposed to it.”*

The site was located outside the established settlement boundary and within the south eastern part of the village, to the east of the High Street. It extended to approximately 1.2 hectares and currently formed part of Brook Stud. A public footpath ran parallel to the eastern boundary, alongside a mature hedge and tree belt. The southern boundary was also marked by a line of mature trees. A recently constructed balancing pond, which served The Paddocks, lay just outside the north eastern corner of the site.

A number of illustrations were displayed at the meeting, including a map of the location site, an aerial image, the layout of the proposal, a block plan showing the public footpath, the protected trees, open space and the attenuation pond (Phase 1), and the street elevations and house types.

The Senior Planning Officer said the main considerations in the determination of this application were:

- Principle of Development;
- Visual Amenity;
- Residential amenity;
- Highways safety;
- Drainage and flood risk;
- Flood Risk;
- Ecology & biodiversity.

With the Council currently being unable to demonstrate an adequate five year supply of land for housing, all local planning policies relating to the supply of housing had to be considered out of date and housing applications assessed in terms of the presumption in favour of sustainable development as set out in the NPPF. This meant that proposals should be approved unless any adverse effects of the development significantly and demonstrably outweighed the benefits.

The application site was located adjacent to a site allocated in the 2015 Local Plan for residential development. Planning permission was granted in 2013 for 15 dwellings on the allocated site and that development was nearing completion. The application site had been put forward by the

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applicant for allocation as part of the Local Plan review process, but the outcome of the evaluation was not yet known.

Cheveley was described as having a good range of local services, including a regular bus service to Newmarket. The site was adjacent to the development envelope with convenient access to the goods and services on offer in the village. The site was therefore considered to be in a sustainable location.

The applicant proposed to offer two dwellings as affordable units, which was not strictly required by Policy HOU3 on a scheme of this size. This would attract weight in favour of the proposal.

Members noted that Brook Stud had an operational area of 204 acres, and the application site comprised just 1.5% of the total. On this basis the Local Planning Authority considered that the proposal was unlikely to have any impact on the horse racing industry as a whole and the development of this site would not set a precedent for further non-equine uses on the stud land. The proposal was not therefore considered to be contrary to Policy EMP6.

With regard to visual amenity, the Senior Planning Officer stated that Cheveley was primarily a linear village with the most notable development in depth to the west of the site on the opposite side of High Street on Spurling Close. A Public Right of Way ran alongside the eastern boundary of the site with clear views from its north eastern corner. The development would feature prominently in views of the village from the footpath and would urbanise the settlement edge in this location. Trees and vegetation along the western boundary would temper views at certain times of the year, but the built form would dominate the landscape.

The applicant had sought to minimise the impact of the proposal by reducing a number of the dwellings in size and moving them away from the eastern boundary. Additional landscaping was also proposed in this area to help assimilate the development into its surroundings. The proposal would however fundamentally alter the character and tranquillity of this area and it was considered that the scale and form of the development was such that it would cause significant and demonstrable harm to the visual amenity of the area, especially to users of the Public Right of Way.

The scheme represented a low density form of development, with space between plots and generous plot sizes, and future occupiers were likely to enjoy satisfactory levels of residential amenity. The existing balancing pond to the north of the site and an area of landscaping separated the site with the rear boundaries of the dwellings on the High Street. The proposed scheme would not result in a significantly detrimental effect on the residential amenity of the occupiers of those dwellings.

The view from the rear and side of a number of existing dwellings would change with the loss of the open paddock land, but the loss of a view was not a material planning consideration and the application could not be refused on this basis. On balance it was considered that residential amenity would not be affected.

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In response to concerns raised by the Local Highway Authority (LHA) regarding the layout of the shared access, minor amendments had been made by the applicant. The width of the road way had been increased and gates to dwellings had been removed, as had a small area of parking on the roadway. The LHA had confirmed that the amended layout satisfied its requirements and there was no objection to the scheme.

The Committee was asked to note that revised plans for drainage had been submitted since the Officer's report was published. A continuous ditch would discharge to an off-site watercourse on Brook Stud, but the maintenance and practicalities of the system raised concerns, as it would be easy for the system to fail if the ditches were not maintained. On this basis, the LLFA was maintaining its objection to the proposal.

It was noted that the applicant had submitted a revised Arboricultural Impact Assessment and the Trees Officer had duly withdrawn his objection despite continuing to have concerns regarding the long term future of the protected Oak tree. Reason No. 3 for refusal was therefore to be removed from the Officer's recommendation.

On balance, the applicant had demonstrated that matters in relation to residential amenity, and highway safety were acceptable, subject to suitably worded planning conditions. The development of this site was however contrary to the linear pattern of development in Cheveley and would lead to the loss of a valuable area of open paddock land adjacent to a Public Right of Way. It was considered that the encroachment of the built form of the village into this countryside location would lead to significant and demonstrable harm to the character and appearance of the area.

The applicant had failed to demonstrate that appropriate surface water drainage arrangements could be accommodated within the site and that the proposal would not adversely impact upon a number of significant trees, including a protected Oak tree. These matters weighed heavily against the proposal and it was considered that the adverse effects were not outweighed by the benefits of the scheme and the application was therefore recommended for refusal.

At the invitation of the Chairman, Mr Andrew York, objector, addressed the Committee and made the following points:

- He was speaking for himself and on behalf of a number of residents;
- This proposal would cause significant loss of privacy to a number of properties: 185 High Street was an elevated property, No. 195 had unobstructed views, and No. 193 is subject to a covenant to prevent further dwellings in the garden;
- There was a high risk of flooding and this could not be mitigated;
- The entire drainage system would require constant maintenance – who would do this? How could it be guaranteed that the ditches and swales would be maintained? Children and wildlife would be at risk if they fell into the ditches;

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- This development would damage the unique character of Cheveley, as it would be just a housing estate;
- The views from the footpath would be destroyed, as would be virgin stud land;
- The development would put pressure on village infrastructure;
- There are sustainable, non-intrusive brownfield sites in the village that could be developed;
- 40 families in Cheveley had objected to the scheme. As a community they were not against development, but this was encroachment;
- Cheveley was a linear village.

At the invitation of the Chairman, Mr Paul Sutton, agent, spoke in support of the application and made the following comments:

- The proposal represented a logical second phase to the development;
- It would be well screened;
- The layout and mix had been revised to address Officer concerns and there would be additional tree planting;
- Cheveley's historic core was linear but the whole of the village was not. The character was more varied at each end of the village;
- Three large dwellings had been approved immediately to the north of the application site;
- The proposed site was one large paddock which had never been used or formed part of the stud, and three smaller foaling paddocks;
- The site would be very well screened. Trees and hedges would completely screen the site in summer and partly in winter;
- Drainage proposals had been amended and to include above ground drainage;
- The LLFA had expressed concerns but confirms the proposals are technically okay. The applicant had offered restrictive covenants to address those concerns and a management company would be set up;
- There were no technical reasons why the application should not be approved. The location was sustainable and with the Council being currently unable to demonstrate a 5 year supply of land for housing, the presumption should be in favour of sustainable development;
- There were no sound planning reasons to refuse this application.

At the invitation of the Chairman, Parish Councillor James Hadlow addressed the Committee and made the following points:

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- He was representing Cheveley Parish Council and they wished to object to the proposal in the strongest possible terms;
- The development would cause significant and demonstrable harm to the character of the village;
- The development to the north was built on brownfield land, this site was greenfield;
- An additional 10 houses would be contrary to paragraph 109 of the NPPF, as they would dominate the views;
- Cheveley was dominated by bungalows whereas this scheme would be more suited to an urban environment. It would harm the setting and character of the village;
- It was not sustainable and would not meet the criteria of the NPPF because it would impact on the local economy. The main employers in this area were stud farms and this would be set on stud land, thereby setting a precedent;
- In terms of social prosperity, this was a tipping point and the fear was that Cheveley would become a dormitory village;
- There were brownfield sites available elsewhere in the village;
- Public transport was limited, the roads were polluted, the sewage system was at capacity and school places were lacking;
- Flooding was a risk and drainage was difficult because the development would be surrounded by ditches;
- The community was not against development and the village was taking its fair share;
- This scheme was not sustainable, it would set a precedent for further development of stud land and would have a detrimental impact.

Councillor Hadlow concluded by urging the Committee to use common sense and refuse the application; he then responded to comments and questions from Members.

The Chairman, having noted Councillor Hadlow's remark that the Parish Council was not against development, asked if they saying they were only willing to take 10% growth. Councillor Hadlow replied that it was impacting on the village and growth was more than 10%.

Councillor Ambrose Smith commented that if the development did not go ahead, this would result in the loss of two affordable dwellings and she asked Councillor Hadlow how the Parish Council felt about this. He replied that Cheveley Parish Council would like to see more affordable homes built, if appropriate.

Councillor Ambrose Smith then went on to challenge Councillor Hadlow on Cheveley Parish Council's views of Council Housing in the

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village. He replied that Cheveley would accept all types of housing in the village so long as they were of appropriate design and location to maintain the character of the village.

Councillor Beckett enquired about the number of houses in the village and those on the edge of the settlement but Councillor Hadlow was unable to give the numbers. The Chairman interjected to ask Councillor Hadlow the question again followed by stating that there were roughly 400 dwellings in the Parish. Councillor Hadlow responded by saying "do you mean the Parish or the Village?" The Chairman reiterated Parish and then asked the Senior Planning Officer, Julie Barrow, to confirm. The Senior Planning Officer confirmed that there were 460 dwellings in the village and that Cheveley Parish also included parts of Newmarket Fringe which was not included in this figure.

The Chairman confirmed that reason for refusal No.3 should be deleted from the recommendation. Whilst he thought the surface water drainage scheme was unworkable, having visited the site he would now find it difficult to argue that it was in an unsustainable form of development and the proposal was a natural extension.

Councillor Rouse said that in principle, he would have few problems with approving the application because he did not believe the development would cause demonstrable harm. However, drainage needed to be resolved and it was unacceptable that householders should be relied upon to maintain the system. No.2 in the Officer's recommendation was the strongest reason for refusal and on that basis only he supported refusal of the application.

Councillor Beckett said that sites south of Newmarket were being put forward as part of the emerging Local Plan. He too struggled to see a problem with the sustainability of the site, but he agreed that drainage was an issue. Machinery would require access to keep the drains clear and he did not see how this could be achieved if the drains ran through people's gardens. He felt that the application had not been properly thought out and he was therefore minded to support the recommendation for refusal.

The Chairman reiterated his point about Cheveley taking 10% growth, saying that Upware was taking 17% and Wicken, 30%. There was a need to build houses and the District wanted to see growth. The south of the District needed to take more homes.

It was duly proposed by Councillor Rouse and seconded by Councillor Ambrose Smith that the Officer's recommendation for refusal, Reason No.2 only, be supported. When put to the vote,

It was resolved unanimously:

That planning application reference 17/00703/FUM be REFUSED for Reason No.2 only, given in the Officer's report.

Councillor Beckett asked that in the event of another scheme coming forward, concerns regarding the protection of residential amenity be addressed.

Councillor Smith left the Chamber at 3.55pm.

