



EAST  
CAMBRIDGESHIRE  
DISTRICT COUNCIL

Minutes of a meeting of the Planning Committee held at 2:00pm on Wednesday 1<sup>st</sup> March 2023 in the Council Chamber at The Grange, Nutholt Lane, Ely, CB7 4EE.

### **PRESENT**

Cllr Christine Ambrose Smith  
Cllr David Ambrose Smith  
Cllr David Brown  
Cllr Lis Every  
Cllr Bill Hunt (Chairman)  
Cllr Alec Jones  
Cllr John Trapp  
Cllr Gareth Wilson

### **OFFICERS**

Simon Ellis – Planning Manager  
Caroline Evans – Senior Democratic Services Officer  
Richard Fitzjohn – Planning Contractor  
Rachael Forbes – Planning Officer  
Toni Hylton – Planning Team Leader  
Gavin Taylor – Planning Contractor  
Angela Tyrrell – Senior Legal Assistant  
Adeel Younis – Legal Assistant

### **IN ATTENDANCE**

Mr Clarey (Applicant, Agenda Item 6 / Minute 77)  
Brian Gerbaldi (Objector, Agenda Item 7 / Minute 78)  
Cllr Simon Harries (Ward Councillor, Agenda Item 7 / Minute 78)  
Antony Smith (Applicant's Agent, Agenda Items 7 and 8 /  
Minutes 78 and 79)  
Adam Tuck (Applicant's Agent, Agenda Item 6 / Minute 77)  
Cllr Ian Bovingdon

Sarah Parisi – Planning Senior Support Officer  
Melanie Wright – Communications Officer

## **72. APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were received from Cllrs Sue Austen, Lavinia Edwards and Lisa Stubbs.

## **73. DECLARATIONS OF INTEREST**

Cllr David Ambrose Smith stated that he was predetermined on Agenda Item 6 (Site north of 44 Camel Road, Littleport) and Agenda Item 9 (10 Dexter Lane, Littleport) and would leave the room for the duration of both items after exercising his speaking right.

**74. MINUTES**

The Committee received the Minutes of the meeting held on 1<sup>st</sup> February 2023

It was resolved unanimously:

That the Minutes of the Planning Committee meeting held on 1<sup>st</sup> February be confirmed as a correct record and be signed by the Chairman.

**75. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman explained that the Council's political proportionality had been recalculated as a result of Cllr Matthew Downey leaving the Liberal Democrat Group. Consequently, the Planning Committee membership had altered with Cllr Charlotte Cane no longer being a member and Cllr David Ambrose Smith moving from a Substitute to a full Member.

The Chairman made a further announcement that there would be two Planning Committee meetings in April scheduled for the 5<sup>th</sup> and 26<sup>th</sup>, with no May meeting due to the District and Parish Council Elections on 4<sup>th</sup> May.

**76. 22/00816/MPO LAND NORTH OF CAM DRIVE ELY**

Toni Hylton, Planning Team Leader, presented a report (X160, previously circulated) recommending approval of an application seeking modification of the s106 legal agreement dated 20<sup>th</sup> June 2016 attached to planning permission 13/00785/ESO. Members were reminded that a Modification of Planning Obligation (MPO) application for another part of the development site had been considered at the February Committee meeting.

A location plan and aerial views were shown to indicate the site area. The proposal would fix the affordable housing in Phase 5 to 40% without the further need for a viability statement. It would alter the triggers in Phase 5 (Schedule 7) for outdoor sports and primary education contributions to be made following the occupation of 100 dwellings, rather than as an upfront cost. The proposal would also remove the open space maintenance contribution and allotments maintenance contribution from the list of contributions in Clause 17.1 that must be paid by 800 occupations because the speed of development of the wider site meant that the contributions would already have been paid. In addition to the 40% affordable housing in Phase 5, there would be an additional eight affordable homes to address a shortfall elsewhere to give 40% across the entire site.

The Chairman invited Members to ask questions to the Officer. Cllr Brown queried whether contributions would be paid after 150 or 100 occupations as the report was not clear. The Planning Team Leader clarified that the original proposal had been 150 occupations, however the County Council requested 100, which had been accepted by the applicant.

Cllr Hunt asked why the open space maintenance contributions would be removed. The Planning Team Leader explained that the North Ely development had already reached almost 800 occupations and therefore the contributions would already have been paid. She also confirmed to him that the agreement did not expose the

Council to maintenance costs and that the requested modifications would not be detrimental to the Council.

Cllr Brown proposed the Officer's recommendation for approval, which was seconded by Cllr Every.

It was resolved unanimously:

That planning application ref 22/00816/MPO be APPROVED for the modification of planning obligation 13/00785/ESO as follows:

The modification of the s106 legal agreement date 20<sup>th</sup> June 2016 attached to the planning permission 13/00785/ESO to allow for the fixed delivery of 40% affordable housing across the development; alterations to triggers for when payments are made.

It was further resolved unanimously:

That the Director Legal Services be instructed to negotiate and complete the necessary legal agreement to secure the above.

**77. 22/01021/OUT SITE NORTH OF 44 CAMEL ROAD LITTLEPORT**

Richard Fitzjohn, Planning Contractor, presented a report (X161, previously circulated) recommending refusal of an application seeking outline permission for the construction of two detached dwellings, including off-street parking and associated infrastructure, with all matters apart from layout reserved.

Members were shown a location plan and site photographs illustrating the site's position between two sections of Littleport's development framework, to the south and the north-west. There were residential properties immediately to the north and south of the site and an outdoor horse-riding arena and paddocks immediately to the east. The proposed site layout followed the general pattern of development along the east side of the road and car parking was proposed to the front and side of the proposed dwellings, with two new vehicular accessed from Camel Road. Members' attention was drawn to a previous application for two detached dwellings on the site that had been refused by the Committee in September 2021 due to its location outside the development framework and failure of the flood risk sequential and exception tests.

The main considerations for the application were deemed to be:

- **Principle of development** – the Planning Inspector for a recent appeal site at Soham had found that the strict application of policy GROWTH2 was not justified in that case, given that the Local Plan anticipated housing in that location and at the District's market towns. The application site was located outside the development envelope of Littleport, contrary to policy GROWTH2 but was located on the edge of one of the three market towns where growth was directed by the policy, and was in a small gap between two development framework boundaries. It was therefore considered that the circumstances of the application were similar to those in the appeal decision and therefore, for this case alone, it was considered that the principle of development was acceptable in spatial terms.

- **Visual amenity** – given the residential properties to the north and south and the equine use to the east it was considered that the land no longer served as a transition from the built form to the countryside. The plot was of sufficient size to accommodate two dwellings without being visually intrusive, and full visual amenity impacts could be assessed at the reserved matters stage. The visual amenity impacts of the proposal, including the countryside landscape impacts were therefore considered to be acceptable.
- **Residential amenity** – the proposal showed acceptable separation distances and plot and garden sizes. There would be no significant overshadowing, overbearing, overlooking or other residential amenity impacts, and full impacts would be assessed at the reserved matters stage. The residential amenity impacts of the proposal were therefore considered to be acceptable.
- **Highway safety and parking** – two new vehicular accesses were proposed near to the junction of Camel Road and Horsley Hale, with sufficient parking and turning space for two cars per property. The Local Highways Authority had stated that the proposal was acceptable, subject to conditions. The highway safety impacts of the proposal were therefore considered to be acceptable.
- **Biodiversity and trees** – during the course of the application, three mature trees (not subject to Tree Preservation Orders) had been removed from the site. Replacement trees could be secured *via* a condition for soft landscaping should planning permission be granted. The NPPF, Local Plan, and Natural Environment SPD all included requirements to protect and provide a net biodiversity gain for the land. National Planning Practice Guidance stated that the existing biodiversity value of a development site would need to be assessed when planning permission was applied for; removal of the three mature trees would have resulted in significant adverse impacts on biodiversity, but no information had been supplied regarding the pre-development biodiversity value of the on-site habitat. The application had therefore failed to demonstrate that the proposed development would avoid or minimise impacts on biodiversity, or provide a biodiversity net gain, contrary to policy ENV7 of the Local Plan 2015, policy SPD.NE6 of the Natural Environment SPD, and paragraph 174 of the NPPF.
- **Flood risk and drainage** – the application site was located in Flood Zone 3, the area at higher risk of flooding. The NPPF directed Local Planning Authorities to steer new development to areas at the lowest probability of flooding, by applying a Sequential Test, and Policy ENV8 of the Local Plan 2015 stated that the Sequential Test would be strictly applied across the District. The Environment Agency had not objected to the proposal but had stated that the development should not be permitted if there were reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding, and that the Sequential Test was a matter for the Local Planning Authority to determine. It was considered that there were other reasonably available sites within the parish of Littleport that were at a lower probability of flooding and therefore the proposed development was not necessary at this location and failed the Sequential Test. Since it failed the Sequential Test the proposal was contrary to policy ENV8 of the Local Plan 2015 and paragraph 162 of the NPPF.
- **Climate change** – appropriate sustainability measures could be secured *via* condition and/or in the reserved matters application.

In summary, the proposed dwellings would be within Flood Zone 3 and the site had failed the Sequential Test due to the reasonable availability of sites at lower probability of flooding. Additionally, the application did not demonstrate that the proposed development would avoid or minimise impacts on biodiversity, or provide a biodiversity net gain. For both of these reasons the application was recommended for refusal.

The Chairman invited Adam Tuck, the applicant's agent, to address the Committee. The agent stated that debate on a similar application in September 2021 had been finely balanced and the application had subsequently been refused due to its location outside the development envelope and the lack of a Flood Risk Assessment. Detailed flood risk information had been included with the current application and, following the recent Soham appeal decision, the principle of development for the site on the edge of the market town was now acceptable. No objections had been received from the Environment Agency subject to raised floor levels. A detailed site-specific Flood Risk Assessment had been provided and showed that the site was outside the Environment Agency's fenland breach mapping and was not in the "1 in 100 year flood plain", on that basis he said it was at a low risk of flooding and passed the sequential test. The Officer's recommendation for refusal included a reason related to biodiversity that had not been present on the previous refusal despite a lengthy assessment period and there had been no change to planning policy in the intervening time. There was ample space within the site boundary for planting mature trees and adding bat and bird boxes. The applicant had removed several unprotected trees (one of which had been storm damaged) since they were overhanging a public right of way and were also subject to aphid infestation and honeydew negatively affecting the neighbouring equine facilities. The proposal was for two self-build plots to provide lifetime homes for family members close to elderly and vulnerable relatives and they would be happy to accept a condition or legal agreement to that effect. Members were encouraged to approve the application.

Cllrs Jones and Trapp both commented that biodiversity implications were always considered for planning applications, and the applicant had removed mature trees since the previous application. The agent explained that the applicant was willing to address biodiversity improvements by condition or in the reserved matters application but they were frustrated that despite the eight month assessment period for the first application no concerns were raised at that point, neither had ecology concerns been mentioned for the current application until an email dated 21<sup>st</sup> February, which did not give the applicant much time to address the issues.

Cllr Every asked what plans were in place to mitigate the loss of the three or four mature trees. The agent reiterated that there was ample room within the site for trees and hedging as well as ornamental and/or fruit trees within the gardens. Details could all be determined in the landscaping considerations of the reserved matters application.

Following a request from Cllr Hunt for clarification about the felled trees, the applicant, Mr Clarey, stated that three silver birch trees had been removed, a fourth had been blown over in high winds, and a small holly tree had also been removed.

On the invitation of the Chairman, the Ward Member Cllr D Ambrose Smith addressed the Committee. He stated that the applicant's agent had already

mentioned many of his points, and additionally the Officer's arguments had been well-presented. The main concern for the previous application was its location outside the development envelope; an issue that was no longer being considered a reason for refusal for this site. The biodiversity reason for refusal was a new addition and he stated that he believed the 18 replacement trees required by the Trees Officer as a result of felling three mature trees could instead be planted on the nearby Littleport Leisure site with the agreement of the Leisure Trust and under the direction of the Trees Officer.

Cllrs Jones and Wilson asked for further information about the suggestion regarding replacement trees. Cllr D Ambrose Smith explained that the Littleport Leisure site was three fields away from the application site and had permission for 100 new trees although only approximately half had been planted to date.

*2:32pm Cllr D Ambrose Smith left the meeting for the remainder of the item.*

There were no further comments from the Planning Contractor, so the Chairman invited questions from Members. Cllr Trapp asked for the dimensions of the plot, which were unavailable, and commented that it was not clear from the site drawings that there would be sufficient space for the required additional trees. The Planning Contractor explained that replacement planting would not need to be in the same location as the lost trees but Members would need to be confident that the development could provide a biodiversity net gain to mitigate the loss of the trees and the pre-development site biodiversity.

Following questions from Cllr Jones about the appropriateness of off-site biodiversity mitigation, and the on-site space for tree planting, the Planning Contractor explained that off-site planting could be secured by legal agreement but that it was not possible to have a condition applying to land that was outside the applicant's ownership. However, no documents relating to off-site mitigation had been provided and therefore that scenario could not be considered in determining the application. Regarding on-site provision, it was for the applicant to demonstrate the practicalities. Because the trees had been felled during the application process the pre-development habitat was not known, although since two trees had not been felled it may be possible for an ecologist to determine the previous ecology value based on what remained.

Cllr Jones referred to the site's location in Flood Zone 3 and that, although other sites were available, the application site appeared to be a good infill location. The agent had stated that the Sequential Test had been passed due to the submitted Flood Risk Assessment and drawings, but one refusal reason was for failing the Sequential Test so further information was requested on that disparity. The Planning Contractor explained that the Flood Risk Assessment submitted with the application had concluded that the application site had passed the Sequential Test due to its location in an area protected by flood defences. However, this was incorrect since National Planning Policy did not allow flood defences to be included in the Sequential Test. He also read aloud detailed clarification from the Environment Agency regarding their comments on the application. In particular, they stated that the site was at low risk of flooding if the defences were breached but would be at high risk if they were removed altogether. He further explained to Cllr Trapp that the Environment Agency's comments were based on a breach of flood defences whereas National Planning Policy required that flood risk was

assessed without any defences. Responding to a query from Cllr Every as to whether the applicant had been given the opportunity to respond to the latest comments from the Environment Agency, the Planning Contractor stated that there was no new information that changed the report or conclusions, he had simply requested clarification from them regarding their published comments.

Cllr Wilson mentioned a nearby site with recent planning permission to build a property on stilts and questioned whether a similar approach could be used to eliminate the flood risk on the application site. He also asked whether there were other similar self-build sites available in Littleport. The Planning Contractor explained that the first consideration was to apply the Sequential Test. The use of stilts could address the subsequent Exception Test, however the application site had failed the Sequential Test and therefore the Exception Test did not apply. Nothing in the application had demonstrated why two houses could not be built elsewhere in Littleport, and there were other reasonable sites in Flood Zone 1 in Littleport.

Cllr C Ambrose Smith commented on the nearby school that had been opened in 2017 and questioned why there was concern for the safety of two dwellings if a school for over 700 pupils was acceptable. The Planning Contractor explained that the considerations for a school and dwellings were different since flood risk was assessed differently for different uses according to local and national flood risk policy.

Cllrs Jones asked whether approval would affect other applications and Cllr Hunt asked whether, if refused, the applicants could re-apply with measures addressing the flood risk and biodiversity concerns. The Planning Consultant explained that local and national flood risk policy required that the Sequential Test must be passed for approval in flood zones, and reminded Members that the previous application had been refused on the grounds of flood risk so an approval would need to consider how that had been addressed. The biodiversity concerns would be more straightforward for the applicant to resolve, but the flood risk concerns would require the Sequential Test to demonstrate that there was no other reasonably available land at lower risk of flooding on which to provide the two proposed dwellings within Littleport.

The Chairman then opened the debate.

Cllr Jones considered that the site's location was appropriate for infill development and that the biodiversity concerns could be addressed, however the flood risk issues were problematic since approval would be against the Council's policy. On that basis he supported the Officer's recommendation for refusal but hoped that the flood risk issues could be overcome so that the site could be available for development in due course.

Cllr Brown remained undecided but commented that the Minutes of the September 2021 meeting showed that the Committee's concerns regarding flood risk had been the lack of a Flood Risk Assessment, not that the site did not meet the Sequential Test. A Flood Risk Assessment had now been submitted and the Environment Agency did not object, subject to conditions.

Cllr Wilson referred to the Environment Agency's lack of objection as long as the mitigation measures in the Flood Risk Assessment were adhered to, particularly the raised floor levels, and reiterated his earlier comments regarding a nearby property on stilts. He also commented that the application site was surrounded by lower homes and therefore the flood defences were likely to be maintained and improved because of the existing dwellings. He considered that biodiversity issues could be addressed *via* strict conditions at the reserved matters stage and that self-build proposals should be supported. Additionally, the site was located between other houses. He therefore disagreed with the Officer's conclusion and proposed that the application should be approved subject to the Environment Agency's conditions and a requirement to address biodiversity at the reserved matters stage. Cllr Every seconded the proposal.

Cllr Trapp commented that the property with stilts was some distance away, and had replaced an existing house. Regarding the biodiversity mitigation by planting trees at another location, he questioned what distances could be considered acceptable and emphasised the importance of enhancing the site itself rather than off-setting elsewhere.

Cllr C Ambrose Smith suggested that a planting scheme for biodiversity could be requested by condition, as could the requirement for raised floor levels to mitigate the flood risk.

The Planning Manager explained that biodiversity considerations were required at outline stage, whereas landscaping could be addressed at the reserved matters stage. He reminded Members that a third option available to them would be deferral of the decision in order for Officers to work with the applicants to maximise the flood risk mitigations and address the biodiversity issues prior to re-consideration by the Committee. However, he emphasised that any approval of development on this site would require Members to override the Sequential Test. Cllr Wilson, with the agreement of Cllr Every, amended his proposal from approval to deferral in line with the Planning Manager's comments.

Cllr Hunt expressed concern that approval would be against the Council's policies and proposed that the Officer's recommendation for refusal should be accepted. Cllr Trapp seconded the proposal.

Cllr Jones queried whether raised floor levels would satisfy the flooding concerns. The Planning Manager explained that the Sequential Test related to the location, therefore although the maximum flood risk mitigations could be prepared if the application was deferred, in order to approve the application the Sequential Test would still need to be overridden. Cllr Jones then queried whether the Lead Local Flood Authority would update their plans if the land level height was raised. Gavin Taylor (Planning Contractor) clarified that the Sequential Test was concerned with avoiding the risk of flooding in the first instance, though the applicant could challenge the Environment Agency's flood risk mapping if they wished to do so, which may remove the site from Flood Zone 2 and 3. He added that, once the Sequential Test was met, there were two parts to the Exception Test: the first was the wider community sustainability benefits that would be delivered, and the second concerned management of the flood risk. In answer to questions from Cllrs Every and Jones, the Planning Manager stated that deferral could potentially result in the applicant appealing for non-determination, although he thought that would be

unlikely, and explained that timeframes for reconsidering the application could not be specified since further consultation would be needed once the additional information had been prepared.

As the first proposal to be proposed and seconded, Cllr Wilson's motion for deferral was then put to the vote.

It was resolved with 5 votes in favour, 2 votes against, and 0 abstentions:

That planning application ref 22/01021/OUT be DEFERRED for Officers to work with the applicant to provide maximum flood risk mitigations and a biodiversity assessment for the site, together with a proposal to achieve a biodiversity net gain, and to return the application to the Planning Committee for decision once those elements had been delivered

*3:17pm Cllr D Ambrose Smith returned to the meeting.*

**78. 22/01228/FUL LAND TO NORTH OF 3 PUTNEY HILL ROAD PRICKWILLOW**

Gavin Taylor, Planning Contractor, presented a report (X162, previously circulated) recommending approval of an application seeking permission for the construction of eight dwellings and garages, new access road and associated works. He advised Members that this application had been called in by Cllr Harries.

Members' attention was drawn to the update sheet that had been circulated on 27<sup>th</sup> January which included an amendment to the description of development to remove the phrase 'phased development', and images provided by an objector.

A location plan and aerial image were shown to indicate the site's location within Prickwillow, in defended Flood Zone 3, on agricultural land allocated within the Local Plan for up to 10 dwellings. There were dwellings to the north-west and south of the site, an agricultural barn to the north, and open countryside to the east. Street scene images were provided showing the site's relationship with Long View, its nearest neighbour, and illustrating that ground levels were generally 1-1.2 metres below road level.

The main considerations for the application were deemed to be:

- **Principle of development** – the site had been allocated for up to ten dwellings within policy PRK 1 of the Local Plan 2015, although the requirement for 30% affordable housing was not applicable as the application was for eight dwellings rather than ten. The housing mix was acceptable from the current evidence of housing needs within Prickwillow. The site had extant permission for eight bungalows with a layout that was not significantly different from the proposed development. The extant permission was a significant material consideration for the new application.
- **Access** – the location of the proposed new site access had been agreed with the Local Highways Authority (LHA) who considered that the necessary visibility was achievable. The access would cross a ditch and would therefore require a culvert, details of which were to be agreed. In terms of access, the proposed development was therefore considered to comply with policies PRK 1 and COM 7 of the Local Plan 2015 and paragraph 110 of the NPPF.

- **Layout, Scale, Appearance and Landscaping** – the proposed layout followed the shape of the site, with the dwellings arranged along the boundaries. There would be a 6m wide shared surface arrangement and adequate on-site parking together with acceptable private garden areas. There would be adequate space to enable refuse collection, subject to a signed indemnity agreement. The dwellings would be 1.5 storey with 6.5m ridge heights and flood risk mitigation. Elevations and floor plans were provided for the two building styles: six 3-bed dwellings, and ‘two 4-bed dwellings. The designs were considered to be acceptable and the proposed materials appropriate for the location. The scale had regard to the proposed site levels and previously-approved ridge heights: the finished floor levels would be lower than those in the extant permission which gave scope for the extra scale of the proposed dwellings. Appropriate landscaping would be included along the site boundaries and would enhance the access to the site. The proposed development was therefore considered to comply with the aims of policies ENV 1, ENV 2 and PRK 1 of the Local Plan 2015, and with paragraph 130 of the NPPF.
- **Residential Amenity** – the proposal included a good separation between the dwellings, with well-positioned windows and appropriate gardens and manoeuvrability on-site. Future occupiers would therefore be afforded good levels of amenity. An objection had been received from the adjacent property Long View situated to the west, with concerns about privacy, noise, outlook, overshadowing and pollution. Regarding pollution issues, the site would not contribute significantly to pollution once occupied, but it was recognised that construction work could. Therefore, a Construction Environmental Management Plan would be required by condition, together with specified construction work hours. Regarding the impact on Long View, the previous scheme remained extant and therefore the current application needed to be considered in the context of that. The approved and proposed site plans were shown with Long View included, as well as streetscenes to demonstrate the relative heights. The distance between Plot 1 and Long View would be around 20 metres. The proposed floor levels would be 500mm above existing ground level rather than the entire site’s ground level being raised by over 1m to result in finished floor levels above road level as in the approved scheme. Overall, it was considered that there would be no significant residential amenity impact on Long View, compared to the previously-approved scheme for the application site.
- **Biodiversity and ecology** – a Preliminary Ecological Appraisal (PEA) and Arboricultural Method Statement (AMS) had been provided in support of the scheme and the Trees Officer considered the scheme to be an improvement on the previously-permitted scheme. The current use of the site offered low biodiversity value and, subject to the protection and enhancement measures of the PEA being secured by condition, it was expected that a net gain in biodiversity could be achieved in line with policy ENV 7 of the Local Plan 2015.
- **Flood risk and drainage** – the site lay within Flood Zone 3 but had been allocated within the Local Plan 2015 and had therefore passed the sequential test. The application was supported by a Flood Risk Assessment (FRA) Flood depths could reach up to 420mm in the event drains failed, therefore the proposal raised floor levels to 500mm above ground level with internal flood resilience measures, rather than raising the entire site to road level as was the case in the extant permission. A flood evacuation plan had

been proposed, including the 1<sup>st</sup> floor accommodation being used for safe refuge. Details of surface water drainage would be secured by condition.

In summary, the development largely complied with the requirements of PRK 1 of the Local Plan 2015. The site already benefitted from permission for 8 dwellings, which was a significant material consideration, and the visual impacts were acceptable with appropriate landscaping. High levels of amenity would be achieved, net gains in biodiversity were possible, and the flood risk could be adequately mitigated. The application was therefore recommended for approval.

On the invitation of the Chairman, the objector Brian Gerbaldi addressed the Committee. He referred to the photos circulated to Members, that he had previously submitted, taken from his lounge French doors looking over the application site, and from the edge of his driveway adjacent to the site looking towards his bungalow. He explained that the internal layout had cooler bedrooms to the rear, and warm light living areas to the front benefitting from the sun during the course of the day. He believed that the warmth and light would be lost if planning permission for the scheme was granted. He referred to a previous application for eight 4-bed two storey dwellings, which the applicant had been required to reduce to bungalows by the Committee. However, the current application was for 1.5 storey dwellings and he was concerned that the increased building height, together with raising the site's ground level to the road level, would result in dwellings 8-10m above the current ground level, which would be higher than his bungalow's windows and roof. He emphasised that the development site was a flood plain, and that raising the ground level would pose a risk to his bungalow and neighbouring dwellings due to surface water run-off. He explained that his dwelling was not on the flood plain, and therefore did not have a flood escape route through a roof window or second storey. He started to discuss the traffic issues on Putney Hill Road and concern about the site access opposite the Social Club, as well as the necessary line of site for the nearby junction, but having considerably exceeded the allowed 5 minutes of speaking time he was stopped by the Chairman.

The Chairman invited questions for the objector. Cllr Jones stated that permission had already been granted for the site meaning that the field views would be lost in either scenario, and the proposed roof heights would be almost in line with his property so with a 20m separation distance he questioned whether there would be overshadowing. The objector expressed his disagreement with the stated heights and commented that on the earlier site visit Members would have seen that his bungalow was below road level. He considered that the new roof levels and the buildings' positions relative to his property would result in a loss of the sun's heat and light during the best hours of the day.

Cllr Trapp queried what direction of sunlight the objector received, suggesting that Plot 1 being 20m from the house to the east would mean Long View retained the full sun to the south. The objector responded that at the front of their bungalow they saw the sun rise in the morning, and the sun moved to the side of the property by mid-afternoon. The Planning Contractor showed the aerial plan and highlighted due north as a visual aid.

The Chairman then invited Antony Smith (the applicant's agent) to address the Committee. Mr Smith stated that he was pleased the application had received full support from the Planning Contractor, Local Highways Officer, Parish Council,

Lead Local Flood Authority, Environment Agency and the Trees Officer. He reiterated that the application had been called in by Cllr Harries for various reasons including the concerns of City of Ely Council, but in their consultation responses they had submitted no concerns. The site was within the development framework of Prickwillow and had been allocated for up to ten dwellings under policy PRK 1. Permission had previously been granted for eight 3-bed bungalows whereas the new application had changed the housing mix to six 3-bed dwellings, and two 4-bed dwellings, in closer accord with the suggested market housing mix for East Cambridgeshire. The shared use access width of 6m was acceptable to the Local Highways Authority. The building heights would be 390mm above those of the approved scheme, which he did not consider to be excessive, and a detailed site survey had been undertaken to establish and set the existing ground levels. There would be no first-floor windows overlooking the neighbours. The carefully designed proposal would provide a more efficient use of the site, on land that was allocated for housing and had an existing permission in place, he therefore urged Members to approve the application.

The Chairman invited Members to ask questions of the applicant's agent. Cllr Jones queried the flood water issues raised by the objector and asked if there was a surface drainage scheme in place. The agent advised that a Flood Risk Assessment had been carried out and reminded Members that the approved scheme included infill to raise the site to 500mm above road level, which he argued could have a greater impact on neighbours than the proposed scheme would. In addition, the applicant had carried out a topographical survey to gain the exact height of ground and road levels, and the proposals were based on that information.

Cllr Trapp queried why the sloped roofs were much steeper than that of the adjacent bungalow at Long View. The agent explained that the slope was required to accommodate the head height for the first floor, but the eaves would be lower than the soffits of the adjacent property. Responding to further questions from Cllr Trapp, the agent emphasised that the applicant was not the same as for the approved scheme, and was ready to start building. Additionally, he explained that the change in housing mix was more in line with the needs of the area, which suggested 40-50% 3-bed properties.

The Chairman invited the Ward Member, Cllr Simon Harries, to address the Committee. Cllr Harries advised Members that he visited the site after the previous permission was granted, and he regretted not having called in that application since he had multiple concerns about development of the site, although he acknowledged that it was allocated in the Local Plan 2015. He drew attention to the comments of the Environment Agency and the Internal Drainage Board (noting that the comments were received from the Middle Fen and Mere Internal Drainage Board, but had been incorrectly attributed in the report) and expressed his concerns on the impact the development would have on residents by inadvertently placing them in a flood plain. He considered that the road and impact of speeding had not been adequately considered. He referred to the site's allocation in the Local Plan 2015 and how a lot had changed since then in terms of increased flood risk due to more periods of drought and severe weather. He also emphasised the importance of protecting the street scene in Prickwillow, and considered this to be an unsuitable location with multiple areas of concern.

The Chairman invited questions for Cllr Harries. Cllr Jones commented that there was an existing permission for development of the site and therefore many of the points raised, such as traffic concerns, would equally apply should the extant permission be built. However, the new proposal was set lower down and with drainage away from existing properties, he therefore asked Cllr Harries whether he felt the new proposal would be better, given that either the approved or proposed scheme would be built. Cllr Harries stressed that he had no expert opinion but urged Members to consider all of the issues and to look at the responses from the Internal Drainage Board and Environment Agency.

Responding to a question from Cllr Trapp about public transport in Prickwillow, Cllr Harries commented that residents needed cars due to inadequate public transport, and that two parking spaces had been proposed per dwelling, but the issue of traffic and speeding near the site should be carefully considered because existing residents had raised concerns. On the invitation of the Chairman, the objector spoke from the public gallery to inform Members that there was no public transport in Prickwillow. The Chairman invited further comments from the Planning Contractor, followed by questions from Members.

The Planning Contractor clarified that the proposed conditions included a 2-year implementation to speed delivery of the site. He apologised for the incorrect naming of the Internal Drainage Board (IDB) and explained that since the granting of the previous application, the applicant had undertaken infiltration tests which indicated that soakaways would be achievable at this site, although a drainage condition was also required. The Environment Agency had reviewed the Flood Risk Assessment and agreed the proposed measures together with flood resilience measures and foul drainage. He stressed that the site was lower than previously approved, and flood levels were lower than previously modelled, resulting in no threat to the site or neighbouring dwellings. Furthermore, any existing traffic or speeding issues would need to be directed to the Local Highways Authority, who had not objected to the scheme but had requested a condition regarding visibility.

Responding to a series of questions from Cllr Trapp, the Planning Contractor informed Members that the distance between Long View and the closest plot would be 21m, as previously approved in the permission granted for eight 3-bed bungalows. The fall-back position, should the current application be refused, was that the scheme in the extant permission could be constructed. The road would not be adopted but the report detailed a proposed indemnity agreement to enable refuse vehicles to enter the site for refuse collection. If the agreement was not secured then there would be an on-site bin collection point within suitable carrying distance for the operatives.

Cllr D Ambrose Smith queried that if the refuse truck cannot go onto the site it would have to park on the bend on the side of the road causing a safety concern for road users and operatives, and asked if this was the case for the Officer to go back to Highways for further comments. The Planning Contractor emphasised that if the refuse collection strategy went ahead they would have to consult Highways again.

The Chairman then opened the debate. Cllr Jones considered that the proposal was a better scheme than the fall-back position. Although the houses were bigger they were set lower down meaning they would have less effect on neighbours. He proposed the Officer's recommendation for approval. Cllr Brown showed sympathy

for the neighbours at Long View regarding the loss of their view, however he considered that there were no planning grounds for refusal and he therefore seconded the proposal.

Cllr Wilson was inclined to agree with the Officer's recommendations since there was already an application approved for this site, and it was allocated in the Local Plan 2015. He was disappointed to see no affordable housing but acknowledged that the site was only for eight dwellings and was in a location with no local facilities or public transport. He emphasised his concern for safety if the refuse truck was parked on the road.

Cllr D Ambrose Smith expressed his support for this application, but remained concerned about the waste collection which he considered should be on-site. The Planning Contractor reiterated the possibility that Members could request an additional condition to secure a refuse collection strategy prior to occupation. Cllrs Jones and Brown amended their motion accordingly.

Cllr Trapp stated his opinion that the proposal should have included 1-bed and 2-bed properties in line with the overall housing mix, and was critical of the time taken to prepare the proposed scheme to provide larger dwellings, rather than build the previously-approved scheme.

It was resolved with 7 votes in favour, 1 vote against and 0 abstentions:

That planning application ref 22/01228/FUL be APPROVED subject to the recommended conditions detailed in Appendix 1 of the Officer's report together with an additional condition to secure a refuse collection strategy.

It was further resolved:

That authority be delegated to the Planning Manager to draft the additional condition regarding a refuse collection strategy.

*4:22 – 4:32pm the meeting was briefly adjourned for a comfort break.*

**79. 22/01427/OUT LAND ADJACENT TO 73 FORDHAM ROAD SOHAM**

Rachael Forbes, Planning Officer, presented a report (X163, previously circulated) recommending approval of an application seeking outline permission for the construction of two detached dwellings, with new access, dropped kerb and associated works. All matters were reserved apart from access.

A location plan and aerial view illustrated the site's location immediately outside the development envelope of Soham. Site photographs were also provided together with an indicative layout and a plan of the proposed access arrangements, including the relocation of the pedestrian crossing.

The main considerations for the application were deemed to be:

**Principle of development** – although the application site was just outside the development envelope of Soham and was therefore contrary to policy

GROWTH 2, it was located in one of the three market towns where growth would be directed by the policy. The proposal had been carefully considered as to whether its specific circumstances were similar to those in the recent Soham appeal decision and as a result it was considered that the principle of development in this location was acceptable.

- **Visual impact** – The appearance, landscaping, layout and scale were not for consideration at that stage. However, the block plan showed some indicative landscaping including hedging around the perimeter of the site and some tree planting and it was considered that an acceptable landscaping scheme could be achieved on the site. The site was an undeveloped piece of grassed land forming a gap in the linear development of residential dwellings along Fordham Road, most of which were single-storey in the immediate surroundings. The indicative elevations suggested that the proposed dwellings would be similar in character as those to the south. It was considered that an acceptable scheme could be achieved without significant harm to the character and appearance of the area, and therefore the proposal complied with policies ENV 1 and ENV 2 of the Local Plan 2015.
- **Residential amenity** – all matters were reserved except access, and therefore the impacts to residential amenity could not be fully assessed. Examination of the indicative layout showed potential impacts to 75 Fordham Road but it was considered that the size of the site would enable any such issues to be resolved and a scheme could be achieved that did not have a significant adverse effect on residential amenity. Due to the site's proximity to the A142, the Council's Environmental Health Officer had advised that an acoustic fence would be required to aid with the noise mitigation, which would be secured by condition.
- **Highway safety and parking** – access was the only matter for consideration at this stage. The proposal involved the creation of a new dropped kerb and shared access onto Fordham Road, which would also require the pedestrian crossing to be relocated. The turning area for both dwellings and two parking spaces per dwelling, would be situated to the front of the dwellings. The indicative site layout included the provision of two car parking spaces per dwelling together with turning area and sufficient space for cycle parking. The Local Highways Authority had commented that the proposal was acceptable in highways terms.
- **Public right of way** – the public footpath 96 Soham ran through the proposed access but the walked route could be formalised to divert the right of way away from the application site. The County Definitive Map Team had confirmed that a formal request must be made to divert the path but had raised no objections to the proposal. They had requested a condition that the diversion order must be complete before any development took place.
- **Other Matters** – it was considered that the site was of sufficient size that biodiversity net gain could be achieved and could be secured by a condition. The site was within Flood Zone 1 and was not within an area of surface water flooding. Details of foul and surface water could be secured by condition. No details had been put forward in respect of the Climate Change SPD, although those details could be included as part of a reserved matters application.

In summary, although the application site was outside the development envelope, it was an infill site located in a market town and in this specific location GROWTH

2 could be considered to be out of date. Therefore, the principle of development in this location was considered to be acceptable. Two dwellings could be achieved in that location without significant detrimental impact to the character and appearance of the area, residential amenity or highway safety. Biodiversity net gain could also be achieved at the site. The application was therefore recommended for approval.

On the invitation of the Chairman, Antony Smith (the applicant's agent) addressed the Committee. Mr Smith emphasised the Officer's support of the application as an infill development, and that no objections had been received. He stated that the public footpath would be diverted to match the route that was already in common use and the proposal would make efficient use of the site and improve the street scene of the area. The indicative layouts showed single storey dwellings, which were in high demand, and the site was in a sustainable location with a bus stop opposite the site, a shop approximately 60m away, and a pub an industrial estate within 600m.

The Chairman invited Members to ask questions of the applicant's agent. Cllr Jones queried the viability due to the cost of relocating the pedestrian crossing. The agent confirmed that the Local Highways Authority had been consulted and a satisfactory quote obtained.

Cllr Trapp commented favourably about the potential provision of two bungalows but recognised that the application was at outline stage. He therefore questioned whether larger dwellings would be proposed at the reserved matters stage. The agent replied that all of the dwellings in the immediate area were bungalows.

In the absence of further comments from the Planning Officer, the Chairman invited questions for her from the Committee.

Cllr Wilson asked where the acoustic fence would be located. The Planning Officer advised that the details of the fence would be secured by condition, but she anticipated that it would be in line with that of the neighbouring site.

Cllr Hunt noted that the application referenced detached dwellings but asked for confirmation that they would be single storey. The Planning Officer explained that the indicative elevations showed single storey dwellings, but the applicant could propose two storeys at the reserved matters stage, although that would be unlikely to be supported by Officers due to the nature of the area. Following a further question from Cllr Hunt, she confirmed that Members could add a condition to restrict the two dwellings to being single-storey.

The Chairman then opened the debate.

Cllr C Ambrose Smith supported the idea of adding a condition to restrict the two dwellings to be single storey. Conversely, Cllr D Ambrose Smith was unconvinced that was necessary.

Cllr Jones proposed, and Cllr Brown seconded, the Officer's recommendation for approval, with an additional condition to restrict the two dwellings to being single-storey.

It was resolved unanimously:

That planning application ref 22/01427/OUT be APPROVED subject to the recommended conditions detailed in Appendix 1 of the Officer's report together with an additional condition restricting the two dwellings to being single-storey.

It was further resolved unanimously:

That authority be delegated to the Planning Manager to draft the additional condition regarding single-storey dwellings.

#### 80. 22/01474/FUL 10 DEXTER LANE LITTLEPORT

Toni Hylton, Planning Team Leader presented a report (X164, previously circulated) on behalf of the Case Officer. The report recommended refusal of a retrospective application seeking permission for a fence and gates around the front boundary of the site, adjacent to the highway.

Members were shown a location plan and aerial photograph together with elevations and various site photographs. The fence was 1.8m tall in part, stepping down to 1.2m closer to the automated 5-bar sliding gate.

The main considerations for the application were deemed to be:

- **Visual and residential amenity** – the street scene in the immediate and wider vicinity of the site was open frontages that set the dwellings back from the highway. The proposed fence would enclose the application site and erode the character of the area by being an incongruous feature. Photographs from various positions in Dexter Lane showed the open nature with all plots apart from the application site having no fencing, or fencing in line with the house to retain the open frontage, or an open metal fence rather than the closeboard fencing of the application. Members' attention was drawn to two recent appeals won by the Council regarding fencing that had been refused permission on the grounds of its impact on the street scene.
- **Highways safety and parking provisions** – the Local Highways Authority had stated that two parking spaces would be retained and an acceptable visibility splay could be achieved. Therefore, in highways terms the application was considered to be acceptable.

In summary, the fence and gates were considered to be visually intrusive and an uncharacteristic boundary feature due to their scale, design and location. Rather than complementing the character of the street scene they caused harm to the open visual amenity of the area, contrary to policies ENV1 and ENV2 of the Local Plan 2015. The application was therefore recommended for refusal.

On the invitation of the Chairman, the Senior Democratic Services Officer read aloud a statement from the applicant, Ben Davis, explaining that during the purchase of their property in late 2020 they had been assured by the developer that fencing to the front of the property would be allowed. A letter dated 31<sup>st</sup> August 2020 was provided to that effect. He emphasised that the fence was a sufficient distance from the title boundary (the centre line of the private road), did not cause pedestrian or traffic issues, was in keeping with the height and style of much of the

existing fencing in the locality, did not cause loss of light or other impact to neighbouring properties, and ensured security for the property and his young child. He requested that if permission was not granted for the existing design, that a 1.2m height fence for the full width of the plot should be permitted instead. (Members had been provided with a copy of the statement and the accompanying letter dated 31<sup>st</sup> August 2020.)

The Chairman then invited Cllr D Ambrose Smith, Ward Member, to address the Committee. Cllr D Ambrose Smith highlighted various points close to the application site that had similar fencing, and reminded Members that the Local Highways Authority had found there to be no public safety impact. He asked Members to consider what harm would be caused by permitting the fence and gate to remain.

Responding to a request from Cllr Brown to clarify his position, Cllr D Ambrose Smith confirmed that in his opinion the application should be approved, contrary to the Case Officer's recommendation.

*5:05pm Cllr D Ambrose Smith left the meeting for the remainder of this item.*

The Chairman invited further comments from the Planning Team Leader, followed by questions from Members.

The Planning Team Leader addressed the Ward Member's open question about harm by showing a photograph of Dexter Lane and stating that if the application was to be permitted then the Authority would also need to permit the equivalent fencing on all of the other plots.

Cllr Hunt asked how the application had come about, and was informed that, as part of an enforcement case, the applicants had enquired about the likelihood of being granted retrospective planning permission. They had been informed that it was unlikely, and the Case Officer had tried to find a compromise position such as setting the fencing back from the highway in line with the building, or reducing the height, but the applicants had declined to make any changes.

Cllr Trapp queried whether or not the property's deeds permitted a fence, and highlighted that the letter provided earlier by the applicant was from the builder rather than a solicitor. The Planning Team Leader explained that Officers had been informed that the deeds said fences were not allowed, but reminded Members that aspect was not a planning matter.

Cllr Wilson asked whether he had understood correctly that, in general, fences could be constructed up to 1m high to the front of a property or 2m to the sides. The Planning Team Leader explained that a general permitted development order would allow that, subject to any specifications in the deeds, which would enable a front boundary fence of 1m or less but would not allow 1.8m as constructed. Additionally, the automated gate was 1.2m high, which could be problematic for attempts to modify the existing arrangement.

Responding to a query from Cllr C Ambrose Smith the Planning Team Leader stated that hedging could potentially be an acceptable alternative, but Members could only decide on the application as submitted.

The Chairman then opened the debate. Cllr Trapp proposed the Officer's recommendation for refusal, seconded by Cllr Jones.

Cllr Brown stated that he would abstain since it was a subjective matter on which he did not have a strong opinion. He did not consider that there would be harm, but could appreciate the Officer's viewpoint.

Cllr Wilson commented that there were other fences in the vicinity, and highlighted one at the end of the road and a shorter one on the right-hand side. He considered 1.8m to be high but also recognised that it was a matter of opinion as to whether a fence was attractive or not.

It was resolved with 4 votes in favour, 2 votes against and 1 abstention:

That planning application ref 22/01474/FUL be REFUSED for the reasons detailed in paragraph 1.1 of the Officer's report.

*5:16pm Cllr D Ambrose Smith returned to the meeting.*

#### **81. PLANNING PERFORMANCE REPORT – JANUARY 2023**

Simon Ellis, Planning Manager, presented a report (X165, previously circulated) summarising the performance of the Planning Department in January 2023. He corrected a typographical error in the final paragraph of page 1 (“...number received during 2024 **2022**...”) and stated that an increase in the number of applications received during the spring was anticipated as seen in the previous year. He explained that the reporting of the Determinations was being reviewed since the figures did not currently show when extensions of time had been granted.

Cllr Brown asked for an explanation of decision level “NA” in the “Appeals Decided” table on page 2. Upon being told that it referred to an appeal on the grounds of non-determination, he suggested that “ND” be used in future.

The Chairman thanked the Planning Department for their good work under pressure.

It was resolved:

That the Planning Performance Report for January 2023 be noted.

*The meeting concluded at 5:20pm.*