



EAST
CAMBRIDGESHIRE
DISTRICT COUNCIL

Minutes of a meeting of the Planning Committee held at 2:00pm on Wednesday 26th April 2023 in St Mary's Church Hall, St Mary's Street, Ely, CB7 4HF.

PRESENT

Cllr Christine Ambrose Smith
Cllr David Ambrose Smith
Cllr Sue Austen
Cllr David Brown
Cllr Lis Every
Cllr Bill Hunt (Chairman)
Cllr Alec Jones
Cllr Lisa Stubbs (Vice-Chairman)
Cllr John Trapp
Cllr Gareth Wilson

OFFICERS

Maggie Camp – Director Legal Services & Monitoring Officer
Holly Chapman – Senior Planning Officer
Caroline Evans – Senior Democratic Services Officer
Richard Fitzjohn – Planning Contractor
Toni Hylton – Planning Team Leader
Andrew Phillips – Planning Team Leader
Gavin Taylor – Planning Contractor
Angela Tyrrell – Senior Legal Assistant
Adeel Younis – Legal Assistant

IN ATTENDANCE

Jon Jennings (Applicant's Agent, Agenda Item 4 / Minute 93)
Simon Kelly (Applicant's Agent, Agenda Item 4 / Minute 93)
Adam Tuck (Applicant's Agent, Agenda Item 5 / Minute 94)
Laura & Peter Wood (Objectors, Agenda Item 6 & 8 / Minute 96)
Nick Wright (Applicant, Agenda Item 4 / Minute 93)

8 other members of the public and press

Cllr Lorna Dupré (Agenda Item 6 & 8 / Minute 96)
Cllr Mark Inskip (Agenda Item 6 & 8 / Minute 96)

90. APOLOGIES AND SUBSTITUTIONS

Apologies for absence were received from Cllr Lavinia Edwards.

91. DECLARATIONS OF INTEREST

Cllr D Ambrose Smith declared himself to be predetermined against the Officer's recommendation for Agenda Item 5 (22/01021/OUT Site north of Camel Road, Littleport) and would leave the meeting for the duration of that item.

92. CHAIRMAN'S ANNOUNCEMENTS

The Chairman made the following announcements:

- Adeel Younis (Legal Assistant) and Isabella Taylor (Planning Officer) would both be leaving the Council in May. He thanked them for their work and wished them well for the future.
- Agenda Item 7 (Planning Performance Report) would be heard out of order, before Agenda Item 6 in order to facilitate the consideration of Item 6 that included exempt information.
- This would be the last meeting of the current administration due to the upcoming local elections. He thanked all Members who had served on the Planning Committee and all Officers who had been involved with it; all had been appreciated.

93. 22/00638/FUM – NEW ENGLAND FARM, UPPER DELPH DROVE, HADDENHAM

Holly Chapman, Senior Planning Officer, presented a report (X194, previously circulated) recommending refusal of an application seeking to retain and re-clad four existing agricultural buildings to convert into six commercial units in Use Classes E(g)(iii), B2 and B8, together with associated development and off-site highway works to ensure safe access.

Members' attention was drawn to the comments from Haddenham Parish Council comments and the Internal Drainage Board as detailed on the update sheet circulated on 24th April. Neither body had any objections to the application. Three further comments had been received in support of the application and hardcopies had been provided at the start of the meeting.

A site plan, site photographs and aerial photographs illustrated the layout of the site and its location considerably closer to Earith (Huntingdonshire) than Haddenham. Elevations and floorplans were shown for the four buildings, all of which would be retained with no height change. Some minor demolition and rebuilding works would be required together with extensive highways works to Upper Delph Drove and the A1123 as well as the site junction.

The main considerations for the application were deemed to be:

- **Principle of development** – the application sought to introduce approx. 3730sqm of employment floorspace through re-cladding and converting existing buildings and was therefore supported in principle by policy EMP4 of the Local Plan 2015. However, policy HAD4 of the Haddenham & Aldreth Neighbourhood Plan required employment proposals to be “within or on the edge of the village”. By providing a specific location requirement this policy was in conflict with EMP4. The Haddenham & Aldreth Neighbourhood Plan had been made in October 2022 following a referendum, and policy HAD4 therefore took precedence over the older EMP4 where conflict existed. The proposed development was therefore considered to be unacceptable in principle since the site's location 3.5 miles from Haddenham (1.1 miles from Earith) was not “within or on the edge of the village” as required by HAD4.
- **Visual amenity** – the re-use and re-cladding of existing buildings would provide visual and physical improvements as well as improved acoustic insulation and energy saving. Lighting, boundary treatment and planting

could be controlled by condition. The proposed development was therefore considered to be acceptable in terms of visual amenity.

- **Residential amenity** – although the proposed uses of the buildings had the potential to be disruptive in terms of noise and a significant increase in vehicle movements, the location and operating hours were considered to mitigate the significantly detrimental effects. The nearest residential properties were also associated with the existing farm development. Operating hours, noise limits, and a lighting scheme and hours could all be controlled by condition. The proposed development was therefore considered to be acceptable in terms of residential amenity.
- **Highways safety** – junction and road upgrades would be undertaken meaning that, although a significant increase in vehicle movements would be expected, the application would not be detrimental to highways safety. Parking provision and cycle parking were both in accordance with policy requirements. The proposed development was therefore considered to be acceptable in terms of highways safety.
- **Flood risk and drainage** – a comprehensive drainage strategy had been proposed. The Environment Agency and the Internal Drainage Board had no objections but a late consultation response from the Lead Local Flood Authority (LLFA) meant a technical matter could not be addressed before the Committee meeting, leaving an outstanding objection with eight points of concern. It was considered that the concerns could not be addressed by condition since the proposals had not demonstrated that they could adequately mitigate exacerbated surface water flooding or increased flooding elsewhere. The proposed development was therefore considered to be unacceptable in terms of flood risk and drainage.
- **Trees, landscaping, biodiversity and ecology** – recommendations in the Phase 1 Ecological Assessment could be secured by condition and the scheme provided opportunity for a significant biodiversity net gain in accordance with adopted policies. The proposed development was therefore considered to be acceptable in terms of trees, landscaping, ecology and biodiversity.
- **Energy efficiency and renewable energy strategy** – the proposal would re-use existing buildings and improve their insulation. In order to comply with the requirements of policies ENV4 of the Local Plan and HAD13 of the Haddenham & Aldreth Neighbourhood Plan, conditions would be required regarding the number of electric vehicle charging points and the solar photovoltaic panels scheme. Subject to conditions, the proposed development was therefore considered to be acceptable in terms of energy efficiency and renewable energy strategy.

In summary, the application site was far outside the village of Haddenham and therefore failed to meet the location requirement of policy HAD4 of the Haddenham & Aldreth Neighbourhood Plan. It had also failed to demonstrate that it would not exacerbate surface water flooding or flood risk elsewhere. Although acceptable in all other respects, the application was recommended for refusal on those two grounds.

Simon Kelly, Nick Wright and Jon Jennings then addressed the Committee as the applicant/agents. Simon Kelly highlighted that no additional hard surfacing would be created and therefore the drainage situation would be unchanged. Outstanding concerns could be addressed by condition, or the decision could be deferred to

enable the applicant to address the issues. The Parish Council, as authors of the Neighbourhood Plan, supported the scheme. Strategic policy GROWTH2 supported the application, as did policies EMP2 and EMP4. Policy HAD4 supported development outside the development envelope if there was a clear reason for the location: the re-use of buildings necessarily had to occur where the buildings were located – in the case of farm buildings this would generally be in open countryside. The policy was permissive and did not specify that development could not occur elsewhere. He considered that in law there was no conflict with the policy. The application would improve existing buildings, create local jobs and diversify an existing farm business. Nick Wright, added that the buildings had no modern agricultural purpose and were therefore only suitable for conversion. They formed part of an existing development and the improved access arrangements had been approved. The objections from the LLFA had been received too late to be addressed prior to the meeting but were purely technical and he was confident that they could be resolved. There were no local objections, the Parish Council were in favour, and he had provided evidence of local interest in locating businesses there. The application complied with all relevant local and national policies apart from the Council's interpretation of the Neighbourhood Plan.

Responding to Cllr Jones's question about whether the Parish Council had a mandate to go against the Neighbourhood Plan, Simon Kelly reiterated that the issue was a matter of interpretation since the Plan did not specifically prohibit development in other locations. Legal arguments had been provided to support their position and the applicants were confident of winning an appeal, with costs, against a refusal on those grounds.

Nick Wright provided further information to Cllr Trapp about the buildings' previous uses and also explained that all of the proposed car parking would be within the existing building area. Responding to Cllr Hunt, he added that there would be no increase in the concreted area although some repairs and improvements would be made. The cladding would be non-asbestos and all necessary checks would be made regarding asbestos in the roofs. He confirmed to Cllrs Jones, Brown and Hunt that they were confident that the drainage concerns could be resolved within a matter of weeks and Jon Jennings added that the necessary technical work was already in progress with a survey having taken place the previous day and a deferral would allow them to prove this.

Cllr D Ambrose Smith asked about the entrance to the site and was informed that the improvements would result in a 6m wide access to Highways standards. Responding to questions from Cllrs Wilson and Jones, Jon Jennings and Nick Wright explained that to date there was interest in the proposed commercial units from four companies with a total of approximately 70 employees. One company was already based in Haddenham and all four were local. When asked by Cllr Every about alternative options for the site, Jon Jennings explained that a smaller conversion could take place under permitted development rights, meaning smaller units, but all existing buildings would remain in place. Nick Wright added that if improved access arrangements were required that would not be economically viable for a smaller operation.

The Senior Planning Officer informed Members that the hard copy letters supporting the proposed development had not been seen by Officers prior to the meeting. Additionally, it would not be possible to control whether or not it was local

businesses that utilised the units. She highlighted that the policy conflicts had been addressed in detail in the report and, in discussion with the Policy Officer, conflict had been found with HAD1 and HAD4. Legal arguments provided by the applicant were referenced in the report but had not been shared since they stated that they were confidential and legally privileged. The Planning Team Leader added that local/national policy interrelations had been addressed in the report. Regarding 5.4 in the Haddenham & Aldreth Plan, referred to by the applicant's agent, the Planning Team Leader emphasised that it was preamble rather than policy and reiterated that HAD1 made clear what was within the development envelope and what could be considered when outside it.

Responding to a query from Cllr Brown, the Planning Team Leader explained that granting approval subject to addressing the LLFA concerns would be inadvisable. Should Members want to permit the development, more appropriate alternatives would be to grant approval subject to conditions, or to defer the decision to give the applicants time to address the concerns.

The Senior Planning Officer confirmed to Cllr Stubbs that there were two reasons for recommending refusal: the drainage concerns and the conflict with policies in the Neighbourhood Plan. If the drainage concerns were addressed by condition then Members would need to either conclude that there was no conflict with Neighbourhood Plan policies, or provide reasons as to why permission should be granted in conflict with policy. Responding to Cllr Hunt, she explained that her professional opinion differed from the Parish Council's interpretation of the Neighbourhood Plan in that she considered, intentional or not, that the Neighbourhood Plan contained a key locational requirement that was not met by the current application.

The Chairman then opened the debate. Cllr Wilson explained that he had been a member of the group that developed the Neighbourhood Plan and the intention had been to discourage new buildings outside the development envelope. However, there had been no intention to prevent the re-use of existing buildings. He supported the change of use from empty structures to commercial units for which there was already interest and he considered that the Neighbourhood Plan could be interpreted differently from the Case Officer's position, such that the application could be approved subject to conditions regarding the drainage. Haddenham Parish Council had recently discussed the application and were unanimously in favour of it. He therefore proposed that the application be approved. Cllr C Ambrose Smith agreed and seconded the proposal for approval. Cllrs Brown and D Ambrose Smith stressed the importance of adding conditions to address the drainage concerns. Cllrs Hunt and Trapp commented that the proposals would improve the look of existing buildings and recognised that the Neighbourhood Plan had sought to prevent new construction in the countryside.

It was resolved unanimously:

That planning application ref 22/00638/FUM be APPROVED subject to suitable drainage conditions to satisfy the points raised by the Lead Local Flood Authority, on the grounds that the proposed development did not contravene the Committee's interpretation of the Haddenham & Aldreth Neighbourhood Plan.

It was further resolved:

That the Planning Manager/Planning Team Leader be given delegated authority to impose appropriate conditions in addition to the drainage conditions previously mentioned.

3:07pm Cllr D Ambrose Smith left the meeting for the duration of the following item.

94. 22/01021/OUT – SITE NORTH OF 44 CAMEL ROAD, LITTLEPORT

Richard Fitzjohn, Planning Contractor, presented a report (X195, previously circulated) recommending refusal of an application seeking outline permission for two detached dwellings, including off-street parking and associated infrastructure, with all matters reserved apart from layout. The application had previously been considered by the Committee on 1st March 2023 when all matters had been considered acceptable apart from biodiversity and flood risk; the application had been deferred for those to be addressed.

A location plan, site photos and site layout were provided to illustrate the site's location between two development envelopes and with residential properties to the north and south and an equestrian centre and paddocks to the east. The proposed site layout followed the general development along Camel Road and included off-street parking.

Following previous consideration at the 1st March Planning Committee meeting, the only remaining considerations for the application were:

- **Biodiversity** – an Ecological Walkover Survey and Biodiversity Net Gain Calculation had been received since the deferral. It had been demonstrated that a significant biodiversity net gain could be achieved and the proposed development was therefore now considered to be acceptable in terms of biodiversity.
- **Flood risk** – since the March Planning Committee meeting the applicants had engaged further with their Flood Risk Consultant, who had concluded that no more could be done in respect of flood risk mitigations. The Local Plan 2015 and the NPPF required the use of the Sequential Test to steer new developments to take place in areas with the lowest probability of flooding. The Environment Agency had not objected to the proposal but had stated that the Local Planning Authority should determine whether the Sequential Test had to be applied. The application site was within Flood Zone 3 and therefore in accordance with policy ENV8 of the Local Plan 2015 the Sequential Test had to be strictly applied. Officers remained of the view that there were other reasonably available sites for two dwellings within Littleport at lower risk of flooding, and therefore the Sequential Test was failed. However, if Members concluded that the Sequential Test was passed then the Exception Test would apply. Part (a) concerned wider sustainability benefits to the community that outweighed the flood risk; Officers did not consider this to be passed. Part (b) concerned the safety of the development's users, without increasing flood risk elsewhere, and Officers considered that conditioning the mitigations in the Flood Risk Assessment would satisfy this part of the Exception Test.

In summary, it was considered that the application should be refused due to its location within Flood Zone 3 and the availability of sites elsewhere that meant the Sequential Test was not passed.

On the invitation of the Chairman, Adam Tuck (Applicant's Agent) addressed the Committee. He reminded Members that the application had been deferred from the 1st March 2023 meeting and that Officers had since been satisfied regarding biodiversity, so the only outstanding issue was the flood risk. No harm had been identified and there were no objections. He emphasised that the Environment Agency were satisfied subject to the proposed raised floor levels. He argued that a Sequential Test was not required since the site was an infill site, and highlighted an approval along the same road earlier in the year that was within the development envelope and had therefore not required a Sequential Test. The site was owned by the family and the proposed self-build plots would enable several generations to live together and provide care as needed, thus providing a benefit.

Answering flooding-related questions from Cllrs Wilson, Trapp, Hunt and Jones, the Agent explained that the land level matched that of its neighbours on either side and only the finished floor levels would be raised (300mm above ground), not the land or driveways. This was based on the advice of flood risk specialists. All of the details were within the Flood Risk Assessment and the site was outside the 1 in 100yr flood plain. The Planning Contractor also explained that both the Environment Agency and the applicant's Flood Risk Consultant considered that raised floor levels would remove the risk of danger from flooding.

The Planning Team Leader explained that when the Local Plan was prepared any sites in the development framework underwent a Sequential Test at that point. For the application to pass the Sequential Test Members would need to be satisfied that there was nowhere else in Littleport where the two dwellings could be provided at lower risk of flooding. He also reminded Members that the two potential self-build plots could not be conditioned as to who would own or live in them.

Cllr C Ambrose Smith highlighted the anomalous nature of the small parcel of land outside the development envelope. The Planning Contractor reiterated that the site did not pass the Sequential Test because there were other reasonably available sites in Littleport; development in Flood Zone 3 required that the Sequential Test be passed. The Planning Team Leader explained to Cllr Wilson that across the District there was land in Flood Zones 1, 2 and 3, with most housing allocations in Flood Zone 1. Raising land levels reduced the risk of flooding at that location, but would increase the risk elsewhere. Responding to a query from Cllr Jones, the Planning Contractor explained that wider benefits considered acceptable to pass the Exception Test would differ for all applications.

The Chairman then opened the debate. Cllr C Ambrose Smith was supportive of the concept of different generations of family supporting each other and stressed that other locations within Littleport would not achieve that aim. Cllr Jones considered that the proposed housing would provide a benefit and that continuing to develop suitable small pockets of land was not controversial. He therefore proposed that the application be approved, as he considered there were no other locations at lower risk of flooding within Littleport where the proposed houses, with their associated benefits, could be provided, thus passing the Sequential Test; and that the Exception Test was passed due to the provision of additional housing and economic benefit together with the raised floor levels providing suitable and safe

lifetime homes without causing significant risk of flooding elsewhere. Cllr Brown seconded the proposal and Cllr C Ambrose Smith was also supportive. Cllrs Trapp and Hunt expressed concern that larger dwellings could be proposed at the reserved matters stage and therefore requested that, should outline permission be granted, any reserved matters applications be determined by the Planning Committee.

It was resolved with 7 votes in favour, 2 votes against and 0 abstentions:

That planning application ref 22/01021/OUT be APPROVED on the grounds that there were no other locations at lower risk of flooding within Littleport where the proposed houses with their associated benefits could be provided, thus passing the Sequential Test, and the Exception Test was passed due to the provision of additional housing and economic benefit together with the raised floor levels providing suitable and safe lifetime homes without causing significant risk of flooding elsewhere.

It was further resolved:

That the Planning Manager/Planning Team Leader be given delegated authority to impose appropriate conditions in addition to the drainage conditions previously mentioned.

It was further resolved:

That the associated Reserved Matters application be referred to the Planning Committee for decision.

3:50pm Cllr D Ambrose Smith returned to the meeting

95. PLANNING PERFORMANCE REPORT – MARCH 2023

Toni Hylton, Planning Team Leader, presented a report (X197, previously circulated) summarising the performance of the Planning Department in March 2023. She highlighted that determination targets were being met for major, minor and “other” applications, with a small dip for the householder applications. Officers’ caseloads had increased, as was usual for the time of year, and an Officer was leaving in May. Another appeal had been won regarding a retrospective application for a fence; a scenario that was becoming common across the country.

It was resolved unanimously:

That the Planning Performance Report for March 2023 be noted.

3:52 – 4:07pm The meeting was briefly adjourned for a comfort break.

96. 22/00057/RMM – LAND REAR OF GARDEN CLOSE, SUTTON, CB6 2RF

The Chairman explained that the item included exempt and sensitive information that would need to be considered in closed session with only the Committee Members, necessary Officers, owners of 10 Oates Lane and particular agreed interested parties present. All other presentations, questions and debate would be heard in public. A waiting room had been provided for other members of the public and press during that part of the Committee’s deliberations.

Gavin Taylor, Planning Contractor, then presented a report (X196, previously circulated) recommending approval of a reserved matters application concerning the layout, appearance, scale and landscaping for the construction of up to 47 dwellings. The outline application for the site development (including access) had been refused by the Council in 2018 and subsequently allowed on appeal in 2019. Attention was drawn to the previously-circulated update sheet and additional information that Members had received in advance of the meeting, including revisions to some of the proposed conditions.

Members were shown a location plan and aerial images illustrating the site's position to the south east of Sutton with access *via* Garden Close to the west of the site. 10 Oates Lane, the home of an individual with protected characteristics was located adjacent to the north west corner of the site and the specific issues related to this would be discussed in closed session. For comparison purposes, the indicative site plan for the outline permission was provided together with the site layout for a reserved matters application that had been refused by the Council and dismissed at appeal. Various photographs of the site and its wider context, including the access from Garden Close, were shown.

The main considerations for the application were deemed to be:

- **Principle of development** – outline permission had been granted at appeal and the site was consequently allocated for up to 53 dwellings in policy NP5 of the Sutton Neighbourhood Plan. The policy required predominantly low density single-storey dwellings, the retention of mature trees and hedgerows, and the preservation and enhancement of various views.
- **Housing mix** – a refusal reason for the previous reserved matters application had been that the mix of market housing failed to contribute to meeting the needs of the village. The current application included more 2-bedroom dwellings and more than half of the 2- and 3-bed properties would be bungalows. The 30% affordable housing included 4 bungalows, and 51% of the dwellings would meet accessibility standards. Since publication of the report, the published housing needs assessment had been reviewed and was considered to be a reliable evidence-based document. The proposed housing mix did not strictly follow its recommendations but would positively contribute to the provision of smaller homes in the village. The variance was not considered to be sufficient to warrant refusal.
- **Layout** – access had previously been agreed and the parking, density and bin collection points were all considered to be acceptable. In terms of open space, there would be a play area to the north east, a nature area to the south, and an inaccessible (fenced) green space to the north delivering biodiversity benefits.
- **Scale, Appearance and Landscaping** – 55% of the dwellings would be single-storey and all two-storey buildings would be towards the centre of the site. The number and layout of bungalows was considered to be compliant with the policy requirement for predominantly single-storey dwellings. The ridge heights of the two-storey dwellings had been reduced compared to the previously-refused reserved matters application and there were no flats or 1.5 storey dwellings proposed. It was not considered that there would be a severe impact on any of the views specified in policy NP5 of the Sutton Neighbourhood Plan. Elevations were provided for a variety of dwellings to illustrate improved design with a mix of finishes reflecting those in the locality. The Trees Officer considered that tree loss had been minimised

and the re-planting would be compliant with policy NE8 of the Natural Environment SPD.

- **Residential amenity** – compared to the previously-refused reserved matters application, there had been a revision to the proposed layout and the orientation of a dwelling to the south of a group of protected trees. There were now no concerns regarding overlooking, overbearing or overshadowing for future occupiers. In terms of existing residents, a refusal reason for the previous proposal had been the impact on the residential amenities of 10 Oates Lane. In order to address this, an area of open space would now have a stock-proof fence to provide a biodiversity area with restricted access visible from a number of dwellings, a larger buffer had been created and acoustic fencing would be included with suitable landscaping. Additionally, adjacent dwellings would be bungalows set further back. A condition would be required regarding the long-term management of the fence and landscaping in order to protect the residential amenity. There were no objections from the police regarding the risk of antisocial behaviour.
- **Biodiversity and ecology** – conditions were proposed including the provision of an updated Landscape Ecological Management Plan and a 20-year hedgerow and woodland management plan.
- **Flood risk and drainage** – the Council had previously refused an application on this site on the grounds of drainage and the Planning Inspector had disagreed at appeal. Conditions on the outline permission required the agreement of a detailed surface water strategy and foul drainage before works could commence, as well as a long-term management strategy for surface water. Anglian Water had no objections and the LLFA were content to agree details *via* outline condition.
- **Historic Environment/Archaeology** – condition 15 of the outline permission required a Written Scheme of Investigation to be agreed prior to commencement. It had previously been considered that development would not result in unacceptable impacts on the historic environment. Since the latest scheme was on a lower scale and density the same conclusions had been reached.
- **Energy & sustainability** – the application had included the details required by condition 11 of the outline permission and the Building Control team had confirmed that the development would meet the aims of policy ENV4 of the Local Plan 2015.

In summary, the application was recommended for approval subject to conditions. The Planning Consultant also explained to Members that the Council had a legal duty under s.149 of the Equality Act 2010 to have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not.

Furthermore, the Act explained that having due regard for advancing equality involved:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;

- Taking steps to meet the needs of people from protected groups where these were different from the needs of other people;
- Encouraging people from protected groups to participate in public life or in other activities where their participation was proportionately low.

The duty did not require the Council to do (or not do) anything, rather to be aware of, and have due regard to, the duty in making the decision.

Laura Wood, Objector, was invited by the Chairman to address the Committee and confirmed to the Director Legal Services and the Senior Democratic Services Officer that she wanted her statement to be heard in public session and minuted accordingly. She detailed the thought, effort, and funds that she and her husband had invested over the previous 18 years in the provision of a lifelong care home for their severely disabled son, and explained the nature and effects of his disabilities. Currently eight staff provided 24/7 care and the Adult Social Services team at the County Council had stated that the setting and team were the best possible long-term home for him. Should the provision fail then housing care would be needed elsewhere, likely in a different county, which would destroy the family. The family considered that the development, as proposed, would put the setting at risk. They had suggested alternatives, including offering to purchase the land buffer between their property and the new development, that would reduce the harm to their son's care home, but no explanation had been given as to why those alternatives would not be possible. In making their decision, she asked the Committee to consider whether enough had been done under the requirements of the Equality Act.

The Chairman then asked the Senior Democratic Services Officer to read aloud a statement that had been provided by Brett Collard, Chair of the Sutton Poor's Land Charity. The charity helped people of the village who found themselves in need and the trustees objected to the application since they considered that it represented an overdevelopment of the site that would exacerbate the existing flooding issues of land adjacent to the southern edge of the site. The land was lower than the site and included The Old Rec (leased to the Parish Council), allotments and agricultural land on The Lawns, all of which was owned by the charity and provided its income. Should the land become unusable then the charity would lose its only source of income to help people in the village who found themselves in need. The trustees were concerned that the springs existing on the application site would be impacted by construction and concretion and would find alternative outflow negatively impact the charity's land; an issue not addressed to date. They also questioned who would be responsible for the maintenance of ditches in the area that could be overwhelmed.

On the invitation of the Chairman, Cllr Lorna Dupré, a District and County Councillor for Sutton, addressed the Committee. She stressed her continued objection to the development which had significantly changed from the original intention of 25 bungalows for local people in the first Sutton Neighbourhood Plan. Sutton Parish Council also continued to object to the proposal. The percentage figures for 1, 2, 3, 4, and 5-bed properties in the 2021 housing needs assessment were provided, along with the percentages for the proposed development, and Cllr Dupre argued that there was no correlation between the two. In particular, 23% 1-bed properties were identified in the assessment and none were proposed for the development. In addition, 2/3 of the proposed plots would not conform with the minimum plot sizes in the Design Guide. Other concerns included mobility access, overdevelopment leading to increased cars on adjoining roads and at junctions,

and she was disappointed that no pedestrian access to the south had been included. She echoed the flooding concerns of the Sutton Poor's Charity and added that residents of Garden Close had objected on drainage/flooding grounds. Finally, she expressed her support and admiration for the residents of 10 Oates Lane and urged the Committee to ensure that they carefully considered their Public Sector Duty under the Equality Act in determining the application.

Cllr Mark Inskip then addressed the Committee as a District Councillor for Sutton and the Chair of the Sutton Parish Council. He asked the Committee to note the many objections to the application. He explained that he had led the village's working party for the creation and subsequent revision/updating of the Neighbourhood Plan. The Neighbourhood Plan had been made four years earlier with approximately 90% of residents in favour of it. He drew attention to policies NP5 and NP7, which the application did not comply with. NP5 concerned the application site and, in particular, specified predominantly low-density single storey bungalows. The previous reserved matters application had failed to meet this criterion since Officers had previously stated that approximately 75% single storey dwellings should be provided in order to be in accordance with the policy requirement. However, Officers' interpretation of NP5 had now changed in that approval was recommended despite only 55% of proposed dwellings being single storey. He considered that the application was an improvement on the previous design, but questioned whether "predominantly" would generally be used to describe a 55/45 split. Policy NP7 related to the housing mix meeting the needs of the village. A Housing Needs Assessment commissioned for Sutton as part of the current Neighbourhood Plan review had been finalised in September 2021, seen by the Parish Council in February 2022 and published on the Sutton Neighbourhood Plan website since March 2022. The housing mix in the proposal did not match that detailed in the assessment.

He explained to Cllr Trapp that NP5 had specified single storey dwellings to protect the views and the character of the area since the majority of dwellings in Garden Close and Lawn Lane adjacent to the site were bungalows. In answer to a further question he reiterated that there was strong support in the village for the Neighbourhood Plan, and also that made Neighbourhood Plans should, on principle, be given weight in Planning decision-making.

Cllr C Ambrose Smith commented favourably about the total number of bungalows and questioned whether viability may be the deciding factor in the overall housing mix. Cllr D Ambrose Smith asked whether the Parish Council accepted that there would be housing development on the site. Cllr Inskip explained that it was accepted that the made Neighbourhood Plan included development (a larger development than originally envisaged was approved at appeal during the examination stage of the Neighbourhood Plan) but he was there to reinforce to Members that the Neighbourhood Plan was supported by more than 90% of voters.

Cllr Jones highlighted that the outline permission granted at appeal allowed 53 dwellings, the application was for 47, and the Parish Council had originally anticipated 25; he asked whether a further compromise could be made regarding the density. Cllr Inskip reiterated that NP5 specified predominantly single storey dwellings and in his view 55% would not be within the usual definition of "predominantly". NP7 required the housing needs to be met and there was evidence of the housing needs in Sutton which the proposal did not align with.

The Chairman then invited questions for the Planning Contractor. In answer to questions from Cllr Hunt, the Planning Contractor stated that the site area was 7.8 acres and there were no public rights of way to/from the site other than *via* the main access point. He confirmed to Cllr Trapp that most parking would be tandem parking and showed on the site map where the visitor parking would be located.

Cllr Jones asked whether the 53 dwellings permitted in the appeal permission could be accommodated on-site whilst also complying with the NPPF, and whether policy NP5 should be a deciding factor in determining whether or not to permit the development. The Planning Contractor explained that bungalows were proposed on the fringes of the site and to the north, therefore his assessment of the visual impact of the development would be that it appeared to be predominantly bungalows; “predominant” could be interpreted in terms of numbers or site character. All applications needed to be determined in accordance with the Development Plan, and the Sutton Neighbourhood Plan was one of the latest additions to it.

Cllr Trapp referred to public speakers’ concerns about discharge of water, and comments in the report from the Lead Local Flood Authority (LLFA), and asked for further details. The Planning Contractor explained that Officers were reliant on the LLFA and local information, that all comments had been sent to the LLFA and that the applicant had sought to provide additional information throughout the process as well as agreeing discharge rates with the Internal Drainage Board. The outline permission required drainage to be agreed by condition and the LLFA were content with the details to date and to agree on discharge of conditions. With the Chairman’s permission a member of the public provided further information and concerns about the site’s drainage and the applicant’s proposals, and the Planning Contractor reiterated that all concerns raised had been passed to the LLFA. He added that the drainage was a pre-commencement condition, therefore if the applicant’s intended drainage scheme could not be achieved then they would need to devise an alternative for approval.

Responding to questions from Cllr Wilson about the south west corner of the site, the Planning Contractor highlighted an area outside the development site but linked to the wider biodiversity, and explained that the attenuation drain would have no houses around it. The area was required for drainage and for nature and would not be suitable for housing. He disagreed with Cllr Wilson’s judgement that some areas of the housing would be very cramped.

5:35pm Cllr Stubbs proposed, Cllr Hunt seconded, and it was unanimously agreed, that the press and public be excluded because it was likely, in view of the nature of the business to be transacted, that if members of the public were present during the item there would be disclosure to them of exempt information of Categories 1 and 2 of Part I Schedule 12A to the Local Government Act 1972 (as amended).

During the closed session Peter Wood, Objector, provided further details about the nature of his family’s objection and explained the alternatives that they had proposed which would enable the development to proceed without the risk of damaging the care home setting, including therapeutic garden, that they had created. In particular, they considered that moving the acoustic fence to the south 2m closer to the road, replacing the proposed stock fence with a solid fence, and removing the eastern acoustic fence, would remove their concerns and objection.

Cllrs C Ambrose Smith, D Ambrose Smith, Every, Jones and Trapp asked questions and received answers to further understand the Objectors' concerns and the revisions that they considered would be satisfactory. The Chairman thanked Peter and Laura Wood for their detailed explanations helping the Committee to understand the situation.

Cllr Dupré spoke in support of the Objectors' viewpoint and, should Members approve the application, requested that various conditions be added in order to protect the Objectors' current and future amenity.

The Director Legal Services and Monitoring Officer explained to Members that the Public Sector Equality Duty required "due regard" to be given. That did not mean that all issues must be fixed, rather that proper consideration must be given to the effect of their decision. Although alternative proposals had been explained, the developer had not included them in their application and Members were therefore reminded that they were being asked to determine the application before them.

The Planning Contractor explained the discussions that had been held with the Objectors and subsequently with the developer concerning the acoustic fence positioning. He also explained his understanding of the Adult Social Care Team's position, detailed Environmental Health's explanation about the effect of moving an acoustic fence further from a noise source, and the views of the police regarding the prevention of anti-social behaviour in amenity spaces. He drew attention to the proposed condition 17 regarding the restriction of roof heights.

Some Members discussed whether a deferral would be appropriate in order for the developer, 10 Oates Lane, and Officers to resolve the fence situation. Others were concerned that the fence positioning was not the only issue to be addressed. The Planning Contractor reiterated that the developer had been aware of the proposals from 10 Oates Lane and they had requested that the application be determined as presented. They had agreed an extension of time to 30th April and could therefore appeal for non-determination after that date if no decision had been reached. He emphasised that if Members were minded to defer then they would need to be clear which aspects of the application they did and did not consider to be acceptable.

6:20pm Cllr Trapp proposed, Cllr Jones seconded, and it was unanimously agreed, that the meeting should return to public session. Members of the press and public were therefore re-admitted to the meeting. The Director Legal Services and Monitoring Officer repeated the advice that had been given to Members during the closed session regarding the Public Sector Equality Duty and the need to consider the application before them rather than alternatives proposed by other parties.

Cllr Jones stated that he had several concerns regarding the application: the density, the arguments presented by Cllr Inskip, and the level of privacy afforded to 10 Oates Lane in the proposal as compared with alternative designs that could give better protection.

6:21pm Cllr Jones left the meeting and did not return.

Cllr Trapp proposed, and Cllr Austen seconded, that the application be refused due to its lack of compliance with policies NP5 and NP7, and due to the harmful effects on 10 Oates Lane of the placement of the acoustic fences. Cllr Brown commented

that across the proposed development there would be more bedrooms in houses than in bungalows, and by that measure the site could not be considered to be predominantly bungalows.

Cllr C Ambrose Smith reiterated an earlier suggestion to defer the decision for a short period to allow the relevant parties to reach a resolution on the fencing. Cllr Wilson queried whether the developer would be willing to move the fences as requested by the residents of 10 Oates Lane. The Chairman briefly permitted comments from the public gallery to allow the developer to seek clarification about what was being asked of them; they commented that replacing stock fencing with a solid fence would remove the visual amenity area providing an outlook for the new properties. Cllr D Ambrose Smith re-stated his view that the fence locations were not the sole concerns regarding the application.

It was resolved with 6 votes in favour, 3 votes against and 0 abstentions:

That planning application ref 22/00057/RMM be REFUSED on the grounds that it provided insufficient amenity protection for the residents of 10 Oates Lane by virtue of the location of the acoustic fence, and that it contradicted policies in the Sutton Neighbourhood Plan, specifically NP5's requirement for the provision of predominantly bungalows and NP7's requirements regarding the housing mix.

Following the conclusion of the formal business, the Vice Chair, Cllr Lisa Stubbs, gave a vote of thanks that was followed by a round of applause: "I want to express my gratitude to our Chair, Cllr Bill Hunt for his tremendous leadership and his ability to bridge differences and to keep us united in fulfilling our duties in the best interest of our constituents."

The meeting concluded at 6:35pm.