

PLANNING COMMITTEE



WEDNESDAY, 18 OCTOBER 2023 - 1.00 PM

PRESENT: Councillor D Connor (Chairman), Councillor C Marks (Vice-Chairman), Councillor I Benney, Councillor Mrs J French, Councillor R Gerstner, Councillor P Hicks and Councillor S Imafidon,

APOLOGIES: ,

Officers in attendance: Nick Harding (Head of Planning), Danielle Brooke (Senior Development Officer), Stephen Turnbull (Legal Officer) and Jo Goodrum (Member Services & Governance Officer)

P55/23 PREVIOUS MINUTES

The minutes of the meeting of the 20 September 2023 were agreed and signed as an accurate record.

P56/23 F/YR22/0931/F 10 REDMOOR LANE, WISBECH ERECT 2 X DOG KENNEL BLOCKS (PART RETROSPECTIVE)

There was a 15-minute adjournment so that members could consider information that had been tabled.

Nick Harding presented the report to members and drew attention to the update report that had been circulated. He advised that to assist with any questions that members may have there are two Environmental Health colleagues and Andy Cole, the Council's Consultant, from Caen Environmental Consulting present.

Andy Cole gave a presentation to summarise his findings and recommendations. Mr Cole stated that he is a Chartered Environmental Health Practitioner and holds the membership of the Institute of Acoustics and has significant experience in the regulation and assessment of environmental noise, predominantly in a local authority context. He stated that he was asked to review the Noise Impact Assessment (NIA) and provide a written response to the Council with his observations and any recommendations.

Mr Cole stated that his observations initially were that the NIA had been undertaken by people who know what they are talking about and he was satisfied it was in accordance with all the right policies and guidance, noting that the initial findings for the assessment identified, quite rightly, that there could have been a significant noise impact and, therefore, that would then have been not acceptable in planning terms. He advised the applicant redesigned the project, with the redesign including a whole range of mitigation measures including retaining the current kennel as an acoustic barrier for non-noisy activities only, upgrading sound insulation of the proposed kennels, mechanical ventilation with doors/windows kept closed, a new acoustic barrier, limiting the amount of dogs to 120, acoustic screening for exercising and the toilet area and identifying best practice measures to be used in Noise Management Plan (NMP), which he assessed and was satisfied they were all the things you would expect that would represent best practice.

Mr Cole advised that his initial findings were that if the proposals in the NIA regarding the mitigation measures were implemented in full the project should be acceptable but he was also aware of the wider context around the apparent levels of community sensitivity and that there have been historic noise complaints regarding the existing kennels so he wanted to consider this further. He noticed that the historic complaints, although they have not resulted in a statutory noise nuisance being proven, relate to use of the existing kennels and the proposed development under consideration will result in those kennels not being used for kennelling, with the buildings remaining in place acting as an acoustic barrier and could be utilised for non-noisy activities.

Mr Cole stated that he also noticed that it is not a boarding type kennel, which is relevant as animal boarding kennels have a greater potential for noise largely down to the dogs not being as settled as they would be in kennels such as the one under consideration today. He advised that the NIA predicted that in a worst case scenario, with mitigation in place, that there would be an overall general reduction in noise impact and improved noise environment for the community and over the evening and nighttime it is predicted there would be a significant reduction which should lead to better quality sleep for residents and whilst he is aware of the slight increase predicted during the day, an increase of just over 3 dBA, there is a need to understand that up to 3 dB is not perceptible to the human ear so the increase being predicted could potentially not be perceptible.

Mr Cole stated that he came to the conclusion that the proposal was acceptable in planning terms, he could not find any justifiable reasons for refusing the application on the grounds of amenity or noise but he did feel that the use of carefully worded conditions would be necessary and justifiable to ensure robust implementation of mitigation and as high a level of environmental protection as possible is achieved for the local community. He expressed the view that the NMP, a tool that is often used in noise control and identifies the practical things that will be undertaken in relation to an activity on a day to day basis to make sure that noise is being controlled tightly, is key to ensure day to day measures are implemented to minimise noise impacts, daytime noise is kept to an absolute minimum and accountability for implementation is absolutely clear.

Mr Cole stated that his recommendation to Council was that a carefully worded planning condition secures implementation of all proposed mitigation measures, provides officers opportunity to review details as the project progresses before the kennels are permitted to operate and specifies day to day operational measures which will be implemented.

Members received a presentation, in accordance with the public participation procedure, from Councillor Susan Wallwork, a Wisbech Town Councillor. Councillor Wallwork stated that although this proposal was previously approved by Wisbech Town Council she feels confident that if the matter came to the current Planning Committee it would fully oppose it now knowing what it knows. She expressed the view that this statement is supported by the fact that there is a current Planning Committee member in attendance at the meeting today who is supporting the residents but has also raised it with the committee several times since knowing that the impact on the residents would be quite profound.

Councillor Wallwork believes the planning application should be refused today because it goes against LP2 and LP16 of the Local Plan, with LP2 relating to health and wellbeing and it clearly states that development proposals should positively contribute to create a healthy, safe and equitable living environment, which, in her view, this proposal does not do and members will hear from residents about the local impact that 20-40 dogs have on their wellbeing, which will include broken sleep, lots of issues and not being able to enjoy their own property and this application proposes over 100 dogs. She referred to the reports and comments from Environmental Health which acknowledge that there are already issues, the fact that they are reserving taking action in the future and suggesting carefully worded conditions so she feels they know there is going to be issues and they are not going to be resolved unless this application is refused.

Councillor Wallwork referred to the report stating that mitigation of sound proofing within the

kennels and the new kennels being a few extra yards across from the boundary line now, however, greyhounds or any dogs will require feeding and exercise, if the sound proofing was perfect in the building, which, in her view, it would not be, over 100 dogs would still need to be exercised every day and the additional distances negligible when you take into account this is flat Fenland ground, sound carries over large areas and there is nothing to block it. She stated that the RSPCA recommends that dogs get 30 minutes of exercise twice a day, that is just for pets, and training greyhounds will require substantially more and as they cannot take dogs out into the evening this will mean that during the daytime window there will be a constant stream of dogs being exercised, which will mean constant unsound proofed barking impacting on neighbours.

Councillor Wallwork expressed the opinion that the proposal goes against LP16, it clearly states that proposals should not adversely impact on the amenities of neighbouring users such as noise, light pollution and loss of privacy and she feels it will be clearly evidenced that there are lots of issues and life destructing problems for the neighbours at the moment. She stated that neighbours are going to say that they have had to make hotel stays to get a good night's sleep, they have had to stop their family visiting, they have been absolutely broken with their mental health and this needs to be severely taken into consideration.

Councillor Wallwork expressed the view that professionals stating that measures need to be implemented in full and that carefully worded conditions are required to make it an acceptable level of destruction is really easy to say when it is not them being destructed and it is not their sleep being impacted. She feels taking into account all the points she has raised she would propose that this application should be refused.

Members asked questions to Councillor Wallwork as follows:

- Councillor Benney asked if she would buy a house next door to this development? Councillor Wallwork responded that she would not and having met with several of the residents they are generally broken, having less than 40 dogs in the environment now is causing all these issues and not being able to have a good night's sleep can break a person's mental health, which is her area of expertise.

Members received a presentation, in accordance with the public participation procedure, from Councillor Steve Tierney, a District Councillor. Councillor Tierney expressed the opinion that this Council and most specifically its Environmental Health department have let the residents of Redmoor Lane down but in officer's defence they are dealing with a clunky, bureaucratic system and there are not the enforcement powers that the Council might like. He stated that he is going to ask that this application is refused based on the evidence he has seen and heard but he would have expected the Council to have served enforcement notices on the existing 20-40 dog kennels and the applicant not be in a position to raise the number of dogs by a 100 or more.

Councillor Tierney expressed the view that since 2022 the Council has been in receipt of complaints about noise from the existing much smaller kennels and although the Environmental Health Officer initially recognised these issues there was then a strange, and to his mind inexplicable, about face and on this planning application Environmental Health have chosen not to raise an objection, which he believes is wrong and he will try to demonstrate why. He feels that residents have a right not to face constant disturbance from excessive noise, they have a right to enjoy their homes, sleep soundly at night, not to be woken at the crack of dawn every day, they have a right to live their lives without being driven to the edge of sanity by massive noise intrusions and even as it currently stands the residents nearest to the location are being driven to misery by the noise.

Councillor Tierney expressed the opinion that the new application pays lip service to some noise mitigation and a tiny bit more distance but no amount of noise mitigation can stop 140 dogs needing exercise, likely constantly throughout the day and in the countryside sound carries a long way, asking members to imagine 140 barking dogs in dribs and drabs over the course of the day. He stated that the Goughs have been collecting audio visual recordings of the issue, they are all

timed and date stamped, with the barking often starting as early as 4am and can be intermittent throughout the day and late into the evening.

Councillor Tierney stated that there are hundreds of these recordings going back many months and as recently as last week and he has been forwarding these files to senior officers, local councillors and the Leader of the Council all of whom are in safe receipt of them but with limited time committee cannot be expected to listen to hours and hours of sound files so he has made a very short compilation to give committee a tiny taste of what the Goughs put up with all the time with only the current small number of dogs, which is what the Council's Environmental Health department think is not enough of an issue to object to and he thinks the sounds speak for themselves and if committee think this is bad bear in mind how vastly worse it will be with 120 or so dogs. He played the sound recording, which he stated occurs every morning, every evening and virtually every day and questioned that this is not enough of a noise to constitute a nuisance, which he feels is rubbish and requested the application be refused.

Members asked questions of Councillor Tierney as follows:

- Councillor Marks asked what distance in metres was that recorded away from the application site? Councillor Tierney responded that this was from the Goughs house but he has not measured it but the question could be asked of the Goughs when they speak.
- Councillor Gerstner asked how this was recorded, on what device? Councillor Tierney responded that it was recorded by the Goughs, they have a mixture of devices such as CCTV camera and recordings on their phones and the new plans put the kennels a little further away but some dogs have been kept there since it was built he believes and it has made little difference.
- Councillor Benney asked if Councillor Tierney would buy a house next door to this development? Councillor Tierney responded that he would not want to buy a house next door to this development and that suggests to him in order to sell houses in this area it would have to be sold under the market value, which, in his opinion, is part of why this is being done.
- Councillor Mrs French asked Councillor Tierney to elaborate on what he has just said. Councillor Tierney responded that if a lot of noise and harassment was on the edge of a property it would make it hard to sell and then it would probably have to be sold below the market value if the residents no longer wanted to stay and if you were looking to buy up additional properties that would be a way to make them cheaper.

Members received a presentation, in accordance with the public participation procedure, from Kathleen Gough, Andrew Gough, Zena Livesey, Colin Smith and George Capon, objectors to the proposal. Mrs Gough expressed her nervousness about talking today as they have been physically threatened during the course of last 18 months and there are crime reference numbers. She stated that they moved to Redmoor Lane 6 years ago and before that they lived next door to a greyhound kennels at their previous property for 28 years and never once submitted a complaint.

Mrs Gough expressed the view that their first 4 years were wonderful and they met some lovely neighbours who are now their friends but in March 2022 the property was sold and managers moved in and they feel like they are living in hell. She stated they have barking, whining and howling in the early hours of the morning and throughout the day, there are constant bonfires burning commercial waste, approximately 1 a week, and, in her opinion, they have no quality of life anymore and the only time they get any sleep is when they sleep away from their home.

Mrs Gough stated that they are extremely family orientated, having 4 children and 4 grandchildren, and she cannot have her grandchildren to sleep at her house anymore and she does not feel safe in her home, they cannot use their garden and cannot enjoy the privacy of their home. She stated that she has been begging Environmental Health for 18 months for help on this, they are physically and mentally exhausted and cannot take anymore, and Environmental Health will not help them and she is asking the committee for help as this is what is happening now let alone what will happen if planning is passed and the number of dogs is quadrupled.

Mrs Gough explained that the new development is going to be between 80 and 90 feet from their

home and it will be devastating if this planning goes ahead and they just want to live in their home, have their grandchildren sleep and live their lives.

Mr Gough stated that he lives next door to the kennels at No.12, he cannot describe how he feels, angry does not describe it and he is far past that. He advised that he goes to bed at midnight and wakes up at 2am with the dogs barking, he is unable to get back to sleep because he is agitated and he is unable to sit in the lounge with the windows open to get fresh air because of the bonfires, which is more than once a week and is more like 2-3 times per week.

Mr Gough stated that he has a workshop at the back of his property where he tries to work on his classic car and he is unable to go out there because of the bonfires, which fills the workshop full of smoke which chokes him and makes his eyes stream. He expressed the view that he is out there trying to concentrate but he cannot as the dogs bark, howl and whine and it is like someone scraping their fingernails down a blackboard, with the dogs getting inside your head and inside you are screaming shut up, with it really affecting him.

Mr Gough stated that his wife gets really stressed, which affects and exacerbates her medical condition and he is stressed also, is now pre-diabetes and one step away from full diabetes which is all brought on by stress of these dogs. He expressed the opinion that the sound proofing of the kennels that has been stated is being put up the wall to insulate them does not work and will never work with the amount of dogs proposed, with dogs being in and out of the kennels already for the last 2-3 weeks and it echoes with 1 dog sounding like 4 so what will it be like with 100.

Mrs Livesey stated that she lives with her family at No.7 moving into their home in July 2021 falling in love with it straight away as it met the needs of her family and in particular her autistic son, who has many needs with sound being a massive trigger for him and can lead to self-harming, which is highly distressing for him but also for the family to watch. She added that they cannot go out into the garden for long periods of time as the dogs start barking and her son starts getting distressed.

Mrs Livesey advised that her neighbour has the same concerns as her mum has dementia, has a full-time carer and has to be sedated if she starts hearing the dogs barking. She expressed the view that at the beginning of 2022 they discovered what Mr Barclay's plans were and if you read his article it is 3 areas in that site so the noise is going to be massive, with the plans for 100 dogs meaning there will be a huge increase in noise levels compared to what is there already.

Mrs Livesey acknowledged that Mr Barclay will take steps to ensure sound proofing but every time that door opens sound will travel and every time those 100 dogs are moved outside in groups the proofing will not be effective, the outside area will not be able to be sound proofed as sound travels, you cannot stop it and the constant stream of movement will be 7 days a week, 52 weeks a year, with the legal requirement set out by the GBGB.

Mrs Livesey stated that she really feels for Mr and Mrs Gough, it is terrible that they are put in this situation and asked the committee to please reject the plan as her family, friends and the community have a right to peace and quiet and to be able to enjoy their homes and gardens without excessive disturbance. She feels that if Mr Barclay's plan goes ahead their rights will be at the cost of a person who does not contribute to their community, does not live in the town or even the county.

Mr Smith stated that he lives at 7B Redmoor Lane, opposite the site and he understands that planning can be complex and there needs to be balanced judgements but, in his view, the benefits to this lane massively outweighs Mr Barclay's claim of 7 jobs. He expressed the opinion that if planning is refused, he will relocate to a more suitable location and those 7 jobs will still be created somewhere else.

Mr Smith stated that he measured using Google Earth the distance from his kitchen to the kennels,

which is over 520 feet and still at 3am when he gets up he can hear the dogs barking and they bark for 30 to 40 minutes, which is not gentle and even in his home, even in the study on the other side of his home he can hear the dogs barking and it is just not at night. He expressed the view that the Environmental Health Officer is concentrating on noise within the kennels but asked about the noise outside the kennels, with the noise being made now by 30-35 dogs and the Environmental Health Officer states that noise will slightly increase but questioned how by quadrupling the number of dogs would noise be slightly increased during the day.

Mr Smith feels each day a group of dogs will be taken outside to exercise and train, each group will bark excitedly as they get their chance to run and play, after a while they will be taken inside and a new batch will come out and they too will be excited, bark and come out and play, which will be constantly repeated. He concluded that Mr and Mrs Gough are not exaggerating about the noise.

Mr Capon stated that he lives at No.17, 200 metres from No.10 and whilst he does have hearing aids he hears the dogs from his property even when he is not actually wearing them. He added that family and friends visiting tell him they are disturbed by the volume and random nature of occurrence day and night, like him they struggle to believe this application should even be considered in such a small community.

Mr Capon expressed the view that the cavalier attitude of the applicant towards neighbours, noise levels, the environment, the community and planning beggars' belief as if these considerations only apply to other people. He stated that he should have a reasonable expectation of a good quality of life, subsequent events have proved this is not possible and this application is detrimental to that and will adversely dominate the community and should not, in his opinion, be permitted.

Members asked questions of the objectors as follows:

- Councillor Connor asked Mrs Gough to elaborate on how she has been threatened? Mrs Gough responded physically, threatening to come round more than once.
- Councillor Connor asked Mr Gough, in relation to the bonfires, has he contacted Environmental Health and if he has what has been their reply? Mr Gough responded that Environmental Health have been contacted on several occasions complaining about the bonfires and he has e-mailed them several times and he has been told it is not their department. He stated that Environmental Health did write to Mr Barclay on one occasion that he knows of and the response was that it was not commercial waste being burnt but residential but, in his view, the pictures that they have provided clearly show it is commercial, with it being used dog bedding and all the packaging, and they are allowed to get away with it. Mr Gough stated that it fills his house and his garden with smoke and the fumes go into his workshop where he tries to go for some respite to settle his mind and help his sanity and then the dogs start barking and the smoke stings his eyes and chokes him.
- Councillor Marks referred to the sound recording played by Councillor Tierney and asked for the rough distance when this was recorded? Mr Gough responded that some of the recordings are from their living room window and the distance is scaled on the plan, with his workshop being 29 feet long and he has scaled it as approximately 80 feet to the new building from their living room window. Mrs Gough stated that the recording was the noise they hear from the living room with the window open. Councillor Marks queried whether this was from the existing kennels? Mr Gough responded that the existing kennels are only about 50 feet from the living room windows.
- Councillor Marks stated that it has been mentioned Mr and Mrs Gough have lived at their property for 4 years with no problems previously and asked if it was run as a kennels previously, exactly the same with greyhounds? Mr Gough responded that it was, when they moved in they were told it was a kennels next door and were told that the elderly couple that lived there only had 5-6 dogs, which they did as they were semi-retired, so they brought the property and had no problems with them at all and used to visit them. Mrs Gough added that prior to them moving to this property they did live next door to a greyhound kennels.

Members asked questions of officers as follows:

- Councillor Mrs French stated that having listened to the residents and also the Wisbech Councillors, she is confused and surprised to hear the number of complaints that have been

submitted to the Environmental Health Team and nothing has been undertaken. She asked for an explanation. Nick Harding responded that this is irrelevant to the consideration of the planning application before the committee, this is a separate matter entirely and the investigation and actions that Environmental Health may or may not take in respect of the current set up is not relevant to the current application before committee. He stated that this application is for a new set of kennels which will replace the existing facility and a noise assessment has been undertaken compared against the current situation. Councillor Connor responded that he understands this but if the application gets planning permission and the applicant still carries on allegedly burning commercial waste it is still going to have an adverse effect on the residents' health and wellbeing and he feels on this application he needs an answer.

- Carol Pilson, Corporate Director with responsibility for Environmental Health, referred to Councillor Mrs French's question and stated that she has to be careful about the amount of detail that she can go into due to the number of parties involved and there is only a set amount of things they are able to disclose in public. She confirmed that there has been a number of investigations carried out by the Environmental Health Team in relation to noise nuisance and presently there has not been any statutory nuisance or noise abatement notices served. Carol Pilson stated that there is an on-going investigation in relation to the current set up and as the Head of Planning has confirmed in terms of what members are being asked to consider today it is in relation to the new set up, which members had the opportunity of viewing as part of the introductory slides. She expressed the opinion that members need to balance as part of this application is whether the noise assessment that has been provided by the applicant, that Andy Cole as an external consultant who was commissioned by the Council to independently assess, alleviates any concerns members may have regarding the noise environment including representations the committee heard today from members of the public and from councillors. Councillor Mrs French responded that this does not really answer her question. Councillor Connor suggested that if Councillor Mrs French has any more concerns about this she has a meeting with Environmental Health at a later date. Councillor Mrs French made the point that the application is in front of committee today, there is information from the Environmental Officer and it should be discussed here. Nick Harding stated that it is appropriate to ask technical questions of the Environmental Health Officers or Mr Cole in relation to the noise assessment but it is not relevant to talk about how Environmental Health are dealing with the current noise complaints. Councillor Mrs French stated she is not asking for that she wants information that is on public record.
- Councillor Mrs French asked how many dogs are actually on site now? She referred to Mr Cole's assessment of the noise and asked how many dogs were on site when he undertook the assessment? Mr Cole responded that he has not undertaken the noise assessment, the applicant commissioned an acoustic consultant to undertake the assessment and he reviewed that on behalf of the Council and his understanding is that the proposal for the new kennels which are separate to the existing is for 120 dogs. Councillor Mrs French thanked Mr Cole for the information but it does not answer the question she wants to know how many dogs are on site now and when the assessment was undertaken? Mr Cole responded that he wants to be as helpful as he can but in terms of any assessment that has been undertaken, confusion is coming from two issues in that there is the planning application in consideration for which there is a Noise Impact Assessment which talks about the potential noise if the development goes ahead and then there is the current situation in a different building with existing dogs, which he understands was subject to an investigation by Fenland officers in terms of noise nuisance so he is not quite sure specifically in relation to those two issues where that question needs to be answered.
- Councillor Mrs French referred to the comments of the Environmental Health Officers on 8 September 2022 that Environmental Health are currently investigating a noise complaint about barking dogs at the kennels and so far this does not amount to statutory nuisance but on the grounds that the increased level of barking is likely to cause an unreasonable loss of amenity to neighbours. She further pointed out that on 10 August 2023 please delete my

previous e-mail on this and accept this version as official, so a year ago they were quite happy to object to this proposal, so a noise assessment has been undertaken, it is not known how many dogs were on the premises when the assessment was undertaken but the proposal is for 120 and she still wants an answer as to how many dogs were on the premises at the time of the noise assessment. Mr Cole questioned whether it was when the noise assessment was undertaken or when Fenland's nuisance investigation was undertaken? Councillor Mrs French reiterated that when the noise assessment was undertaken how many dogs were on site? Mr Cole responded that when he reviewed the noise impact assessment he was satisfied that it was undertaken in accordance with technical guidance and properly by competent people, part of that assessment will be ensuring that any measurements that were taken were representative and he was satisfied that the readings were representative of the situation. He stated that he cannot remember how many dogs were on site but suspect this will be in the report but members can be reassured of his satisfaction that it was representative. Councillor Mrs French stated that she is glad that Mr Cole is satisfied as she is not. Nick Harding stated that he has had a quick look through the submitted applicant's Noise Impact Assessment and it refers to the capacity of the existing facility being 26 dogs but he has not been able to see whether or not a count of dogs on site was undertaken on the days on which the existing noise readings were taken.

- Nick Harding stated that Mr Cole may wish to come in as the way that it works is that a reading is taken of existing noise then this is modelled to what the noise will be from a different noise source taking into consideration the development that is proposed. Mr Cole stated this is correct, it is a case of making an assessment of the current situation which is then modelled to a predicted level and he feels the question was a reasonable one as he too was going through the Noise Impact Assessment and he cannot see the number. Annabel Tighe, Head of Environmental Health, stated that the current investigations have identified that there are likely to be in the region of 36 dogs on site, but this changes day to day.
- Councillor Marks asked Mr Cole that on his slides it said with the windows and doors closed so does this mean that the noise reading was taken with the animals inside and not running around the field? Mr Cole responded that the reference to the windows and doors being closed was one of the proposed mitigation measures for the new kennels, where it is being proposed that the windows remain closed and that mechanical ventilation systems will be put in place. Councillor Marks made the point that there is a need to get in and out of the kennels, which means the doors open, dogs start barking because someone is walking in and out so that would be more of a disturbance and asked if he agreed? Mr Cole stated that he does agree, however, this leads to the importance of the Noise Management Plan, which could specify things like the use of a lobby door to minimise any breakout when the doors are open.
- Councillor Marks asked how dogs read a Noise Management Plan as they tend to bark when they want to bark whether they are told not to so how are dogs going to be managed in this way, are they going to be gagged between the hours of 6pm to 6am. He made the point that noise is a major issue, especially for the neighbours, and he does not know how it can be said barking dogs can be controlled by a Management Plan. Mr Cole responded that the Noise Management Plan is identifying practical operational measures that will be adopted on site to minimise the likelihood of the dogs starting to bark. He stated there are a whole range of known and accepted measures that can be implemented, such as use of a lobby door, planning an exercise regime so there are only small groups of dogs, avoiding the exposure to sunlight to avoid waking the dogs up, managing the interaction with visitors, removing any additional stimuli, use of plastic feeding bowls instead of metal ones, so there is a whole range of practical measures that he would expect to see in a Noise Management Plan to reduce the likelihood of dogs barking.
- Councillor Gerstner thanked Mr Cole for clarifying that he did not carry out the Noise Impact Assessment and stated that he was previously an electronics engineer and is very adverse to sound and, in his view, there is a vast difference between sound and noise. He made the

point that there are Environmental Health Officers at the meeting who are more than capable of distinguishing between sound, noise and harmonics and in the presentation it was stated that the maximum sound level could reach 69dBA and in industrial units the advice is to wear ear muffs for any length of time if you are subjected to sound or noise of 70dB and asked if he was correct in this? Mr Cole responded that he does not have the Noise at Work Regulations figures to hand but it is right that there are levels that the Noise of Work Regulations assess as a noisy impact on employees. He stated it is important to understand that in acoustics there are a range of different types of noise and types of assessments and what is being dealt with here is not a situation where noise at work is being looked at, it is assessment of noise impact to be able to assess suitability for planning permission which is a different set of guidance.

- Councillor Gerstner stated that having not seen the Noise Impact Assessment, he is concerned about this as he would not be able to make an informed decision on that assessment as he does not know at what distance the assessment was carried out, what period of time it was undertaken, the number of dogs that were resident at the time, he has not seen the calibration figures for the noise assessment equipment and he has not seen the noise assessment calibration certificates so he is flagging these issues up as the assessment was carried out on another person's figures, whilst he is not denying or questioning those figures but any noise that goes above 65 to 70 dB in an industrial setting people are advised to wear ear muffs and this proposal is talking about a substantial amount of source of noise and he has serious concerns with not having seen the Noise Impact Assessment. Nick Harding stated that the committee report does include a link to the public case file connected with this application and the document is there to be read by members of the public and members of the Planning Committee. He advised that the Council does not undertake its own noise assessment or ecology surveys or traffic counts and modelling and there has to be reasonable faith in technical reports submitted by the applicant, with these documents being prepared by qualified professionals and their credentials are on the reports so officers have to believe they are true and proper. Councillor Connor thanked Councillor Gerstner for bringing his expert opinion to the committee, although he had not got the required information to hand.
- Councillor Benney asked for clarification that Mr Cole said he had undertaken the report and he was there when the noise assessment was undertaken but he does not know how many dogs were on site, is that correct? Mr Cole responded that he was not present and has reviewed the report submitted by the applicant. He stated that, in his review, the things that Councillor Gerstner raised are all things he would routinely assess, in minute detail and it was all in accordance with the relevant guidance and does include all the things he would like to see.
- Councillor Benney referred to a site visit with an officer some time ago, they stood in a field and the officer mentioned the ecology report, which he stated depends when the ecology report was undertaken as if was when the grass was long there would be more ecology and if was undertaken on short grass there would not be anything and would totally change the outcome of how that report reads. He expressed the view that the report for this proposal is incomplete, the verification of the figures do not stack up as without where these figures came from, it could have been that the owner of the kennels knew they were coming to do the assessment and left one dog in or he could have had 36 dogs in the kennels, which makes a massive difference to the report and, therefore, without the data stating how many dogs were there changes the value of the report and completeness of the report. Councillor Benney expressed the opinion that committee is relying on experts to provide information and as a Fenland Councillor he sees consultants and expert reports and they always back up what they want to back up, sometimes there are good reports that are very balanced and fair but sometimes they are very one sided and data can be skewed, though he is not saying it is here, to back up an argument. He feels the data is not verified, there are not the figures to verify the report and feels the report is worthless and expressed the view that you cannot put another 100 dogs into a kennels and keep the noise down, it does not work.
- Councillor Gerstner referred to the comments of Environmental Health in 5.4 of the report

where it says “I would also point out the application provides no details on how the substantial increase in commercial waste arising from this development will be dealt with”. Nick Harding made the point that Condition 10 proposes details of a waste disposal scheme to be submitted for approval. Annabel Tighe feels the point that Councillor Gerstner is raising was in relation to the original objection but through the application process the applicant provides additional information that can be reviewed so part of the process here was the Environmental Health Officer originally objected to the application on the basis of a lack of information including that there was no detail of how commercial waste would be dealt with, partly because they were aware that there were some concerns that had been raised and were being investigated, however, further information was submitted including mitigation for increased noise levels and that is where the Environmental Health Officer responded with removal of the objection and a suggestion of a set of conditions.

- Councillor Gerstner stated that this does not answer the question of how the substantial increase in waste is going to be dealt with. Annabel Tighe responded that there is a suggested condition that would be applied to any planning approval, setting aside that there are matters being investigated by Environmental Health and the Environment Agency at this time.
- Councillor Marks expressed that view that there are 2 blocks of 50 which is a 100 dogs and he understands that they are not going to breed from the premises so asked if the third block was still going to be used as kennels as well? Nick Harding responded that his understanding is that the existing facility is no longer going to be used. Councillor Marks made the point that if his maths is correct 2 dogs are going to go into 1 kennel so does that mean they will try to breed from the facility as well? Nick Harding responded that he cannot say whether breeding is going to take place or not but in terms of the conditions on the application there is no condition that says breeding cannot take place. Councillor Marks stated that having heard from Mr Cole regarding breeding, also extra noise and unsettling that needs to be taken into consideration.
- Nick Harding stated that Councillor Benney expressed some concerns over whether or not the Noise Impact Assessment that assessed the existing noise is a true reflection of the current situation of the assumption there is 26 dogs on the site at the time of that noise assessment and he asked Mr Cole whether he would be able to say something about how the predicted noise level has been extrapolated from the noise readings that were taken and whether or not the existing noise readings were extrapolated on the basis of X decibels showing on the reading. Mr Cole stated that as he has been listening he has tried to find reference to the number of dogs at the time the readings were taken and the only reference in the Noise Impact Assessment was noise dictated by numerous dogs barking so there is reference to their being numerous dogs but it is right that it is not known exactly how many but he would think if the consultant was asked he would be able to provide those figures. He advised that modelling is undertaken generally using software but he does not know the details of how they ran the model but he would say that was undertaken to the correct ISO standard and because it has been undertaken by competent acoustic professionals he is satisfied that it has been undertaken properly. He stated that the inputs, although it is not known how many dogs, he is satisfied that they are representative and fit for purpose.
- Councillor Gerstner asked in the assessment report the software used should have built in a certainty factor for the final figure? Mr Cole responded that it is standard for a competent acoustic consultant to consider uncertainty when the impact assessment is created. Councillor Gerstner asked if those standard figures are the same standard figures for all noise or can they be tailored? Mr Cole stated that uncertainty can come from a whole range of different things and he is not quite sure what the question is trying to get at but, in his view, any competent acoustic consultant would ordinarily as a matter of course consider uncertainty when they undertake a noise impact assessment and for some noise impact assessments it is imperative that those uncertainties are quoted in the subsequent reports and he is not aware of there being any assessment of uncertainties being included in this particular assessment but he is not concerned about the absence of this information in the report.

- Councillor Benney stated that committee is going through technical issues here, which is not being answered to his satisfaction and he is not happy with the report as it is not an evidence report and feels the committee should move on.

Members made comments, asked questions and received responses as follows:

- Councillor Mrs French reiterated the comments of Councillor Benney, this has been considered for over 1.5 hours and the committee is not getting the answers. She feels it is an incomplete application, they have listened to the residents and to experienced councillors from Wisbech and she cannot believe this application has been recommended for approval. Councillor Mrs French expressed the view that human rights of residents are being breached, taking away the enjoyment and peace of their homes and it is making them ill so she cannot support the application.
- Councillor Benney expressed the view that this is an incomplete report, which is the basis of the officer's recommendation as they would have worked on the information provided to them so he is not criticising them but he does not have confidence in the assessment report and the numbers. He stated that you cannot put another 100 dogs into a kennels and reduce the noise unless you are really going to soundproof the facility, he feels the proposal will have a big detrimental effect on the people that live there and he cannot support the application in its present form. Councillor Benney made the point that this is another specialist's report, it does not tell members how many dogs were there and the report is flawed.
- Councillor Marks supports what both Councillors Benney and Mrs French have said and he thinks it speaks volumes that the applicant themselves are not present today to answer any questions and the committee seems to be going round and round in terms of noise as it is not known the circumstances about the number of dogs. He feels that Fenland and Planning Officers have done their best with the reports presented to committee but unfortunately the reports do not stack up regarding numbers, noise and other environmental issues and he is unable to support the proposal.
- Councillor Imafidon expressed the view that the issue for him with this application is the impact on the residents' lives and the noise from the dogs. He does not know how a kennel can be sound proofed, even if mechanical ventilation is installed in the kennels the longer dogs are left in a confined space when they are free they make more noise. Councillor Imafidon expressed the opinion that if barking is occurring now with a smaller number of dogs, by the time it gets to 120 the problem is going to be bigger, which is common sense as you cannot have reduced noise with an increased number of dogs. He stated that he would not be supporting the application.
- Councillor Gerstner stated that he fully concurs with all the other councillors, it is a very immotive subject but it is the amenity to the residents close by that is going to be affected and that amenity is not just noise, it is potential smell and the dog waste and he cannot support it.
- Councillor Hicks expressed the view that the decibel study is incomplete and unless he is wrong he thinks the decibel study was undertaken on predictions of what there is going to be and there is not study of what the decibel levels are now and the difference between the dogs being inside or outside and when the wind blows how the decibels will be impacted. He stated that he will not be supporting the application.
- Nick Harding confirmed that noise readings were taken and presented in the report to show what the existing situation is but the question mark is that it is not known how many dogs were on site at the time of those noise readings being taken.
- Stephen Turnbull, Legal Officer, stated that he is duty bound to point out that should the application be refused and then appealed the main issue will be the noise assessment and a noise report has been submitted with the application which has been assessed by an expert on behalf of the Council who has advised committee that the report has been properly undertaken so there is a risk of costs being awarded against the Council should it go to appeal.

Proposed by Councillor Benney, seconded by Councillor Gerstner and agreed that the application be REFUSED against officer's recommendation.

In coming to the reasons for going against the officer's recommendation, the following points were made:

- Nick Harding stated that reference has been made to certain extracts from LP2 and LP16 and he would like to understand the impacts on amenity, is that purely in relation to noise. Councillor Benney responded no as there is the impact of trade waste and burning of rubbish as this is a commercial enterprise and it cannot be expected for residents to have commercial activity generating an amount of noise, waste and pollution that is having a major impact on the people's lives that live there. Nick Harding stated that the burning of waste is in relation to the existing operation of the premises and the issue can be satisfactorily resolved through a condition which requires the means of dealing with the waste to be in accordance with a management plan to be submitted to and approved by the Council and implemented in accordance with the approved plan.
- Councillor Connor indicated the LP d and e are definitely reasons.
- Nick Harding stated that there is a need to drill down into what is the concern over noise so during the debate the issue raised by Councillor Benney was that in terms of the noise assessment it is not known how many dogs were on site when the assessment was undertaken and, therefore, there is not confidence that the predicted noise output from the proposal is accurate or not so asked if that is what committee's concern is. Councillor Benney responded in the affirmative as it is not an evidence based report in his opinion as the evidence is not there to substantiate the answers being put forward for the basis of the recommendation to approve the application.
- Nick Harding flagged to members that if the Council gets a revised version of the application submitted and that contains an updated noise assessment which says that on the day the noise readings were taken the figure was exactly the same as presented today and on that day there were 26 dogs and the model output is again the same as today there would be the same recommendation from Environmental Health that they are satisfied with the noise impact. He asked in that scenario would committee be happy to approve the application if the same evidence was presented or would committee still be concerned regarding the amount of noise generated during the daytime, which is predicted to increase but only by 3 dB difference which is not audible?
- Councillor Marks made the point that it is 24 hours a day noise and it is impacting upon residents' quality of life. Councillor Connor added that he would not be happy if this was brought back with the same information.
- Nick Harding asked for clarification that committee want to stick to the noise issue and the report might be flawed because it is not known how many dogs were on site when the noise readings were taken? Councillor Benney responded that this is the core of the concern but you cannot put another 100 dogs and reduce the noise and at the moment there are noise issues which are not the concern of this committee, they are Environmental Health concerns, and he would suspect this might be followed up after the meeting. He feels the report is incomplete as it has not provided any evidence for the basis of the figures but also it is the impact that this is already having on residents and you cannot place another 100 dogs here that will not produce more noise or waste, therefore, this needs to be dealt with and there are concerns for the residents and the enjoyment of their home.
- Nick Harding summarised that the application is not acceptable under LP2 and LP16 on the grounds of impact on residential amenity and two sub reasons, not being satisfied that existing noise readings are a true reflection of when the existing kennels was fully occupied at 26 dogs and that it is considered unlikely that 150 dogs could be accommodated on the site without further detriment to residents' amenity.
- Councillor Marks stated that it cannot be stated 26 dogs as it is not known how many were there. Nick Harding clarified that he said that committee was not satisfied that the noise readings are truly reflective of when 26 dogs are on site as it is not known how many dogs were on site.

- Councillor Gerstner stated that he is not questioning the qualifications for the noise report as he has not seen it. He expressed the view that a noise assessment can be subjective and it is known, in some countries, to put people in cells with barking dog noise to break people down, although this is not the case here it is a known fact. Councillor Gerstner stated that noise travels in different directions, at different frequencies and different times, it is the amenity of the local people that are living there as barking dogs are not only extremely annoying but it is affecting their whole lives.
- Councillor Mrs French referred to human rights and the fundamental right to enjoy your home under Article 8. She stated that if another planning application comes in next month, she would not change her mind, if it is refused let the applicants appeal and the experts deal with it. Councillor Mrs French made the point that it is not affecting just one person but many and they are suffering health wise, it should be a basic right to have a safe and comfortable home and if this application is approved this fundamental right is being taken away and the facility is already causing deep concern and stress.
- Councillor Benney stated that he notes the Legal Officer's advice about being open to challenge but as a committee costs are a consideration and not a material planning reason. He feels that the committee has to do the right thing and if there are costs, the committee has made the decision with its hand on its heart doing the right thing for the residents of Fenland.

Members do not support the recommendation of approval of planning permission as they feel the proposal is contrary to Policies LP2 and LP16 which seek to ensure that new developments do not impact on and provide for high levels of amenity as the submitted noise assessment does not identify the number of dogs on site at the time of the noise readings being taken so there is no confidence that the stated existing noise levels are truly representative, there is also a lack of confidence that the predicted noise levels (extrapolated from the existing noise levels) will be representative of future noise levels and it is considered unlikely that an increase in the capacity of the operation of 120 dogs, notwithstanding the design of the new buildings and management, would not result in a detriment to residential amenity given the proximity of residential properties.

(All members present declared, in accordance with Paragraph 2 of the Code of Conduct on Planning Matters, that they had been lobbied on this application)

**P57/23 F/YR22/1186/FDC
LAND NORTH OF 2-8 GIBSIDE AVENUE, CHATTERIS
ERECT UP TO 4X DWELLINGS AND ASSOCIATED WORKS (OUTLINE
APPLICATION WITH MATTERS COMMITTED IN RESPECT OF ACCESS)**

Nick Harding presented the report to members and drew members attention to the update report that had been circulated.

Members made comments, asked questions and received responses as follows:

- Councillor Mrs French expressed the view that the site is ripe for development so she will support the application.
- Councillor Connor stated that he agrees with these comments and will support approval.

Proposed by Councillor Mrs French, seconded by Councillor Marks and agreed that the application be APPROVED as per the officer's recommendation.

(Councillor Benney declared that this a Fenland application and he is Portfolio Holder with responsibility for assets, and retired from the meeting for the duration of the discussion and voting thereon)

**P58/23 F/YR23/0072/O
LAND EAST OF STATION FARM, FODDER FEN ROAD, MANEA**

ERECT UP TO 5 DWELLINGS (OUTLINE APPLICATION WITH MATTERS COMMITTED IN RESPECT OF ACCESS) INCLUDING FORMATION OF A FOOTPATH ON THE WESTERN SIDE OF FODDER FEN ROAD

Nick Harding presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Peter Humphrey, the agent. Mr Humphrey stated that members will recall that this application was presented to the 5 April 2023 Planning Committee meeting where members agreed to defer the application. He advised that the application is by Robert Sears for 5 dwellings in Manea, close to the railway station and members were advised that one of the plots was for Mr Sears' daughter who was taking an active part in running the farm accounts.

Mr Humphrey made the point that Mr Sears pointed out that the farm was taking 240 acres out of food production and being sown with a mix of seeds for all year round bird foraging and food supply. He stated that members were advised that the application was for 5 executive plots where members had already agreed that the site was within the developed village and was closer to the school than the site at Fallow Corner Drove for 29 dwellings as shown in the emerging Local Plan.

Mr Humphrey reminded members of the proximity of this site to the newly refurbished and invested rail station, where NPPF prioritises new development with good access to public transport hubs, such as rail stations. He stated that they will be providing a footpath, using triple glazing, heat source air pumps, PV cells and light columns, all to enhance and make the site more acceptable.

Mr Humphrey expressed the view that the committee wanted to approve the previous application but were advised that they could not until the ecology report had been carried out and approval received from Natural England, which has now been agreed, and also Highways approval was obtained for moving the speed signs and footpath crossing. He stated that the Planning Officer has confirmed that both reasons for the deferral have now been overcome and it has been accepted that there was an update from Highways today to state that they are now happy, although it has not been formally approved as there is the need to get a legal order signed by their solicitors to coincide with the works, while reasons 1 and 2 of the refusal had been accepted previously by members.

Mr Humphrey welcomed members support of this application as previously.

Members asked questions of Mr Humphrey as follows:

- Councillor Mrs French asked if these dwellings were going to be self-build properties? Mr Humphrey responded that they could be as this is the type of market that Mr Sears was looking at selling the plots to.
- Councillor Mrs French asked what arrangements are going to be made with regard to sewage and surface water? Mr Humphrey responded that there will be individual proper treatment plants.
- Councillor Mrs French asked if the applicant is prepared to pay for the moving of the signs and TRO? Mr Humphrey responded in the affirmative.

Members made comments, asked questions and received responses as follows:

- Councillor Marks stated that he previously supported the application. He feels that Councillor Mrs French raised a very good point about sewage as there is a major problem in Manea regarding the overload of the sewage works, everyone is on cesspits up that end of the road and he feels what is proposed is a good solution. Councillor Marks questioned whether it was outside the village envelope and if you look at the location plan you can see that there is another disused house, which he feels may come back into use and does not believe this application is extending the village. He made the point that the Parish Council support it as does he.

- Councillor Benney stated that he remembers considering the application previously where it was deferred to obtain the reports, which have now been completed and it is back before committee to finalise the decision on it.
- Councillor Mrs French agreed with the comments of Councillors Marks and Benney, there is a bus route she believes and there is now a nice car parking facility at the station.
- Councillor Marks made the point that when the car park was undertaken there was discussion about water coming off and that has been drained with no problems via kerbside drainage and he thinks this will happen further up the road going to the plots, which will smarten this end of the village up.
- Councillor Connor stated it is very refreshing to see an applicant/agent taking the steps the committee have asked them to do and he will be supporting the application.
- Nick Harding stated that officers have reiterated their view that this site extends into the rural area beyond the built up area of Manea and, therefore, falls foul of policy. He stated that there is also the issue of flood risk and the sequential test and there are sequentially preferable sites available in the village and, therefore, this development does not pass the sequential test.

Proposed by Councillor Marks, seconded by Councillor Mrs French and agreed that the application be APPROVED against the officer's recommendation, with authority delegated to officers to apply reasonable conditions.

Members do not support officer's recommendation of refusal of planning permission as they feel that the site does not lie outside the developed area of Manea, mitigation can be incorporated into the development against flood risk and in relation to the sequential test whilst there are other building plots in Manea, most have planning permission and are being built out and there are no plots of this size available.

(Councillor Marks declared that the applicant is known to him, he does sit on a Drainage Board with him but he does not socialise with him, but is not pre-determined and will approach the application with an open-mind)

P59/23

F/YR23/0237/F

DUKES HEAD AND LAND NORTH WEST OF DUKES HEAD, CHURCH TERRACE, WISBECH

CHANGE OF USE OF LAND TO FORM PUB GARDEN, AND ERECT A GATE (0.91M HIGH MAX), A TIMBER CANOPY AND TIMBER PLANTERS (PART RETROSPECTIVE)

F/YR23/0249/LB

- INTERNAL AND EXTERNAL WORKS TO A LISTED BUILDING INCLUDING INSERTION OF EXTERNAL SIDE DOOR, AND ERECT A GATE (0.91M HIGH MAX), A TIMBER CANOPY AND TIMBER PLANTERS

Danielle Brooke presented the report to members.

Members made comments, asked questions and received responses as follows:

- Councillor Mrs French expressed the view that it is the right place, the development looks good and might enhance that corner.
- Councillor Benney wished anybody who has invested money in anything good luck at the moment and it is nice to see somebody going to the trouble of extending their business.
- Councillor Connor agreed with the comments of the other councillors.

F/YR23/0237/F

Proposed by Councillor Mrs French, seconded by Councillor Hicks and agreed that the application be APPROVED as per the officer's recommendation.

F/YR23/0249/LB

Proposed by Councillor Mrs French, seconded by Councillor Hicks and agreed that the application be APPROVED as per the officer's recommendation.

(Councillor Imafidon declared that he is the freeholder of the Dukes Head, and left the room for the duration of the discussion and voting thereon)

P60/23

F/YR23/0321/F

LAND NORTH OF 120 LEVERINGTON COMMON ACCESSED VIA HAWTHORNE GARDENS, LEVERINGTON
ERECT A DWELLING (SINGLE-STOREY 2-BED) WITH INTEGRAL SINGLE GARAGE

Danielle Brooke presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from John Musson, an objector. Mr Musson stated that he is a resident of Hawthorne Gardens and is representing all of the residents to express their concerns about this proposal. He made the point that Hawthorne Gardens is an unadopted private road, maintenance of the road and the landscaped area is the responsibility of the Hawthorne Gardens Management Company Ltd, which is administered by the residents.

Mr Musson stated that access to the construction site as stated on the application is via Hawthorne Gardens, with the presumption by the applicant that the residents will accept this and they do not. He brings to the committee's attention three discrepancies on the application, the document location plan and existing site plan drawing number 6574EX01 is, in his view, incorrect as it shows the existing boundary as extending into the rear garden of 120 Leverington Common but it does not, the existing boundary is in Hawthorne Gardens.

Mr Musson stated that the application form under foul sewers asks is the applicant proposing to connect to the existing drainage system and the answer given is unknown and queried whether this has been decided and will it connect to existing services of 120 Leverington Common or into the services of Hawthorne Gardens. He referred to the application form under trees and hedges, the applicant has indicated there are not any adjacent buildings, this is incorrect and Fenland Local Plan LP16 states under Paragraph 10.15 that the proposal would not adversely impact the street scene of Hawthorne Gardens or the landscape character of it but, in his opinion, it will.

Mr Musson expressed the view that the amenity area in Hawthorne Gardens is a landscaped border adjacent to the north boundary of 120 Leverington Common that was included in the Hawthorne Gardens planning approval in 2018 and has been looked after for the past 4 years by the residents and is maturing into an aesthetically pleasing year round shrub border that attracts birds, pollinators, provides flowers, berries and foliage cover, with this border and the 6ft close boarded fence behind it being paid for by residents in the original purchase price of their property and would have to be destroyed to gain access to this site. He stated that the Land Registry Title Deed states that the residents of Hawthorne Gardens shall not do anything that may damage the management company area or allow another person to do likewise.

Mr Musson expressed the opinion that Hawthorne Gardens was not constructed to take heavy commercial vehicles as confirmed by the site developer and residents were advised to allow such large vehicles to use the road would cause damage, not only to the road surface, but also to drains, particularly the surface water drain running the length of the access road from Leverington Common and residents are concerned about who would pay for such damage. He feels that precedent for rear garden development along Leverington Common has been approved in the

past, with the entrance to the site directly off Leverington Common and the frontage and east side of 120 Leverington Common has sufficient area to allow the same.

Mr Musson stated that the residents of Hawthorne Gardens request the committee to take into account the adverse impact this development will have on Hawthorne Gardens street scene by ruination of the landscaped area and the significant damage that the road will suffer.

Members asked questions of Mr Musson as follows:

- Councillor Marks asked if he had been approached by the builder/contractor/owner? Mr Musson responded no, he did write a letter of concerns to the applicant at 120 Leverington Common advising him that it was may be advisable to speak to the residents of Hawthorne Gardens but received no reply.
- Councillor Benney asked if he had written to Planning highlighting the issues raised? Mr Musson responded that he spoke to the Planning Officer raising the concerns that he has just discussed and his reply was that he would look at this application purely from a planning perspective and he has no interest in access and if planning is approved, how the applicant then goes about building that property is down to the applicant, and the Planning Officer suggested that he addressed this issue with the architect/applicant. He advised members that he called into the office of the architect and put the same point to them and he received the same reply that as the architect they receive a request from a client, they do what they are asked to do, they present it to Planning, if it is approved they are finished.
- Councillor Hicks referred to the boundary issues and asked what has Mr Musson got to substantiate that he is right and they are wrong? Mr Musson responded that they had the original plans to the site and it is shown on their title deeds. He expressed the view that the area outlined in red will be the new boundary which passes along Hawthorne Gardens into the rear garden of 120 Leverington Common and out back again into Hawthorne Gardens, which will be the new boundary if this application is approved as the boundary is clearly shown as running adjacent the northern boundary of 120 Leverington Common which is Hawthorne Gardens.
- Councillor Marks referred to the limited liability company and asked was this set up by the residents after they moved in or was it part and parcel of the purchase of the property? Mr Musson responded that it was part and parcel of the purchase and when the last property was sold and occupied the developer passed the management of the site to the management company.

Members received a presentation, in accordance with the public participation procedure, from Mr Humphrey, the agent. Mr Humphrey stated that he was instructed by Mr Gibson to obtain planning permission on his back garden and it is fully appreciated that the access and the legalities have not been resolved but the applicant does not want to go out and negotiate an alternative access until he knows he has permission to build so by submitting this application that complies with the Planners it is known that there is a site where development can be built albeit that the access may have to be changed and his client would have to come back with an amended access if he is unable to get an agreement with the residents of Hawthorne Gardens. He made the point that they are looking to get an agreement in principle on the plot even if they have to come back with an alternative access.

Members asked questions of Mr Humphrey as follows:

- Councillor Mrs French asked where the alternative access is? Mr Humphrey responded that it could go through the garden of 120 Leverington Common, which would involve knocking his garage down and running alongside his existing property. He stated that if the applicant gets the approval he has got to meet with the residents to see what their demands are, the costs and whether he needs to submit an alternative application. Councillor Connor made the point that this is a civil issue and not a planning one.

Members asked questions of officers as follows:

- Councillor Benney stated that he has heard what the resident has said but asked for clarification that members are here to determine land usage and is the proposal policy compliant and if this is passed today and residents do not agree to the access it will not be built unless an alternative access is provided. He feels by granting this today there is no assurance that it will be built because of the access and issues such as damage are civil issues and nothing to do with planning so all that is being looked at is this land suitable. Nick Harding confirmed this was correct.

Members made comments, asked questions and received responses as follows:

- Councillor Benney made the point that this is before committee with a recommendation of approval and whilst he recognises the concerns of residents they hold the key to the application and if they cannot agree the access in its present form that is not for the committee to discuss as it is only land usage that is being looked at and is it policy compliant.
- Councillor Gerstner agrees with this as the issues are mostly civil issues and not related to planning, although there is the prospect of a small site being over-developed in a back garden but does not feel this is relevant today.
- Councillor Benney stated that he visited the site and was impressed with the nice development that is there but he does understand the worries of the residents regarding change but the development comes down to land use and it is policy compliant.

Proposed by Councillor Mrs French, seconded by Councillor Benney and agreed that the application be APPROVED as per the officer's recommendation.

P61/23

F/YR23/0423/RM

**SITE OF FORMER LAVENDER MILL, FALLOW CORNER DROVE, MANEA
RESERVED MATTERS APPLICATION RELATING TO DETAILED MATTERS OF
APPEARANCE, LANDSCAPING, LAYOUT AND SCALE PURSUANT TO OUTLINE
PERMISSION F/YR22/1273/VOC TO ERECT 29 X DWELLINGS (6 X SINGLE-
STOREY 3-BED AND 23 X SINGLE-STOREY 2-BED) WITH ASSOCIATED
PARKING**

Danielle Brooke presented the report to members and drew attention to the update report that had been circulated.

Members received a presentation, in accordance with the public participation procedure, from Professor Wickham, on behalf of the applicant. Professor Wickham stated that there has been correspondence with interested parties and the three main points are that this is a detailed application as the principle of the matter has been decided, with matters of highways and drainage also having been considered and deemed acceptable. He expressed the opinion that the proposal is entirely compliant with Policy LP2 as this is a growth village and is an allocated site so is policy compliant with national policy.

Professor Wickham stated that in terms of detailed matters they have had a satisfactory exchange with officers and amendments have been made to dwellings against existing residents and to allay concerns about Fen View on Fallow Corner Drove and that relationship has been altered during the negotiation period so the site to back distance exceeds normal standards and there are no windows overlooking that particular direction. He stated that there have been one or two other detailed amendments.

Members asked questions of Professor Wickham as follows:

- Councillor Benney stated that he welcomes the application but is disappointed that there is no Section 106 money as there is a site value of £7 million and no offer of contributions and would that be something they would consider? Professor Wickham responded that there is no requirement in the terms of the grant of planning permission at outline stage.

- Councillor Benney acknowledged that there is no requirement but as a Planning Committee member he would like to see some kind of Section 106 and would there be any contribution forthcoming as there is a need for this in the local area, Manea School could do with some money and so could the doctors surgery, with this application creating another 29 dwellings which could mean 60 extra people who would put a demand on the local healthcare system. He understands where Professor Wickham is coming from but as a councillor in the adjacent ward that is part of Chatteris it would be nice as a token of goodwill to see an offer of something that would go towards local services and local amenities and is this something that can be found out of the £7 million investment? Professor Wickham responded that there was a viability assessment that indicated that this was not required or appropriate and whilst he understands the point it should have been welded into the process much earlier at the grant of the outline planning permission, this has obviously been raised as a fresh matter to them today and they will consider it and discuss it but he cannot promise it.
- Councillor Benney stated that this is fine, he does understand the applicant's position and there is a process, accepting that a viability assessment has been undertaken but there have been other agents sitting in the same position and when members have asked for contributions they have come back with something and a little something towards the local services would be appreciated. He feels there would have been more support from the Parish Council and residents would view this as a gesture of goodwill, which can sometimes go along way to make things run smoothly and would that be something they would consider today? Professor Wickham reiterated that they will consider it but he cannot promise anything. He stated that they were making improvements to the local highway, which is an infrastructure improvement.

The Legal Officer reminded members that the development has outline planning permission and there is a Section 106 Agreement but the time to request that payment would have been at the outline stage not at this stage and the Council cannot legally require the developer under Section 106 to make a contribution at this stage and if the developer declines to do so that is not a matter which should play on the planning merits of whether this should be approved or refused. Councillor Connor made the point that he does not think Councillor Benney was saying the applicant had to do it but was making a suggestion that in the interests of goodwill that maybe they should do it and it is realised that there is no obligation. Councillor Benney stated that he fully understands the comments of the Legal Officer and there is no legal obligation but when the committee has had other agents before them and made a similar suggestion they have said yes and it would be improper of him not to raise this.

Nick Harding stated that as has been outlined the appropriate time was to ask for a contribution at the time of the outline application and this issue cannot be revisited. He feels the cases referred to by Councillor Benney were where committee was faced with a fresh outline or a full application and, therefore, it was quite appropriate to ask. Nick Harding expressed the concern about whether if a contribution was offered can the Council lawfully enter into a Section 106 given that it should have been entered into at the outline stage and the Legal Officer is saying the Council cannot so it would have to dealt with by some other means.

Councillor Mrs French made the point that the outline was approved on 19 May 2020 and asked how the Council missed this, was it a committee decision or an officer decision? She has never known the Council to miss the opportunity for a Section 106, especially on 29 dwellings. Nick Harding responded that a viability assessment was submitted in relation to the outline application. Councillor Connor stated that he believes the issue of viability and Section 106 contributions was raised by officers at the time. Councillor Mrs French acknowledged that legally it cannot be done but morally the applicant might give the community something.

Councillor Benney stated that he fully understands the position with this and appreciates the viability study that was put forward by the applicant. He does remember the previous application coming before committee and members were advised that there was no Section 106 but the

committee is not looking for hundreds of thousands of pounds but there have been agents who have offered contributions and he hoped the applicant on this application would be able to offer something, which the Council would look upon in a very favourable way.

Members made comments, asked questions and received responses as follows:

- Councillor Benney made the point that, as much as he has mentioned money, the application is policy compliant and will bring 29 bungalows to Manea, which is nice to see as not many people want to build bungalows as they take up a bigger footprint than a house. He stated that Manea is a small village, he is sure the bungalows will be welcomed and that there will be people waiting to move into them. Councillor Benney referred to the Womb Farm development and this development is filling up with people, which proves there is a need for housing in this area, with Chatteris and Manea not being that far apart and he is sure this development will be a success and there is no reason to refuse this application.

Proposed by Councillor Benney, seconded by Councillor Mrs French and agreed that the application be APPROVED as per officer's recommendation.

(Councillor Marks declared that he has had contact with the agent of this application as a Parish and District Councillor for Manea, and took no part in the discussion and voting thereon)

**P62/23 F/YR23/0460/FDC
LAND AT INHAMS CLOSE, MURROW
ERECT 2 DWELLINGS (2-STOREY 3-BED)**

Nick Harding presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Matthew Hall, the agent. Mr Hall stated that he welcomes the officer's report where it states the principle of development is acceptable as seen from the photos during the officer presentation the site is surrounded by residential development and is clearly located in the built-up form of Murrow. He advised that when he undertook a site visit there was a mixture of properties in this immediate area, both two-storey and single storey, with the majority being two-storey semi-detached, which is what they have shown to match in with the street scene.

Mr Hall expressed the view that when you read through the officer's report there are no objections from any consultees or any neighbours and within the current Local Plan Murrow is regarded as a small village which allows for residential infilling, with this proposal considered to be residential infilling. He expressed the opinion that the officer's report sums up the application well and is actually quite complimentary stating that the proposal is infill, is in keeping with the area and the core shape of the settlement, the properties will not prejudice the surrounding pattern of development and will appear visually interesting and architecturally sympathetic and he feels the officer has been very fair and has been very proactive working with them.

Mr Hall referred to 9.22 of the report where it states there is a concern regarding loss of privacy to No.5 and then under 9.19 it states that this is acceptable, which has just been confirmed by Nick Harding. He stated that the reason for refusal is due to flood risk, they provided an independent Flood Risk Assessment and there was no objection from the Environment Agency, following this they then provided a sequential test which was approved and the officer kindly worded a condition in relation to the exemption test, renewable energy and the overall performance of the dwellings, which was agreed to as well as an extension of time.

Mr Hall reiterated that the site is infill development within the built form of Murrow, there are no objections from residents or consultees, it will provide two small semi-detached properties that matches in with the surrounding properties and is ideal for development.

Members asked questions of Mr Hall as follows:

- Councillor Connor stated that this seems a little bit like déjà vu as there was the impression that everything was good and did he receive any indication of the application being approved? Mr Hall responded that during the application the officer worked with them and it all looked very promising on the public access so he e-mailed the officer to get an update and read out a couple of points from the e-mails “Hi Matthew I have just reviewed this one and have no objection and I note the target date is 13 July and I will try and process this before this date” and “apologies there was an issue with the Highways consultee not coming straight to me I am waiting for comments which effectively say I have looked into the proposal and we will be recommending approval, delegated, I am to write this one up by the end of the week and send conditions over for agreement which we then can agree an extension of time”.

Members received a presentation, in accordance with the public participation procedure, from Councillor Benney, a District Councillor. Councillor Benney stated that he was speaking as Portfolio Holder for Assets and rang Mr Hall on Friday night because they had been doing some work on Chatteris Growing Fenland and had been waiting to know whether an application that had been put in has validated or not. He stated that whilst he was talking to him he asked how it was going on Inhams Close and was advised that Mr Hall had been told not to speak on it today, which he was surprised about as there are three people working at Fenland in the Assets Team and they have employed Mr Hall to undertake the architectural work and put the proposal forward.

Councillor Benney advised that Mr Hall sent him the e-mail that he had received stating that they did not want him to speak on this application and he feels that this is not democratic, Fenland District Council does not appeal its decisions so any decision that comes from today will be final and part of asset disposal is selling assets which is costing the Council money to look after, such as with risk assessments and health and safety assessments. He referred to about 5-6 years ago his first day as Portfolio Holder was selling off a piece of land and he was advised by officers at the time that planning permission would never be forthcoming, it was sold off as a piece of land and a planning application was submitted, it was refused and the appeal was dismissed, with another application being put in which was approved. He feels councillors have been criticised for not doing their best to achieve best value for money for the residents of Fenland and this proposal is obtaining best value for the residents of Fenland to reinvest in Council services.

Councillor Benney made the point that there are three people employed to obtain best value for money for the Council and residents and this application is being recommended for refusal. He made the point that from what he has been told by Mr Hall it was being recommended for approval, the sequential test had been approved, the exceptions test was submitted and it is still being refused, he is not sure why and feels that everyone needs to ‘sing from the same hymn sheet’ and feels like people are not working together on this proposal.

Councillor Benney stated he was very surprised by the e-mail, he acknowledged that the application is borderline and the committee will make the decision on it, but Fenland should not be stopping applications being spoken on as this is the democratic process that allows the Council to make good decisions and he finds this worrying and hopes it does not happen again. He feels this is a solid application and there will be more of these coming through to obtain money to reinvest back into Fenland and achieve what the Council is legally required to achieve which is best value for money.

Councillor Mrs French stated that she was not aware of any e-mails being received asking someone not to speak, she has never heard of this before and is not going to dwell on it but this needs seriously looking into and must not happen again. Councillor Connor stated that he has been Chairman for 7 years at County Council and 4½ years at Fenland on Planning Committee and can only reiterate like Councillor Mrs French that he has never had anything like this before. Councillor Marks asked to look at the e-mail? Nick Harding stated that it is important to understand

that the sender of that e-mail was not anybody in the Planning Team so this is irrelevant as to the consideration of the application as if Mr Hall is instructed by an officer in the Council then it would be that instructing officer to decide who represents the Council in the Planning Committee meeting and this issue can be dealt with outside consideration of this application.

Members asked questions of Councillor Benney as follows:

- Councillor Marks referred to Councillor Benney mentioning that this would not be appealed by the Council so asked if this piece of land would just sit there or be sold off at pennies rather than at realistic market rate? Councillor Benney stated that the policy is that the Council does not appeal its own decisions so if this was refused then that would either be that it has run its process in terms of trying to obtain best value for money for the residents of Fenland and then it would go to auction just as a piece of land and it has happened in the past where other people have got better value out of the land and the Assets Team is trying hard to get money back into the Council.

Nick Harding acknowledged that this situation has arisen previously, it is unfortunate that the case officer made a mistake in the advice given to the agent, one of which was to say it was a delegated decision as it would never have been one as it is a Fenland District Council application and after checking the case officer's homework he had missed the fact that the agent in the sequential test had missed the other sites that were consented and still available had been discounted, which is contrary to policy. He made the point that planning permission cannot be granted on the basis that somebody said it was OK but it is fully known that a mistake was made by that officer, which is unfortunate but it cannot be approved and the rules skipped. Nick Harding referred to Councillor Benney's comments about the Council not wishing to undertake an appeal and the site would just go for disposal and somebody else will reap the benefit where the Council has not, making the point that when it comes to the sequential test in a village like Murrow the 'wheel of destiny' is being spun because how the sequential test works is that if there are sequentially preferable sites available at the time of making the application then you will not get planning permission because the sequential test has failed but if those planning consents are all used up and no further consents are granted and then the planning application was submitted the wheel spins in your favour. He stated that as crazy as that seems that is the process that is laid out by Government policy and the advice that goes with that policy.

Members asked questions of officers as follows:

- Councillor Hicks referred to the aerial photo which shows housing surrounding the site and he supposes that they are all in Flood Zone 3 as well which has been built on previously so why is it being refused when other houses around it are in the same flood zone? Nick Harding responded that this is just the way that Government policy is in respect of flood risk so in a settlement such as Murrow, whilst there might be a site within the built up extent of the village surrounded by other development, a sequential test still has to be undertaken and if there are sites that have already been approved then planning permission will not be forthcoming until those sites have either expired or been implemented.
- Councillor Mrs French asked how many sites are there in Murrow that have been approved for sequential test purposes? Nick Harding responded that he does not have this information to hand as their systems went down for quite a bit of the morning.
- Councillor Marks asked for clarification that it is land for sale on the sequential test because if so on Rightmove there is just one site. Nick Harding responded that it is not just land for sale it is consents as well which have not been implemented.
- Councillor Gerstner referred to part of the objection for refusal being overlooking and amenity to the neighbours but made the point that there have been no neighbour objections. Nick Harding responded that the only reason for refusal is on the sequential test and it was explained earlier that officers looked carefully at the relationship with the proposed development and No.5 and on balance it was felt that it was acceptable. Councillor Gerstner questioned whether the neighbours would have been consulted? Nick Harding confirmed that they would but decisions should not be made on the basis of whether or not somebody

has or has not objected.

Members made comments, asked questions and received responses as follows:

- Councillor Mrs French stated that this is difficult and she is going to recommend the application is deferred for further information as Councillor Marks stated there is one site for sale and as Nick said it is not just what is for sale. She feels to be fair to the committee and to Fenland's residents as it is a Fenland District Council application it should be deferred.
- Councillor Hicks agreed as once a decision is made to refuse an application there is no going back and this does buy a little time.
- Councillor Marks stated that with a deferral members could get the understanding of how long ago those new properties were classed on the flood zone and classed on Flood Zone 3 as well to understand when they were approved and how they went through as part and parcel of the sequential test.

Proposed by Councillor Mrs French, seconded by Councillor Marks and agreed that the application be DEFERRED for clarification on the sequential test.

(Councillor Benney declared that he is Portfolio Holder for Assets and, once he had given his presentation as part of the public participation procedure, took no part in the discussion and voting thereon)

**P63/23 F/YR23/0541/F
LAND NORTH OF THE BARN, HIGH ROAD, BUNKERS HILL
ERECT 5 X DWELLINGS (2-STOREY 5-BED) INVOLVING THE FORMATION OF A
NEW ACCESS**

Nick Harding presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Adam Sutton, the agent. Mr Sutton stated that the application is before committee today due to the Parish Council views differing from the Planning Officer, who has recommended the application be refused. He made the point that an application for 5 dwellings on this land has been before committee twice before, once refused based solely on access and then approved by committee with access committed.

Mr Sutton stated that this application is a full application for 5 executive style dwellings as opposed to a reserved matters application following on from the outline approval and this has been undertaken so they could adjust the red line boundary of the site as it was felt that the dwellings they were trying to get approval on would benefit from slightly larger front gardens for parking and landscaping and larger rear gardens to suit the dwellings and to enable them to get a package treatment plant with drainage within those gardens as opposed to a septic tank, which meant moving the red line to the rear of this development back. He stated that there are no objections from statutory consultees, Highways have asked one or two questions relating to access and visibility but it is the same access point that committee previously approved with the same visibility splay, with the land in question either being in highway ownership as a highway verge or the applicant's ownership.

Mr Sutton stated that Highways have suggested details regarding the footpath and have also suggested that these details will be subject to a Section 278 Agreement together with a condition that can be placed on the application of the technical approval of that Section 278 Agreement prior to works and he does not think this would be unreasonable. He referred to the refusal reasons, with the first one being principle of development but made the point that there is an existing approval for 5 dwellings on this site so the principle is, therefore, established and the second reason being an adverse impact on the occupants of Plot 1 due to proximity of the windows but this is a window on the side elevation to Bedroom 4 and as stated there is 2.6 metres between the

buildings and the windows are offset, the roof line at this point is pitched away from the neighbouring property and there is not a big gable wall, so he feels there will be limited adverse impact if any.

Mr Sutton referred to the third reason for refusal due to access but as previously stated that has been addressed and flood risk and sequential test, a sequential test will show that this site is available to this applicant currently and would, therefore, pass. He hopes that members will give appropriate weight to the fact that there is already a permission on the site and limited weight to the emerging Local Plan that highlights this as residential development.

Members asked questions to Mr Sutton as follows:

- Councillor Mrs French asked if the properties were going to be self-build or built then sold off? Mr Sutton responded that he is not sure the applicant has made a decision on this.
- Councillor Mrs French asked how foul water was going to be treated? Mr Sutton responded that one of the reasons that a full application has been submitted is so they can provide a package treatment plant in the rear gardens of each individual property.
- Councillor Mrs French stated that the speed limit along this site is the national speed limit and if this application is approved would the applicant be prepared to pay for a reduction in the speed limit and possibly a speed cushion? Mr Sutton responded that he could ask the applicant but queried what cost this would be. Nick Harding made the point that Highways have not requested the movement of the speed signs or any traffic calming. Councillor Mrs French stated that she is County Councillor for this area and does not think it is an unreasonable request. Councillor Connor agreed. Councillor Mrs French added that towns and parishes all have a local highway improvement scheme but do not see why a Parish Council should pay for a speed reduction when the development could actually pay. Mr Sutton confirmed the applicant would be prepared to contribute towards this.

Members made comments, asked questions and received responses as follows:

- Councillor Mrs French made the point that the site does already have outline planning permission which she believes expires in December but she does not understand why it has taken so long to submit a Reserved Matters application although the agent did say about giving the properties larger gardens. She does not see why this cannot be approved because it has already got planning in principle.
- Councillor Imafidon stated that it is commendable that the applicant is willing to contribute towards speed calming measures on the highway.
- Councillor Connor stated that Councillor Mrs French is right the site does have planning permission for 5 dwellings and he believes the agent said the land for the pavement is in the applicant's control or highways control so it has not got to go through third party land even though this would be a civil matter. He made the point that there are no statutory consultee objections and feels that he could support it.
- Nick Harding stated that there is the Highway reason for refusal and whilst the previous outline was deemed acceptable to Highways, the approved plan is different to the one that members are considering today and Highways have asked for a corrected visibility splay, the highway extent to be verified and the resubmission of speed data to support the reduction in visibility requirements.
- Councillor Marks asked for clarification that if committee approved the application today then it might still fail on the agreement with Highways in that Highways have said there are issues that need resolving first. Nick Harding responded that no because if committee approve it they are approving a poor visibility splay resulting in reduction of safety which falls on the Council's shoulders as decision makers having allowed that development as County cannot do anything about it.
- Councillor Mrs French stated that having heard what officers have said, she does agree and an application cannot be approved that is going to have a potential danger to the highway. She suggested the application be deferred to resolve the Highway issues.
- Councillor Connor stated that there are 4 reasons for refusal and is it being said that it

should be deferred on highway safety reasons only?

- Nick Harding suggested an alternative is that officers get delegated authority to deal with amended plans provided that Highways are happy then officers can issue a consent and if this route is taken on the proposal the committee would need to explain why it is content to not agree with each of the other reasons for refusal. He stated that he can ask the question of Highways about the issue of placing a condition on the application with regard to traffic calming and speed reduction and if they are not happy with this the application can be brought back to committee. Councillor Mrs French asked that when officers are taking to Highways they point out the local highway improvement schemes that all the parishes are looking at, with all the parishes looking at speed reduction as it does cost money to put these schemes in and it would be nice if could be discussed with Highways.

Proposed by Councillor Mrs French, seconded by Councillor Imafidon and agreed that the application be APPROVED subject to appropriate conditions and delegated authority being given to officers to obtain revised drawings to address highway concerns and submission of a speed survey, and Highways confirming that moving the speed sign and installation of speed reduction measures on the highway is appropriate/necessary in principle. If agreement of Highways cannot be confirmed, the application is to be returned to committee for determination.

Members do not support officer's recommendation of refusal of planning permission as they feel the site is not an elsewhere location, would make a positive contribution to the character of the area, flood risk can be mitigated against, it is consistent with the previous decision of the Committee and the window relationship to a blank wall of 2.5 metres distance is not adversely detrimental and it is down to buyer's choice as to whether they find this acceptable or not.

P64/23

F/YR23/0600/O

LAND NORTH OF 66 NORTHGATE, WHITTLESEY

ERECT X1 DWELLING (OUTLINE APPLICATION WITH MATTERS COMMITTED IN RESPECT OF ACCESS)

Danielle Brooke presented the report to members and drew attention to the update report that had been circulated.

Members received a written presentation, in accordance with the public participation procedure, from Matt Taylor, the agent, read out by Member Services. Mr Taylor stated that this is an outline application as per the officer's information provided to member with a recommendation for approval. He made the point that following positive pre-application advice from the Council they submitted an outline application using the existing access road to the proposed property, with the plans showing an indicative building on the site with a large parking and turning area to the front, which would allow vehicles to pass or wait if required.

Mr Taylor referred to the Highway comments which state that "since the site access already exists, on balance it would be difficult to refuse this development solely from the highways perspective" and they commented on bin refuse collection in which the site plan was revised to show that it is within the 30 metres travel distance required and Highways have also highlighted conditions which they find mutually agreeable. He stated that in respect to the comments on the fire appliance this will be dealt with under Building Regulations and with the new more stringent approved document B updates and the general public wanting better safety in their homes a sprinkler system could be specified and installed.

Mr Taylor expressed the view that the dwelling indicated is demonstrating that no overlooking to the neighbouring properties and was a chalet style to reduce an over bearing impact on existing gardens and again this would be dealt with at a reserved matters application in more detail. He feels that some comments from the residents indicate retaining the perimeter of trees for privacy

and this would be allowed for and included in the landscaping at a reserved matters application.

Mr Taylor referred to the comments from Planning and Highways regarding the access road and lighting, making the point that there are many side streets and backland developments around the area without street lighting but a development could have lights such as low level LED posts or wall mounted lighting and they would welcome any condition that would need this to be approved at reserved matters due to any light pollution to existing residents.

Members asked questions of officers as follows:

- Councillor Mrs French queried the Highway comments where it refers to 4 x 1-bedroomed units and asked for confirmation that it is one dwelling and it is not being divided into units? Danielle Brooke agreed there was some discrepancy here which had not been picked up but it is a four bedroom two-storey unit. Councillor Mrs French stated that she would hate it to be four flats which would impact the neighbours.

Members made comments, asked questions and received responses as follows:

- Councillor Gerstner stated that he used to live 50 metres away from this access road for several years, six nights out of seven last week that access was blocked by parked cars, there is double parking all the way down Stonald Avenue and only on 2 occasions was there access to get into this driveway at 7pm. He made the point that Highways have had three attempts at their report and in the second submission it clearly states that some of the criteria in 5.5 is unachievable in the application boundary and that the tracks serves a means of access to a substantial amount of properties but he totally disagrees with this as access for the residents of Stonald Avenue is another track off Commons Road, there are about 20 houses on Stonald Avenue that have their access on the adjacent track and the access for this proposal is not used by residents. Councillor Gerstner stated that he went down there yesterday in his nearly brand new car and was not happy with the amount of overgrowth, which just about allowed him to get down the track and there could be a management plan put in place if and when approval may be given for the property to mitigate how materials are taken to the site. He reiterated that Highways have had three attempts at this and there is a totally unacceptable splay, there will be cars parked all the way along, even with lines, and he is totally against this access.
- Councillor Connor asked if Councillor Gerstner was saying that there was vegetation along this track stopping him getting his vehicle up there? Councillor Gerstner stated there was but he understands this could be cleared away. Councillor Connor asked that if the vegetation was cleared away and the management plan was put in place to keep it free at all times. Councillor Gerstner referred to the road being upgraded and Councillor Connor responded only the first 5 metres.
- Danielle Brooke stated that the surface will be upgraded for the first 5 metres. Councillor Connor made the point that they have got to cut back the vegetation and tarmac for the first 5 metres and if a management plan was asked for to make sure that happens, would Councillor Gerstner be happy?
- Councillor Gerstner asked if the road would be adopted or unadopted? Councillor Connor made the point that this roadway would not be adopted. Nick Harding stated it would be extremely unlikely for someone to reside on that application site and not keep the access to and from the site clear so they are able to park their car on their property and the Council is not in the business of agreeing landscape management plans for single plots as it would be difficult to enforce. He stated in terms of visibility it is dwarf walls and fences either side of the access and normally it would be 600 visibility but given that it is an existing access which is used, there is a dropped kerb there, the application could not be reasonably be refused on visibility.
- Councillor Gerstner made the point that there is either a visibility splay criteria or not, the rules cannot keep changing and if the splay is not meeting Highway criteria it is not meeting the criteria. Nick Harding responded that it has to be taken into account the difference between an application site which has no access at all and a site which has an existing

access point that can be used day in, day out and whilst it is not ideal it is an existing access.

- Councillor Gerstner stated that as long as his objection to the access is being minuted so if and when approval is given residents of that property do not come back to the Council complaining they cannot get out of access due to parked cars in the way. Councillor Connor acknowledged Councillor Gerstner's comments and sympathised but made the point that the application cannot be refused just on poor visibility.
- Councillor Benney made the point this is a single plot, the access is not ideal but it is an access, building materials will find a way to access the site, it is a policy compliant application and there is nothing to refuse the application on. He recognises that people park over people's driveways but it is not a Council matter, it is a Police matter.
- Councillor Connor agreed with Councillor Benney but does sympathise with Councillor Gerstner's comments.

Proposed by Councillor Benney, seconded by Councillor Mrs French and agreed that the application be APPROVED as per the officer's recommendation.

5.35 pm

Chairman